

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

**December 14, 2009 – 5:30 p.m.**

**CALL TO ORDER**

The Regular Meeting of the Mayor and Council of the Borough of Madison was held on the 14th day of December 2009. Mayor Holden called the meeting to order at 5:30 p.m. in the Mayor's Office, Room #210 of Bayley-Ellard High School, 205 Madison Avenue, in the Borough of Madison.

**STATEMENT IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT**

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

"In compliance with the Open Public Meetings Act, adequate notice of this meeting of the Council was provided by transmitting a copy of the meeting notice to the Madison Eagle and Morris County Daily Record, posting a copy on the bulletin board at the main entrance of Bayley-Ellard High School, and filing a copy in the office of the Clerk, all on January 6, 2009. This Notice was made available to members of the general public."

**ROLL CALL**

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

Mayor Mary-Anna Holden

Council Members:

Astri J. Baillie

John M. Elias – arrived at 7:05 p.m.

Robert H. Conley

Jeannie Tsukamoto

Vincent A. Esposito

Sebastian J. Cerciello

Also Present:

Raymond M. Codey, Borough Administrator

Elizabeth Osborne, Borough Clerk

Vincent Loughlin, Esq. for Joseph Mezzacca, Jr., Borough Attorney, excused

Donald Links, Council Member-Elect

**AGENDA REVIEW**

Two Contract Matters were added to the Executive Agenda.

**READING OF CLOSED SESSION RESOLUTION**

Mrs. Tsukamoto moved:

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

MINUTES FOR APPROVAL (1)

Executive Session Minutes of November 23, 2009

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

CONTRACT MATTERS (7)

SOLID WASTE COLLECTION & DISPOSAL

SHARED SERVICES

HDM CHANGE ORDER #5

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RECYCLING  
DODGE FIELD  
BAYLEY ELLARD  
LAND CONSERVANCY OF NJ

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

PERSONNEL MATTERS (3)  
APPOINTMENTS OF BOARDS AND COMMITTEES FOR 2010  
DEPARTMENT OF PUBLIC WORKS  
SENIOR VAN DRIVER

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

Seconded: Ms. Baillie  
Vote: Approved by voice vote of members present

**RECONVENE IN COUNCIL CHAMBER**

Mayor Holden reconvened the Regular Meeting at 8 p.m. in the 3<sup>rd</sup> Floor Meeting Room of Bayley-Ellard with all members present. The Pledge of Allegiance was recited by all.

**GREETINGS TO PUBLIC**

Mayor Holden made the following comments:

**Employee of the Month for December** is **Russell Brown, Construction Code Official**, for the work he has performed above and beyond the call of duty to secure, transport and store donated office furniture and equipment for eventual use at the Hartley Dodge Memorial assuring fellow employees will have sufficient furnishings available. In addition, he has demonstrated the highest level of performance and professionalism both with the public and in taking the initiative to explore shared services opportunities with adjacent municipalities.

**PRESENTATION OF PROCLAMATION TO SGT. PETER IOSSA FROM NJ STATE ASSEMBLYWOMAN NANCY F. MUNOZ AND ASSEMBLYMAN JON M. BRAMNICK**

Assemblywoman Munoz and Assemblyman Bramnick presented Sergeant Iossa with a Proclamation from the New Jersey State Assembly recognizing his lifesaving efforts in Point Pleasant when he rescued a father and his sons from a strong rip tide this past August.

**RECOGNIZING MADISON HIGH SCHOOL'S WOMEN'S FIELD HOCKEY TEAM**

Mrs. Munoz presented the Madison High School Women's Field Hockey Team with a Proclamation from the New Jersey State Assembly for their achievement in winning the 2009 NJAC/Independence Division Conference Championship, North I Group II Sectional Championship and the Group II State Championship. Mayor Holden presented each team member with a certificate of achievement from the Borough of Madison.

**RECOGNIZING MADISON HIGH SCHOOL'S MEN'S SOCCER TEAM**

Mayor Holden presented the Madison High School's Men's Soccer Team with certificates of achievement for winning the 2009 Morris County Tournament Co-Championship. Coach Adair and members of the team accepted on behalf of their teammates.

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### **APPROVAL OF MINUTES**

Ms. Baillie moved approval of the **Executive Minutes of November 23, 2009**. Mrs. Tsukamoto seconded the motion, which passed by voice vote.

Ms. Baillie moved approval of the **Regular Meeting Minutes of November 23, 2009**. Mrs. Tsukamoto seconded the motion, which passed by voice vote.

### **REPORTS OF COMMITTEES**

#### **Public Safety**

Ms. Baillie, Chair of the Committee, made the following comments:  
On behalf of the Police and Fire Departments, Ms. Baillie wished all Madison residents a happy and safe holiday. Ms. Baillie thanked Mr. Elias for his service to the Borough of Madison.

#### **Utilities**

Mr. Elias, Chair of the Committee, made the following comments:  
Mr. Elias thanked the Governing Body and the Borough Administration for all their service and dedication to Madison.

#### **Public Works and Engineering**

Mr. Conley, Chair of the Committee, made the following comments:  
Mr. Conley reported on major engineering projects in 2009, including 12 road projects for approximately 2.5 miles of work including grading, drainage, curbing and paving. Brooklake and Woodland Roads are still in the design phase, and Mr. Conley reminded residents there will be additional opportunity for public input. He also noted numerous water main replacement projects, drainage improvements at the Museum of Early Trades & Crafts, as well as improvements to Dodge Field and the landscaping at the Train Station. In addition, with support from the County of Morris, storm sewer improvements will be made to Green Village Road. The HDM is near 35% completion, and the Civic Center elevator project is at 50%. Following a recent meeting, the leaf removal program will remain the same for the coming year, with residents continuing to have three options for leaf removal. The schedule for curbside pickup will be improved.

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

Mrs. Tsukamoto, Chair of the Committee, made the following comments:  
Mrs. Tsukamoto reported that on December 1<sup>st</sup>, Mrs. Osborne officially became the Borough Clerk and offered her congratulations. Mrs. Tsukamoto also reported that Borough CFO Robert Kalafut has noted that the revenue plan for the 2010 budget year will be weaker than the current year, with revenue shortfalls of approximately \$1.8 million due to a decrease in Electric Utility surplus, State Aid, interest income, reduced construction and other fees.

#### **Community Affairs**

Dr. Esposito, Chair of the Committee, made the following comments:  
Mayor Holden reported the Madison Chamber of Commerce Chamber bucks are selling very well and can be purchased at Cramers Carpet One and Provident Bank, as well as gift certificates for shopping in Madison. Mayor Holden also noted that the Madison Police Department is reporting an enormous amount of gifts donated by residents for their annual Toys for Tots program, and anyone wishing to still donate can drop off an unwrapped toy at the Police Department.

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### **Health & Public Assistance**

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

Mr. Cerciello reported that the Madison Health Department has vaccinated approximately 3,500 residents in the area, and vaccine is currently available by contacting the Health Department.

### **COMMUNICATIONS AND PETITIONS**

The Borough Clerk announced receipt of the following communications:

1. Note received November 24, 2009, from Elaine Campana of Pine Tree Terrace thanking Firemen Robert Dunne and David Carey for their help when her basement flooded from a faulty furnace.
2. Letter received December 4, 2009, from William A Hoffman, Jr., of Norwich Court objecting to increases in utility rates.
3. Letter received December 11, 2009, from Jocelyn Colquhoun of Barnsdale Road regarding sidewalks for Woodland Road and leaf pick-up.

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

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

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

### **AGENDA DISCUSSIONS**

#### **12/14/2009-1 PURCHASE ONE (1) POLICE VEHICLE FROM THE 2009 PROPOSED BUDGET UNDER THE MORRIS COUNTY COOPERATIVE PRICING COUNCIL**

Following discussion, there was consensus to list on the Consent Agenda a resolution authorizing the Police Department to purchase one Police vehicle under the Morris County Cooperative Pricing Council program. Resolution R 290-2009 is listed on the Consent Agenda.

#### **12/14/2009-3 AUTHORIZE BUDGET TRANSFERS**

Borough of Madison CFO Robert Kalafut explained that there are eight transfers from excess appropriations that are allowed to be authorized during the last two months of the current budget year by resolution. Mrs. Tsukamoto emphasized that Department Heads be responsible for meeting their approved budgets. Resolution R 294-2009 is listed on the Consent Agenda.

#### **12/14/2009-4 CANCELLATION OF AMOUNT DUE FROM HOUSING AUTHORITY**

Mr. Kalafut explained that the Borough previously prepared and funded payroll for the Madison Housing Authority, and this practice stopped in 2003. This resolution will cancel the amount due from the Housing Authority as reflected in the Current Fund Comparative Balance Sheet. There was no objection to listing Resolution R 295-2009 on the Consent Agenda.

#### **12/14/2009-5 CANCELLATION OF OLD OUTSTANDING CHECKS AND BANK ERRORS**

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Mr. Kalafut explained that this is a routine resolution approved annually to cancel outstanding checks and bank errors. Resolution R 296-2009 is listed on the Consent Agenda.

**12/14/2009-6 CANCELLATION OF COMPLETED CAPITAL IMPROVEMENT ORDINANCES**

After a review of the schedule of open capital ordinances, Mr. Kalafut recommended cancelling 26 ordinances in the General Capital Fund in the amount of \$473,846.13, cancelling 6 ordinances in the Water Capital Fund in the amount of \$37,001.21 and cancelling 6 ordinances in the Electric Capital Fund in the amount of \$206,820.34, for a total of 38 ordinances in the amount of \$717,667.68. There was no objection to listing Resolution R 297-2009 on the Consent Agenda.

**12/14/2009-7 CORRECTIVE ACTION PLAN**

Mr. Kalafut explained that this is a mandatory resolution accepting the Corrective Action Plan which addresses the recommendations of the 2008 Audit Report. Resolution R 298-2009 is listed on the Consent Agenda.

**12/14/2009-2 2010 HOME APPLICATION**

There was no objection to authorizing submission of a Madison Affordable Housing Corporation application for funding for the Walnut Street Affordable Housing. Resolution R 291-2009 is listed on the Consent Agenda.

**12/14/2009-8 AUTHORIZE FINAL PAYMENT AND CHANGE ORDER FOR JOHN GARCIA CONSTRUCTION CO. FOR THE GREEN AVENUE WATER MAIN REPLACEMENT PROJECT**

Borough Engineer Robert Vogel explained the request for a pro forma final payment for the Green Avenue water main replacement project. Twenty-three items were listed in the bid specification, and the final tally exceeded that estimate by an increased amount of \$20,239.82. There are sufficient funds available in Ordinance 37-2009. There was no objection to listing Resolution R 305-2009 on the Consent Agenda.

**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 November 23, 2009, were introduced by title and passed on first reading, were published in the Madison Eagle and made available to members of the general public requesting same.

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

**ORDINANCE 53-2009**

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 195-37 OF THE BOROUGH CODE ESTABLISHING AND REGULATING PROPERTIES IN THE RIPARIAN BUFFER ZONE**

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

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SECTION 1: Chapter 195, Article VI of the Borough Code of the Borough of Madison shall be amended to be entitled “Stormwater, Wetland Protection, Steep Slopes, Flood Control and Riparian Buffer Zone”.

SECTION 2: Section 195-37 of the Borough Code of the Borough of Madison shall be amended to include a new section 195-37.10 to be entitled “Riparian Buffer Zone” and which shall read in its entirety as follows:

### **§195-37.10 Riparian Buffer Zone**

#### **A. INTENT AND PURPOSE**

The governing body of the Borough of Madison finds that riparian lands adjacent to streams, lakes, or other surface water bodies that are adequately vegetated provide an important environmental protection and water resource management benefit. It is necessary to protect and maintain the beneficial character of riparian areas by implementing specifications for the establishment, protection, and maintenance of vegetation along the surface water bodies within the jurisdiction of the Borough, consistent with the interest of landowners in making reasonable economic use of parcels of land that include such designated areas. The purpose of this Ordinance is to designate riparian zones, and to provide for land use regulation therein in order to protect the streams, lakes, and other surface water bodies of the Borough of Madison; to protect the water quality of watercourses, reservoirs, lakes, and other significant water resources within the Borough of Madison; to protect the riparian and aquatic ecosystems of Madison; to provide for the environmentally sound use of the land resources of the Borough, and to complement existing state, regional, county, and municipal stream corridor protection and management regulations and initiatives. The specific purposes and intent of this Ordinance are to:

1. Restore and maintain the chemical, physical, and biological integrity of the water resources of the Borough of Madison;
2. Prevent excessive nutrients, sediment, and organic matter, as well as biocides and other pollutants, from reaching surface waters by optimizing opportunities for filtration, deposition, absorption, adsorption, plant uptake, biodegradation, and denitrification, which occur when stormwater runoff is conveyed through vegetated buffers as stable, distributed sheet flow prior to reaching receiving waters;
3. Provide for shading of the aquatic environment so as to moderate temperatures, retain more dissolved oxygen, and support a healthy assemblage of aquatic flora and fauna.
4. Provide for the availability of natural organic matter (fallen leaves and twigs) and large woody debris (fallen trees and limbs) that provide food and habitat for small bottom dwelling organisms (insects, amphibians, crustaceans, and small fish), which are essential to maintain the food chain;
5. Increase stream bank stability and maintain natural fluvial geomorphology of the stream system, thereby reducing stream bank erosion and sedimentation and protecting habitat for aquatic organisms;

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6. Maintain base flows in streams and moisture in wetlands;
7. Control downstream flooding; and
8. Conserve the natural features important to land and water resources, e.g., headwater areas, groundwater recharge zones, floodways, floodplains, springs, streams, wetlands, woodlands, and prime wildlife habitats.

### **B. STATUTORY AUTHORITY**

The municipality of the Borough of Madison is empowered to regulate land uses under the provisions of the New Jersey Municipal Land Use Law, N.J.S.A 40:55D-1 et seq., which authorizes each municipality to plan and regulate land use in order to protect public health, safety and welfare by protecting and maintaining native vegetation in riparian areas. The Borough of Madison is also empowered to adopt and implement this Ordinance under provisions provided by the following legislative authorities of the State of New Jersey:

1. Water Pollution Control Act, N.J.S.A. 58:10A et seq.
2. Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.
3. Spill Compensation and Control Act, N.J.S.A. 58:10-23 et seq.
4. Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.
5. Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.

### **C. DEFINITIONS**

**Acid Producing Soils** means soils that contain geologic deposits of iron sulfide minerals (pyrite and marcasite) which, when exposed to oxygen from the air or from surface waters, oxidize to produce sulfuric acid. Acid producing soils, upon excavation, generally have a pH of 4.0 or lower. After exposure to oxygen, these soils generally have a pH of 3.0 or lower. Information regarding the location of acid producing soils in New Jersey can be obtained from local Soil Conservation District offices.

**Administrative Authority** means the Planning Board or Board of Adjustment or Construction Office for the Borough with all of the powers delegated, assigned, or assumed by them according to statute or ordinance.

**Applicant** means a person, corporation, government body or other legal entity applying to the Planning Board, Board of Adjustment or the Construction Office proposing to engage in an activity that is regulated by the provisions of this section, and that would be located in whole or in part within a regulated Riparian Zone.

**Floodway** shall have the meaning ascribed to this term by the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.) and regulations promulgated there under published at N.J.A.C. 7.13 et seq., and any supplementary or successor legislation and regulations from time to time enacted or promulgated.

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**Intermittent Stream** means surface water drainage channels with definite bed and banks in which there is not a permanent flow of water. Streams shown as a dashed line on either the USGS topographic quadrangle maps or the USDA County Soil Survey Maps of the most recent edition that includes hydrography are included as intermittent streams.

**Lake, pond, or reservoir** means any impoundment, whether naturally occurring or created in whole or in part by the building of structures for the retention of surface water, excluding sedimentation control and stormwater retention/detention basins and ponds designed for treatment of wastewater.

**Perennial Stream** means a stream that flows continuously throughout the year in most years. These streams usually appear as a blue line on USGS topographic quadrangle maps or on USDA County Soil Survey Maps.

**Riparian Zone** means the land and vegetation within and directly adjacent to all surface waters including, but not limited to lakes, ponds, perennial and intermittent streams, up to and including their point of origin.

**Riparian Zone Management Plan** means a plan approved by the Engineer of the Borough of Madison. The plan shall be prepared by a landscape architect, professional engineer or other qualified professional, and shall evaluate the effects of any proposed activity/uses on any riparian zone. The plan shall identify existing conditions, all proposed activities, and all proposed management techniques, including any measures necessary to offset disturbances to any affected riparian zone.

**Riparian Zone Waters** are such which have been identified for protection from degradation in water quality characteristics because of their clarity, color, scenic setting, and other characteristics of aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resources. Such waters shall also be such as may be defined by statute or administrative regulation.

**Surface Water Body** means any perennial stream, intermittent stream, lake, pond, or reservoir, as defined herein. In addition, any state open waters identified in a letter of interpretation issued by the New Jersey Department of Environmental Protection Land Use Regulation Program shall also be considered surface water bodies.

### **D. ESTABLISHMENT OF RIPARIAN ZONES**

1. Riparian Zones adjacent to all waters shall be protected from avoidable disturbance and shall be delineated as follows:
  - a. The riparian zone shall be 300 feet wide along both sides of any Category One water, and all upstream tributaries situated within the same HUC 14 watershed. The riparian zone shall equal the Special Water Resource Protection Area, and shall be measured as defined at N.J.A.C. 7:8-5.5(h).
  - b. The riparian zone shall be 150 feet wide along both sides of the following waters:

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- 1) Any trout production water and all upstream waters (including tributaries);
  - 2) Any trout maintenance water and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water;
  - 3) Any segment of a water flowing through an area that contains documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the regulated water for survival, and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water; and
  - 4) Any segment of a water flowing through an area that contains acid producing soils.
- c. For all other waters, a riparian zone of 50 feet wide shall be maintained along both sides of the water.
2. The portion of the riparian zone that lies outside of a surface water is measured landward from the top of bank.
  3. The riparian zones of the entire municipality of the Borough of Madison, including all land and water areas within its boundaries, which designates Surface Water Bodies, is based upon the most recent versions of:
    - a. Borough of Madison Municipal Stormwater Management Plan based upon the maps of lakes, ponds, perennial or intermittent streams, subwatersheds, waterways and classifications, and hydraulic unit code contained within it.
    - b. Borough of Madison Flood Insurance Study and Flood Insurance Rate Map as produced by the Federal Emergency Management Agency.
    - c. Borough of Madison Official Tax Map.

Maps of the municipality on which these designations have been overlain shall be on file and maintained by the offices of the Clerk of the Borough of Madison. This map conforms to all applicable laws, rules and regulations applicable to the creation, modification and promulgation of zoning maps.

4. It shall be the duty of the Municipal Engineer at such times as may be required by law, to propose modifications to the maps required by any naturally occurring or permitted change in the location of a defining feature of a surface water body and to maintain files of decisions or appeals, and by changes made by the New Jersey Department of Environmental Protection in surface water classifications or Floodway delineations. Floodway delineations shall be based upon the State's adopted floodway delineations. However requests for alterations to the adopted delineations can be provided to the Department for consideration if site-specific information is available.

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5. The applicant or designated representative shall be responsible for the initial determination of the presence of a riparian zone on a site, and for identifying the area on any plan submitted to the Borough of Madison in conjunction with an application for a construction permit, subdivision, land development, or other improvement that requires plan submissions or permits. This initial determination shall be subject to review and approval by the municipal engineer, designee or, where required, by the New Jersey Department of Environmental Protection.
6. **EXEMPTIONS.** Instead of the riparian zone protection requirements above, the applicant must demonstrate compliance with one of the following:
  - a. The proposed project or activity is not in the riparian zone established;
  - b. The proposed disturbance in a riparian zone is for a linear development with no feasible alternative route;
  - c. The proposed disturbance in a riparian zone is in accordance with a stream corridor restoration or stream bank stabilization plan or project approved by the Department of Environmental Protection;
  - d. The proposed disturbance of a riparian zone is necessary to provide for public pedestrian access or water dependent recreation that meets the requirements of the Freshwater Wetlands Protection Act rules, N.J.A.C. 7:7A, the Flood Hazard Area Control rules, N.J.A.C. 7:13, or the Coastal Zone Management rules, N.J.A.C. 7:7E;
  - e. The proposed disturbance of a riparian zone is required for the remediation of hazardous substances performed with New Jersey DEP or Federal EPA oversight pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq. or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq.;
  - f. The proposed disturbance is for redevelopment that does not exceed the limits of existing impervious surfaces; or
  - g. The proposed disturbance would prevent extraordinary hardship on the property owner peculiar to the property; or prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment.

## **E. USES PERMITTED IN RIPARIAN ZONES**

Any other riparian zone area shall remain in a natural condition or, if in a disturbed condition, including agricultural activities, at the time of adoption of this ordinance may be restored to a natural condition. There shall be no clearing or cutting of trees and brush, except for removal of dead vegetation and pruning for reasons of public safety or for the replacement of invasive species with indigenous species. There shall be no altering of watercourses, dumping of trash, soil, dirt, fill, vegetative or other debris, re-grading or construction. The following uses are permitted either by right or after review and approval by the municipality in riparian zones. No new construction, development, use, activity, encroachment, or structure shall take place in a riparian zone, except as

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specifically authorized in this Section. The following uses shall be permitted within a riparian zone:

1. Open space uses that are primarily passive in character shall be permitted by right to extend into a riparian zone, provided near stream vegetation is preserved. Such uses include wildlife sanctuaries, nature preserves, forest preserves, fishing areas, game farms, fish hatcheries and fishing reserves, operated for the protection and propagation of wildlife, but excluding structures. Such uses also include passive recreation areas of public and private parklands, including unpaved hiking, bicycle and bridle trails, provided that said trail have been stabilized with pervious materials.
2. Fences, for which a permit has been issued by the Construction Code Office, to the extent required by applicable law, rule or regulation.
3. Crossings by farm vehicles and livestock, recreational trails, roads, railroads, storm water lines, sanitary sewer lines, water lines and public utility transmission lines, provided that the land disturbance is the minimum required to accomplish the permitted use, subject to any applicable State permits are acquired, and provided that any disturbance is offset by buffer improvements and that the area of the crossing is stabilized against significant erosion due to its use as a crossing.
4. Stream bank stabilization or riparian reforestation, which conform to the guidelines of an approved Riparian Zone Management Plan, or wetlands mitigation projects that have been approved by the Department of Environmental Protection.

### **F. PERFORMANCE STANDARDS FOR RIPARIAN ZONES**

For all riparian zones, the following conditions shall apply:

1. All new major and minor subdivisions and site plans shall be designed to provide sufficient areas outside of the riparian zone to accommodate primary structures, any normal accessory uses appurtenant thereto, as well as all planned lawn areas.
2. Portions of lots within the riparian zone must be permanently restricted by deed or conservation easement held by the Borough of Madison, its agent, or another public or private land conservation organization which has the ability to provide adequate protection to prevent adverse impacts within the riparian zone. A complete copy of the recorded conservation restriction that clearly identifies the deed book and pages where it has been recorded in the office of the Morris County Clerk must be submitted to the municipality.
3. Any lands proposed for development which include all or a portion of a riparian zone shall as a condition of any major subdivision or major site plan approval, provide for the vegetation or revegetation of any portions of the riparian zone which are not vegetated at the time of the application or which were disturbed by prior land uses, including for agricultural use.
4. For building lots which exist as of the date of adoption of this ordinance, but for which a building permit or a preliminary site plan approval has not

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been obtained or is no longer valid, the required minimum front, side, and rear setbacks may extend into the riparian zone, provided that a deed restriction and/or conservation easement is applied which prohibits clearing or construction in the riparian zone.

5. All stormwater shall be discharged outside of but may flow through a riparian zone and shall comply with the Standard For Off-Site Stability in the “Standards for Soil Erosion and Sediment Control in New Jersey”, established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. (See N.J.A.C. 2:90-1.3.)
6. If stormwater discharged outside of and flowing through a riparian zone cannot comply with the Standard For Off-Site Stability, then the proposed stabilization measures must meet the requirements of the Flood Hazard Area Control Act Rule at N.J.A.C. 7:13-10.2 et. seq., and have an approved Flood Hazard permit.

### **G. NONCONFORMING STRUCTURES AND USES IN RIPARIAN ZONES**

Nonconforming structures and uses of land within the riparian zone are subject to the following requirements:

1. Legally existing but nonconforming structures or uses may be continued.
2. For all other riparian zones:
  - a. Encroachment within the riparian zone shall only be allowed where previous development or disturbance has occurred.
  - b. Existing impervious cover shall not be increased within the riparian zone as a result of encroachments where previous development or disturbances have occurred.
  - c. Discontinued nonconforming uses may be resumed any time within one year from such discontinuance but not thereafter when showing clear indications of abandonment.

### **H. USES PROHIBITED IN RIPARIAN ZONES**

For all riparian zones, any use or activity not specifically authorized elsewhere in this chapter shall be prohibited. By way of example, the following activities and facilities are prohibited, except where authorized or excepted elsewhere in this chapter:

1. Removal or clear-cutting of trees and other vegetation or soil disturbance such as grading, except for selective vegetation removal for the purpose of stream or riparian area stabilization or restoration projects that require vegetation removal or grading prior to implementation.
2. Storage of any hazardous or noxious materials.
3. Use of fertilizers, pesticides, herbicides, and/or other chemicals in excess of prescribed industry standards or the recommendations of the Soil Conservation District.

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4. Roads or driveways, except where permitted.
5. Motor or wheeled vehicle traffic in any area.
6. Parking lots.
7. Any type of permanent structure.
8. New subsurface sewage disposal areas.
9. Residential grounds or lawns.

**I. ACTIVITIES PERMITTED IN RIPARIAN ZONES IN THE CASE OF NO REASONABLE OR PRUDENT ALTERNATIVE OR EXTREME HARDSHIP**

1. For all riparian zones, hardship variances may be granted in cases of a preexisting lot (existing at the time of adoption of this ordinance) when there is insufficient room outside the riparian zone for uses permitted by the underlying zoning and there is no other reasonable or prudent alternative to placement in the riparian zone, including obtaining variances from setback or other requirements that would allow conformance with the riparian zone requirements, and provided that demonstrations are made including but not limited to:
  - a. The existence of an extreme economic hardship, which:
    - 1) Do not apply to or affect other property in the immediate vicinity;
    - 2) Relate to or arise out of the characteristics of the subject property because of the particular physical surroundings, shape or topographical conditions.
    - 3) Demonstrate that there is no adjacent land that is reasonably available or could be obtained, utilized, expanded or managed in order to fulfill the basic purposes.
  - b. An applicant shall be deemed to have established compelling public need if the applicant demonstrates, based on specific facts that one of the following applies:
    - 1) The proposed project will serve an essential public health or safety need;
    - 2) The proposed use is required to serve an existing public health or safety need; or
    - 3) There is no alternative available to meet the established public health or safety need.
  - c. A variance can only be granted if it is shown that the activity is in conformance with all applicable local, state, and federal regulations, and that the exception granted is the minimum relief necessary to relieve the hardship.
2. If the above demonstrations are made, then the encroachment of impervious surfaces (structures or pavement) otherwise permitted by the underlying zoning is permitted to the extent of 750 square feet total. Said

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encroachment is not permitted closer than 100 feet from the top of the bank at bank-full flow or level of Category Two Waters for Trout Production (FW2-TP), or closer than 50 feet from the top of the bank at bank-full flow or level of other surface water bodies.

3. If such an exception is granted, the applicant shall rehabilitate an environmentally degraded riparian zone area within or adjacent to the same site, and at least equivalent in size to the riparian zone reduction permitted, or, if not possible, rehabilitate or expand a riparian zone area at least equivalent in size within a nearby site and, if available, within the same watershed. Rehabilitation shall include reforestation, stream bank stabilization and removal of debris, in accordance with a Riparian Zone Management Plan, as described. The Borough may require financial contribution be made to an Open Space or Municipal Stormwater Management Plan mitigation plan fund in exchange for this requirement.

### **J. RIPARIAN ZONE MANAGEMENT PLAN**

1. Within any riparian zone, no construction, development, use, activity, or encroachment shall be permitted unless the effects of such development are accompanied by preparation, approval, and implementation of a Riparian Zone Management Plan.
2. The landowner, applicant, or developer shall submit to [municipal contact], or its appointed representative, a Riparian Zone Management Plan prepared by an environmental professional, professional engineer or other qualified professional which fully evaluates the effects of any proposed uses on the riparian zone. The Riparian Zone Management Plan shall identify the existing conditions including:
  - a. Existing vegetation;
  - b. Field delineated surface water bodies;
  - c. Field delineated wetlands;
  - d. The 100-year floodplain;
  - e. Flood Hazard Areas, including Floodway and Flood Fringe areas, as delineated by the New Jersey Department of Environmental Protection;
  - f. Soil classifications as found on Soil Surveys;
  - g. Existing subdrainage areas of site with HUC-14 (Hydrologic Unit Code) designations;
  - h. Slopes in each subdrainage area segmented into sections of slopes less than or equal to fifteen (15) percent; above fifteen percent but less than twenty (20) percent; and greater than twenty (20) percent.

The proposed plan shall describe all proposed uses/activities, and fully evaluate the effects of all proposed uses/activities in a riparian zone, and all proposed management techniques, including proposed vegetation and any other measures necessary to offset disturbances to the riparian zone. A discussion of activities proposed as well as management techniques proposed to offset disturbances and/or enhance the site to improve the riparian zone's ability to function effectively as a riparian zone shall also

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be included with the Riparian Zone Management Plan submittal to the Borough of Madison.

3. The Plan shall be reviewed and must be approved by the Engineer of the Borough of Madison, in consultation with the Environmental Commission, as part of the subdivision and land development process.
4. The Riparian Zone Management Plan must include management provisions in narrative and/or graphic form specifying:
  - a. The manner in which the area within the riparian zone will be owned and by whom it will be managed and maintained.
  - b. The conservation and/or land management techniques and practices that will be used to conserve and protect the riparian zone, as applicable.
  - c. The professional and personnel resources that are expected to be necessary, in order to maintain and manage the riparian zone.
  - d. A revegetation plan, if applicable, that includes: three (3) layers of vegetation, including herbaceous plants that serve as ground cover, understory shrubs, and trees that when fully mature, will form an overhead canopy. Vegetation selected must be native, non-invasive species, and consistent with the soil, slope and moisture conditions of the site. The Engineer of the Borough of Madison may require species suitability to be verified by qualified experts from the Soil Conservation District, Natural Resources Conservation Service, New Jersey Department of Environmental Protection, US Fish and Wildlife Service and/or State or Federal forest agencies.
5. A Riparian Zone Management Plan is not required where the riparian zone is not being disturbed and conservation easements/deed restrictions are applied to ensure there will be no future clearing or disturbance of the riparian zone.
6. Performance of the Riparian Zone Management Plan shall be guaranteed for a minimum of two years, by a surety, such as a bond, cash or letter of credit, which shall be provided to the Borough of Madison prior to the Borough issuing any permits or approving any uses relating to the applicable use or activity.

### **K. BOUNDARY INTERPRETATION, APPEALS PROCEDURES, INSPECTIONS, CONFLICTS, SEVERABILITY**

1. When a landowner or applicant disputes the boundaries of a riparian zone, or the defined bank-full flow or level, the landowner or applicant shall submit evidence to the Borough Engineer that describes the riparian zone, presents the landowner or applicant's proposed riparian zone delineation, and presents all justification for the proposed boundary change. For Category One (C1) riparian zones, the landowner or applicant must first obtain approval from the New Jersey Department of Environmental Protection. A decision from the Department must be included with the evidence submitted for municipal review.

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2. Inspections:
  - a. Lands within or adjacent to an identified riparian zone shall be inspected by the Borough Engineer when:
    - 1) A subdivision or land development plan is submitted;
    - 2) A building permit is requested;
    - 3) A change or resumption of a nonconforming use is proposed;
    - 4) A discontinued nonconforming use is resumed more than a year later.
  - b. The riparian zone may also be inspected periodically by representatives from the Borough of Madison if excessive or potentially problematic erosion is present, other problems are discovered, or at any time when the presence of an unauthorized activity or structure is brought to the attention of municipal officials or when the downstream surface waters are indicating reduction in quality.

Inspections will be conducted on an as-needed basis, should the Borough feel that a problem exists. All inspections will be undertaken be in accordance with local, state and federal requirements for property owner notification and permission.

3. Conflicts: All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this ordinance apply.
4. Severability:
  - a. Interpretation: This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal law.
  - b. Notwithstanding that any provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the Ordinance shall continue to be of full force and effect.
  - c. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

### **L. ENFORCEMENT**

A prompt investigation shall be made by the appropriate personnel of the Borough of Madison, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this Ordinance is discovered, a civil action in the Special Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this Ordinance shall be construed to preclude the right of the Borough of Madison, pursuant to N.J.S.A 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or subsection of this Ordinance shall constitute a

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separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this Ordinance. Each day a violation continues shall be considered a separate offense.

**M. PENALTIES**

Any person(s) found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed \$500 per violation, with each day or documented act or occurrence to be considered a separate violation.

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

Mayor Holden opened up the public hearing on Ordinance 53-2009.

**Don Brunner, Redmond Drive**, asked for clarification of the purpose of Ordinance 53-2009. Vincent Loughlin, Esq., explained the necessity to adopt an ordinance regarding riparian buffer zones to comply with the New Jersey State stormwater management plan.

Ms. Baillie moved that Ordinance 53-2009, which was read by title, be finally adopted. Mrs. Tsukamoto seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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

Nays: None

Absent: Dr. Esposito

Mayor Holden declared the aforementioned 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 54-2009 was adopted November 9, 2009*

*Ordinance 55-2009 was adopted November 23, 2009*

**ORDINANCE 56-2009**

**ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$2,710,000.00 FOR THE PURCHASE OF PROPERTY LOCATED AT 205 MADISON AVENUE, BEING A PORTION OF LOT 1, BLOCK 201 FROM THE DIOCESE OF PATERSON AND AUTHORIZE PURCHASE OF SAID PROPERTY FOR THE PURCHASE PRICE OF \$2,750,000.00**

**WHEREAS**, the Borough Council has determined that it is in the best interest of the Borough to purchase ten acres of property located at 205 Madison Avenue, in the Borough of Madison, and known and designated as a portion of Lot 1 in Block 201 on the current tax map of the Borough (to be known as Lot 1.02 in Block 201); and

**WHEREAS**, the Borough Council authorized entry into a contract to purchase said property for \$2,750,000.00 by Resolution 130-2009; and

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**WHEREAS**, the Contract for Purchase was entered into and a deposit of \$50,000.00 was made to the Seller which was appropriated and authorized by Ordinance 20-2009 of the Borough of Madison; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$2,710,000.00 from the Madison Open Space and Recreation Trust Fund and the Morris County Open Space Preservation Fund for the balance of the purchase price and closing costs of the land described herein; and

**WHEREAS**, the Director of Finance has attested to the availability of funds from a grant received from the Morris County Open Space Preservation Fund in an amount not to exceed \$1,750,000.00 for this purpose; and

**WHEREAS**, the Director of Finance has attested to the availability of funds in the Madison Open Space and Recreation Trust Fund in an amount not to exceed \$960,000.00 for this purpose.

**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 of Madison is authorized to purchase the property described herein for the purchase price of \$2,750,000.00 pursuant to the terms of the contract previously entered into.

**SECTION 2:** The amount of \$2,710,000.00 is hereby appropriated from the Madison Open Space and Recreation Trust Fund and the Morris County Open Space Preservation Fund for the purchase of property located at 205 Madison Avenue, in the Borough of Madison, and known and designated as a portion of Lot 1 in Block 201 on the current tax map of the Borough (to be known as Lot 1.02 in Block 201).

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

Mayor Holden opened up the public hearing on Ordinance 56-2009. Since no member of the public wished to be heard, the public hearing was closed.

Mrs. Tsukamoto moved that Ordinance 56-2009, which was read by title, be finally adopted. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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

Mayor Holden declared the aforementioned 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.

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*Ordinance 57-2009 was withdrawn and the # retired*

**ORDINANCE 58-2009**

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 190 OF THE MADISON BOROUGH CODE ENTITLED “WATER” TO AUTHORIZE THE REVISION OF THE BOROUGH OF MADISON’S WATER RATES AND SERVICE FEES**

**WHEREAS**, the Chief Financial Officer of the Borough of Madison has recommended that the water utility rates be increased due to increased costs primarily for significant water main replacements and also to be more comparable with other water utility companies; and

**WHEREAS**, the Chief Financial Officer has recommended that Section 190-32 A of the Borough Code regarding Water Rates for Metered Service be amended to read as follows:

- 190-32 A. (1) All water furnished in any quarter annual period shall be priced at the following rates:

<u>Rates per 100 Cubic Feet</u>	
0 to 1,000	\$2.52
1,001 to 3,000	\$2.66
3,001 and higher	\$2.91

subject to the minimum quarterly charge required in Subsection B below.

- (2) Ordinance 10-2009 previously adopted on March 23, 2009 referenced the Cost of Living Adjustment (COLA) as the amount of rate increase to be implemented each year. All references to the COLA are entirely deleted.

**WHEREAS**, Borough Chief Financial Officer has further recommended that Section 190-32 B of the Borough Code be amended to further reflect the following new rates:

Meter Size (inches)	For Any Amount of Water Furnished Not in Excess of (Cubic Feet)	Minimum Charge (per quarter)
5/8	805	\$20.29

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$\frac{3}{4}$	805	\$20.29
1	2,010	\$52.07
1½	4,021	\$108.11
2	6,433	\$178.30
3	7,343	204.78
4	11,801	\$334.51
6 and greater	22,286	\$639.62

**WHEREAS**, the Borough Council, after due consideration has determined to proceed with said recommendation.

**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 190-32 of the Borough Code entitled “Water Rates for Metered Service” is hereby amended to revise the water utility rates as set forth herein.

**SECTION 2:** All other rates and terms remain the same, except those changed herein.

**SECTION 3:** This Ordinance shall take effect on February 1, 2010.

Mayor Holden opened up the public hearing on Ordinance 58-2009. Since no member of the public wished to be heard, the public hearing was closed.

Mrs. Tsukamoto moved that Ordinance 58-2009, which was read by title, be finally adopted. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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

Mayor Holden declared the aforementioned 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 59-2009**

**ORDINANCE OF THE BOROUGH OF MADISON AMENDING SECTION 155-18B OF THE BOROUGH CODE ENTITLED “SEWER USE CHARGE” TO INCREASE SEWER USE CHARGE FOR TAX-EXEMPT PROPERTIES**

**WHEREAS**, the Chief Financial Officer has recommended that the sewer use charge for tax-exempt properties be increased by nine (9%) percent to reflect the increased costs associated with such charges; and

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

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that Chapter 155 of the Borough Code entitled “Sewers” shall be amended as follows:

**SECTION 1:**

§ 155-18 Sewer use charge established; rate; exception.

A. ....

B. The sewer use charge shall be billed at a rate of \$0.0520 per cubic foot of water

consumed...

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

**SECTION 3:** The increase shall be effective for all meter reads as of January 1, 2010.

Mayor Holden opened up the public hearing on Ordinance 59-2009. Since no member of the public wished to be heard, the public hearing was closed.

Mrs. Tsukamoto moved that Ordinance 59-2009, which was read by title, be finally adopted. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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

Nays: None

Absent: Dr. Esposito

Mayor Holden declared the aforementioned 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.

**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

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Resolution requiring discussion will be removed from the Consent Agenda; all Resolutions will be reflected in full in the minutes.

Mrs. Tsukamoto moved adoption of Resolutions R 290-2009 through R 298-2009, R 300-2009 and Resolutions R 302-2009 through R 305-2009, listed on the Consent Agenda. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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

Nays: None

Absent: Dr. Esposito

R 290-2009 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING PURCHASE OF A 2010 FORD CROWN VICTORIA POLICE VEHICLE THROUGH THE MORRIS COUNTY CO-OPERATIVE PRICING COUNCIL

**WHEREAS**, the Borough of Madison desires to purchase a 2010 Ford Crown Victoria police vehicle for the Police Department from an authorized vendor under the Morris County Co-Operative Pricing Council program; and

**WHEREAS**, the purchase of goods and services by local contracting units is authorized by the Local Public Contracts Law, N.J.S.A. 40A:11-10, et seq.; and

**WHEREAS**, Warnock Fleet, 175 Route 10, East Hanover, New Jersey has been awarded Morris County Co-Operative Pricing Council contract number 15-A; and

**WHEREAS**, the Police Chief has recommended that the Borough Council utilize this contract for the purchase of a 2010 Ford Crown Victoria police vehicle in the amount of \$26,386.45; and

**WHEREAS**, the Director of Finance has attested that funds will be available in an amount not to exceed \$26,386.45 for this purpose, which funds are available in the 2009 Police Department Operating budget.

**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 purchase of a 2010 Ford Crown Victoria police vehicle from Warnock Fleet of East Hanover, New Jersey, at a total price not to exceed \$26,386.45 is hereby approved under the Morris County Co-Operative Pricing Council contract number 15-A.

2. The Mayor and Borough Clerk are hereby authorized and directed on behalf of the Borough to execute a purchase order and contract to Warnock Fleet of East Hanover, New Jersey, for the purchase of a 2010 Ford Crown Victoria police vehicle at a total price not to exceed \$26,386.45, in a form acceptable to the Borough Attorney.

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R 291-2009 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING SUBMISSION OF THE 2010 HOME APPLICATION FOR FUNDING FOR WALNUT STREET AFFORDABLE HOUSING

**WHEREAS**, the Executive Director of the Madison Borough Housing Authority has recommended to the Borough Council that a 2010 County of Morris Home Investment Partnership (HOME) Program application in the amount of \$300,000.00 for the development of Walnut Street Affordable Housing be submitted to the Morris County Division of Community Development; and

**WHEREAS**, the recommendation has been considered at the Regular Public Meeting of the Borough Council on December 14, 2009.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Madison, County of Morris and State of New Jersey, that the Executive Director of the Madison Affordable Housing Corporation is hereby authorized to file the above-described County of Morris Home Investment Partnership (HOME) Program application.

R 292-2009 RESOLUTION OF THE BOROUGH OF MADISON AMENDING THE SOLID WASTE COLLECTION AND DISPOSAL CONTRACT WITH SUBURBAN DISPOSAL, INC.

**WHEREAS**, the Borough of Madison authorized entry into a contract for solid waste collection and disposal with Suburban Disposal, Inc., for a five year term, which contract was authorized by Resolution R 272-2009; and

**WHEREAS**, the Borough Administrator has recommended an addendum to the contract that will allow the Borough of Madison the unilateral right to terminate the contract upon six months' notice to Suburban Disposal, Inc., any time after the first two years of the contract have been completed; and

**WHEREAS**, it would be in the best interests of the Borough of Madison to enter into such addendum.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of Madison in the County of Morris and State of New Jersey, that the Mayor and Borough Clerk are hereby authorized to execute an addendum to the contract with Suburban Disposal, Inc., which addendum will permit the Borough of Madison the unilateral right to terminate the contract upon six months' notice any time after the first two years of the contract have been completed, in a form acceptable to the Borough attorney.

R 293-2009 RESOLUTION OF THE BOROUGH OF MADISON APPROVING RAFFLES LICENSE APPLICATIONS SUBMITTED BY PTO TOREY J. SABATINI SCHOOL, BULLPEN CLUB, INC. AND ST. VINCENT MARTYR CHURCH

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

PTO TOREY J. SABATINI SCHOOL  
I.D. No. 274-5-33160  
R.A. No. 1134 – On Premise  
February 27, 2010

BULLPEN CLUB INC.

I.D. No. 274-5-35149  
R.A. No. 1135 – Off Premise  
February 23, 2010

ST. VINCENT MARTYR CHURCH  
I.D. No. 274-1-812  
R.A. No. 1136 – Off Premise  
R.A. No. 1137 – On Premise  
R.A. No. 1138 – On Premise  
March 20, 2010

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

R 294-2009 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING 2009 BUDGET TRANSFERS

**WHEREAS**, there appears to be insufficient funds in the following accounts (excepting the appropriation for Contingent Expenses or Deferred Charges) to meet the demands for the balance of the Current Year in Police – Salaries & Wages, Police – Other Expenses, Fire – Salaries & Wages, Planning Board – Other Expenses and Construction Code – Salaries & Wages, and;

**WHEREAS**, there appears to be surplus in the following accounts (excepting the appropriation for Contingent Expenses, Deferred Charges, Cash Deficit of Preceding Year, Reserve for Uncollected Taxes, Down Payments, Capital Improvement Fund, or Interest and Debt Redemption Charges), over and above the demand deemed to be necessary for the balance of the Current Year, in Public Works – Other Expenses, Public Works – Salaries & Wages and Health Insurance – Other Expenses.

**NOW, THEREFORE BE IT RESOLVED**, (not less than two-thirds of all the members thereof affirmatively concurring) that in accordance with the provision of

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R.S. 40A:4-58, part of the surplus in the account heretofore mentioned be and the same are hereby transferred to the account (excepting the appropriation for Contingent Expenses or Deferred Charges) mentioned as being insufficient, to meet the current demands, and;

**BE IT FURTHER RESOLVED**, that the Chief Financial Officer be and is hereby authorized and directed to make the following attached transfers:

2009 BUDGET TRANSFERS

DEPARTMENTS REQUESTING TRANSFER IN	AMOUNT REQUESTED	REASON FOR REQUEST	DEPARTMENTS SUPPLYING FUNDS	AMOUNTS TRANSFERRED OUT
<u>CURRENT FUND</u>				
Police Salaries & Wages	\$20,000	Overtime to cover year end events	Public Works Other Expenses	\$30,000
Police Other Expenses	\$5,000	Maintenance contract for Enforsys	Public Works Salaries & Wages	\$30,000
Police Other Expenses	\$5,000	Purchase of vehicle that was totalled	Health Insurance Other Expenses	\$22,000
Police Other Expenses	\$6,000	Additional training for Police Officers		
Police Other Expenses	\$5,000	Additional maintenance for Police & Fire Building		
Fire Salary & Wages	\$6,000	Additional overtime required		
Planning Board Other Expenses	\$25,000	Additional fees for Attorney and Planning Consultant		
Construction Code Salaries & Wages	\$10,000	Additional payroll for Inspection Services		
Total Current Fund	<u>\$82,000</u>			<u>\$82,000</u>

**R 295-2009 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING CANCELLATION OF AMOUNT DUE FROM HOUSING AUTHORITY**

**WHEREAS**, the Madison Borough Chief Financial Officer has recommended canceling the amount due of \$17,479.46 from the Housing Authority as reflected on the Current Fund Comparative Balance Sheet; and

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**WHEREAS**, the Borough Council has determined to make such cancellation.

**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 open balance due of \$17,479.46 by the Housing Authority be cancelled.

R 296-2009 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING CANCELLATION OF OLD OUTSTANDING CHECKS, BANK ERRORS AND RETURNED CHECKS

**WHEREAS**, the Madison Borough Chief Financial Officer has recommended that old outstanding checks, bank errors and returned checks be cancelled as being out of date; and

**WHEREAS**, the Chief Financial Officer has indicated that the Chief Accountant has recommended these items should be cancelled.

**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. All outstanding checks and charges listed on the attached Memorandum dated October 28, 2009 from Francine DeAngelis, Chief Accountant, to Robert Kalafut, Chief Financial Officer, be cancelled.
2. The Chief Financial Officer is authorized to take whatever action is necessary to effectuate this Resolution.

R 297-2009 RESOLUTION OF THE BOROUGH OF MADISON CANCELING COMPLETED CAPITAL IMPROVEMENT ORDINANCES

**WHEREAS**, the Chief Financial Officer has reviewed a list of open capital projects and has determined that several capital projects have been completed and the improvement authorization accounts should be closed; and

**WHEREAS**, the Chief Financial Officer has recommended that the Council adopt a Resolution canceling the open dollar balances in such completed projects; and

**WHEREAS**, the Borough Council has determined to make such cancellation.

**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 list of open capital projects annexed hereto are hereby cancelled.

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**R 298-2009 RESOLUTION OF THE BOROUGH OF MADISON APPROVING THE 2008 CORRECTIVE ACTION PLAN REPORT**

**WHEREAS**, the 2008 Audit Report prepared by the Municipal Auditor contained four (4) recommendations to be remedied; and

**WHEREAS**, the Chief Financial Officer has prepared a Corrective Action Plan which the Borough Council has reviewed and approved.

**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 Corrective Action Plan attached hereto is hereby approved.

**R 300-2009 RESOLUTION OF THE BOROUGH OF MADISON AWARDING RECYCLING CONTRACT FOR THE DISPOSAL OF PAPER ITEMS AND COMMINGLED CONTAINERS**

**WHEREAS**, the Borough Recycling Coordinator and the Borough Administrator have recommended to the Borough Council that it enter into a contract with WM Recycle America for a term of five (5) years for the disposal of paper items and commingled containers; and

**WHEREAS**, the Borough Council has determined that the Borough should award a contract to WM Recycle America for the disposal of paper items and commingled containers for a period of five (5) years effective January 1, 2010, based on the terms and pricing and payment information set forth in the Recycling Services Agreement dated January 1, 2010, from WM Recycle America; and

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

**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 enter into, on behalf of the Borough, a contract with WM Recycle America, for the disposal of paper items and commingled containers for a period of five years, effective January 1, 2010, on the basis set forth above. The contract shall be in a form acceptable to the Borough Attorney.

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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 301-2009 REMOVED AND THE # RETIRED

R 302-2009 RESOLUTION OF THE BOROUGH OF MADISON APPOINTING PART TIME SENIOR CITIZEN VAN DRIVER

**WHEREAS**, the Senior Citizen Services Coordinator has recommended the appointment of Mark Spinner to the position of permanent part-time Senior Citizen Van Driver, contingent upon a satisfactory background check being received; and

**WHEREAS**, the Senior Citizen Services Coordinator has certified that Mark Spinner was determined to be the most qualified of all the applicants interviewed for the position.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Madison, County of Morris, and State of New Jersey, that contingent upon a satisfactory background check being received, Mark Spinner is hereby appointed to the position of permanent part-time Senior Citizen Van Driver, effective on the day he begins work.

**BE IT FURTHER RESOLVED**, that Mark Spinner shall be compensated at a salary in the amount of \$15.00 per hour for up to 24 hours per week.

R 303-2009 RESOLUTION OF THE BOROUGH OF MADISON APPOINTING ROBERT LANDRIGAN TO THE POSITION OF EMERGENCY MANAGEMENT COORDINATOR FOR A TERM DECEMBER 14, 2009 THROUGH DECEMBER 31, 2009

**BE IT RESOLVED** by the Borough of Madison in the County of Morris and State of New Jersey that Robert Landrigan is hereby appointed to the position of Emergency Management Coordinator for the Borough of Madison for the term of December 14, 2009 through December 31, 2009.

**BE IT FURTHER RESOLVED** that a copy of this resolution be transmitted to Rick Loock, Morris County Office of Emergency Management Deputy Coordinator.

R 304-2009 RESOLUTION OF THE BOROUGH OF MADISON AMENDING RESOLUTION 247-2009 INCREASING AMOUNT OF CONTRACT WITH DENNIS HARRINGTON FOR DODGE FIELD IMPROVEMENTS

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**WHEREAS**, Resolution 247-2009 awarded a professional services contract to Dennis Harrington of Madison, New Jersey in an amount not to exceed \$7,500.00, for construction oversight services for the Dodge Field improvements; and

**WHEREAS**, the Borough Engineer has recommended that the Borough amend Resolution 247-2009 to increase the award amount by \$2,000.00 to \$9,500.00 for additional inspection and construction oversight services; and

**WHEREAS**, the Borough Engineer has recommended that the Borough authorize expenditure of up to \$3,000.00 for additional materials costs; and

**WHEREAS**, the Director of Finance has attested that funds will be available in an amount not to exceed \$2,000.00 for additional inspection and construction oversight services, and in an amount not to exceed \$3,000.00 for additional materials costs, which funds were appropriated by Ordinance 29-2009; and

**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. Resolution 247-2009 is amended to increase the contract award amount by \$2,000.00 to \$9,500.00 for additional inspection services.
2. The Mayor and Borough Clerk are hereby authorized to execute, on behalf of the Borough, an amended professional services contract with Dennis Harrington for construction oversight and inspection services for the Dodge Field improvements in a total amount not to exceed \$9,500.00, such contract to be in a form approved by the Borough Attorney.
3. The expenditure of up to \$3,000.00 for additional materials costs is authorized

R 305-2009 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING FINAL PAYMENT AND CHANGE ORDER REQUEST FROM JOHN GARCIA CONSTRUCTION CO. IN THE AMOUNT OF \$20,239.82 BRINGING TOTAL PAYMENT TO \$228,606.34 FOR THE GREEN AVENUE WATER MAIN REPLACEMENT PROJECT

**WHEREAS**, a contract for the Green Avenue Water Main Replacement project, in an amount not to exceed \$208,366.52 was awarded to John Garcia Construction Co., Inc., of Clifton, New Jersey, by Resolution 223-2009; and

**WHEREAS**, the Borough Engineer has recommended approval of a change order to the contract for changes that were encountered during the construction, in an additional amount of \$20,239.82 bringing the contract total to \$228,606.34; and

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**WHEREAS**, the Borough Engineer has advised the project has been completed and has recommended approval of final payment including the change order to John Garcia Construction Co., Inc. of Clifton, New Jersey in an amount not to exceed \$20,239.82; and

**WHEREAS**, the Director of Finance has attested to the availability of funds in an amount not to exceed \$20,239.82 for this purpose, which funds were appropriated by Ordinance 37-2009.

**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 John Garcia Construction Co., Inc. of Clifton, New Jersey, in the total amount not to exceed \$20,239.82 for the Green Avenue Water Main Replacement project is authorized.

Mrs. Tsukamoto moved adoption of Resolution R 299-2009. Ms. Baillie seconded the motion. Mr. Cerciello raised concern regarding construction at the Hartley Dodge Memorial building.

Following discussion, the motion passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Mr. Elias, Mr. Conley, Mrs. Tsukamoto

Nays: Mr. Cerciello

Absent: Dr. Esposito

**R 299-2009 RESOLUTION OF THE BOROUGH OF MADISON APPROVING CHANGE ORDER #5 FOR THE HDM PROJECT**

**WHEREAS**, a contract for the rehabilitation of the Hartley Dodge Memorial, in an amount not to exceed \$6,317,000 was awarded to Merrell & Garaguso, Inc., by Resolution R124-2009; and

**WHEREAS**, Change Orders #1, #2, #3 and #4 have previously been approved for a total additional amount of \$329,646.00; and

**WHEREAS**, the Borough Administrator has recommended approval of a Change Order #5 to the contract to mount snow guards, relocate the toilet room trap in the sally port, repair plaster at the east stair ceilings, and repair interior roof drains in the attic, in an additional amount of \$15,596.00 bringing the contract total to \$6,662,242.00; and

**WHEREAS**, the Director of Finance has attested to the availability of funds in an amount not to exceed \$15,596.00 for this purpose, which funds were appropriated by Ordinance 58-2008.

**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 change order

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request from Merrell & Garaguso, Inc., in the total amount not to exceed \$15,596.00 for the rehabilitation of the Hartley Dodge Memorial is authorized.

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

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

**Don Brunner, Redmond Drive**, inquired as to the status of litigation regarding Stop & Shop. Mr. Loughlin explained that the matter is still pending, but soon to be settled. Mr. Brunner asked about the annual Reorganization Meeting, which is scheduled for January 1, 2010 at 12 o'clock noon.

**UNFINISHED BUSINESS – Madison Recreation Center**

Mayor Holden offered an update on the proposed fields for the Madison Recreation Center, noting that three fields are proposed in an L-shaped area behind the Madison High School. Information has been given to T & M Associates to offer proposals of what is left of the property. Mrs. Holden stated that a well defined plan is necessary to raise funds. Mr. Elias raised concern that the Borough not get too far ahead of the other partners in borrowing funds to jump start the project.

**APPROVAL OF VOUCHERS**

On motion by Mrs. Tsukamoto, seconded by Ms. Baillie and carried, the following vouchers of the Borough of Madison were approved for payment, and the supporting documentation of said vouchers was made part of the Supplemental Minute Book.

Public Safety	\$26,326.88
Health & Public Assistance	8,797.78
Public Works & Engineering	308,280.74
Community Affairs	2,655.78
Finance & Borough Clerk	821,907.24
Utilities	1,456,386.87
Total	<u>\$2,624,355.29</u>

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

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

Nays: None

Absent: Dr. Esposito

**NEW BUSINESS** - None

**ADJOURN**

There being no further business to come before the Council, the meeting was adjourned at 9:25 p.m.

Respectfully submitted,

Elizabeth Osborne  
Borough Clerk  
Approved January 11, 2010 (EO)