

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

**June 28, 2010 - 7 p.m.**

**CALL TO ORDER**

The Regular Meeting of the Mayor and Council of the Borough of Madison was held on the 28th day of June 2010. Mayor Holden called the meeting to order at 7 p.m. in the Mayor's Office, Room #210 of Bayley-Ellard High School, 205 Madison Avenue, in the Borough of Madison.

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

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

"In compliance with the Open Public Meetings Act, adequate notice of this meeting of the Council was provided by transmitting a copy of the meeting notice to the Madison Eagle and Morris County Daily Record, posting a copy on the bulletin board at the main entrance of Bayley-Ellard High School, and filing a copy in the office of the Clerk, all on January 7, 2010. This Notice was made available to members of the general public."

**ROLL CALL**

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

Mayor Mary-Anna Holden

Council Members:

Astri J. Baillie

Jeannie Tsukamoto

Vincent A. Esposito

Sebastian J. Cerciello

Donald R. Links

Absent: Robert H. Conley, excused

Also Present:

Raymond M. Codey, Borough Administrator

Elizabeth Osborne, Borough Clerk

Joseph Mezzacca, Jr., Borough Attorney

**AGENDA REVIEW**

There was approval of the Regular and Executive Agenda.

**READING OF CLOSED SESSION RESOLUTION**

Mrs. Tsukamoto moved:

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

MINUTES FOR APPROVAL - none

CONTRACT MATTERS (4)

ARMORTEC PRODUCT ATTRIBUTES

MADISON RECREATION CENTER – DRE

HDM

FIRST OCCUPATIONAL

**Regular Meeting Minutes – June 28, 2010**

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

PERSONNEL MATTERS (5)  
SUMMER INTERN  
NON AFFILIATED COMPENSATION  
PART-TIME SENIOR VAN DRIVER  
QUALIFIED PURCHASING AGENT  
POWERS AND DUTIES OF BOROUGH COUNCIL

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

LITIGATION MATTERS (1)  
COUGAR FIELD

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

Seconded: Ms. Baillie  
Vote: Approved by voice vote

**RECONVENE IN COUNCIL CHAMBER**

Mayor Holden reconvened the Regular Meeting at 8:15 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.

Mr. Mezzacca recused himself from the ABC hearing and was not present for the hearing.

**ABC HEARING – Prospect Tavern & Ale License # 1417-33-015-004**

Mayor Holden introduced Richard P. Cushing, Esq. special counsel for the Borough of Madison. Mr. Cushing explained that this matter was on the Council agenda of June 14, 2010 for renewal. An objection was received that day, and adjourned to this evening, June 28th. If there is anyone making objection present they will have an opportunity to speak. Also the licensee and/or their counsel will have an opportunity to make a statement. Mr. Cushing will then offer his recommendations to the Mayor and Council. Mrs. Tsukamoto motioned to open the ABC Hearing, seconded by Ms. Baillie and agreed to unanimously. Mr. Cushing asked if there was anyone present representing Stop & Shop. Ms. Jennifer Porter from Gibbons, PC introduced herself and indicated she would rely on the written objection sent to the Borough of Madison, not making any presentation this evening. Robert Simon, Esq. of Herald Law, PC was present on behalf of Prospect Tavern Beef & Ale, LLC. Mr. Simon indicated that he has had an opportunity to review the objection materials and noted that the objection is to the original person to person, place to place transfer of the liquor license granted in February 2009. The claim indicates that the original license is invalid mainly due to insufficient notice. No objection was received in 2009. In March 2010, Stop & Shop moved in Superior Court, Morris County for summary judgment. The Honorable B. Theodore Bozonelis, Assignment Judge of the Superior Court, denied that summary judgment, indicating that the State of New Jersey has jurisdiction of these claims. No appeal has been filed with the State of NJ to date. Mr. Simon indicated that the issue has already been litigated and should not be done so again here. Mr. Simon indicated that it is their position that the notice is in compliance, and has informed the public in a common sense manner of the transfer of the liquor license. Mr. Simon also indicated that there have been no problems with the operating of the business as a tavern. Ms. Porter was asked if

## ***Regular Meeting Minutes – June 28, 2010***

she would make any statement, which she indicated she was not prepared to make at this time. Mrs. Tsukamoto made a motion to close the hearing, seconded by Ms. Baillie and agreed to by all. Mr. Cushing offered his recommendation to the Mayor and Council. Mr. Cushing indicated that the objection is to a procedural aspect of the issuing of the original license, not to the renewal. There are other issues between the parties. A lawsuit is pending. Mr. Cushing recommended that there are strong legal arguments on both sides and that the decision would be better decided at the State of New Jersey Division of ABC. Mr. Cushing recommends that the Council adjourn the matter until the Council meeting of August 23, 2010, and that the applicant re-notice the person to person, place to place transfer and that if someone has any objection at that time, the Council can consider their objections. The licensee should apply to the State for an As-Interim license in order to continue to operate. Mr. Cushing offered resolution R 182-2010 adjourning a hearing on the renewal of the license. Mrs. Tsukamoto moved to accept the recommendations and the resolution, seconded by Ms. Baillie and passed by voice vote. The hearing ended at 8:45 p.m. Mr. Cushing left the meeting room.

Mr. Mezzacca rejoined the regular meeting of the Mayor and Council.

### ***GREETINGS TO PUBLIC***

Mayor Holden made the following comments:

Mrs. Holden thanked the members of the Madison Police Department for their Open House on Saturday June 26, 2010.

### ***REPORTS OF COMMITTEES***

#### **Community Affairs**

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

Ms. Baillie noted that there are now three new cigarette urns downtown, thanks to an Eagle Scout candidate from our local boy scouts. Recreation programs this summer include the Drama Program for boys & girls grades 4-8, Music Theater for boys & girls grades 9 & up, Nature Program for boys & girls grades 1-6 and the Playground Program at Lucy D field for boys & girls grades K-6. Ms. Baillie announced that the annual Farmer's Market will again be held on Thursdays beginning at 2 p.m. along Waverly Place. The Downtown Concert series will continue every other Friday evening in front of the Museum of Early Trades & Crafts. The Green Team Madison 2010, will continue to meet and to apply for Sustainable Jersey certification as well as a \$25,000.00 grant to help reduce energy cost in the Borough. Any resident who wishes to participate should contact Jim Burnet, Main Street Executive Director or Ms. Baillie. The Chamber of Commerce is promoting a University saving book that will be distributed this fall. Anyone interested in advertising should contact Ron Waksman, of the Chocolate Rose Shop at (973) 377-7746.

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

Mr. Conley, Chair of the Committee, absent.

#### **Public Safety**

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

More than 500 residents attended the Madison Police Department's Open House. The Madison Fire Department supported the "Relay for Life" race help last Friday at the Madison High School, donating 100% proceeds from their sale of food and drinks were donated to the Relay for Life organization.

## ***Regular Meeting Minutes – June 28, 2010***

### **Utilities**

Dr. Esposito, Chair of the Committee, no report.

### **Public Works and Engineering**

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

Mr. Cerciello spoke about a proposed Pavilion on Rosedale Avenue. Eagle Scout candidate Connor Reeves is rebuilding the fire pit area. The third week in August, Mr. Cerciello would like to invite the public to come to a picnic and give a presentation of the proposed Pavilion including the sale of pavers to finance the building costs.

### **Health & Public Assistance**

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

## **BUDGET HEARING**

Mrs. Holden opened the hearing on the 2010 Municipal Budget and asked if any member of the public wished to be heard concerning the 2010 Municipal Budget.

***Eugene Zipper, Greenwood Avenue***, asked if the budget had change since introduction on May 24, 2010. Mr. Codey stated that the Municipal Budget had not changed since introduction.

***Thomas Binting, Green Avenue***, thanked the Mayor and Council, Mr. Codey, Mr. Kalafut and the Borough staff for their hard work on a difficult budget. Mr. Binting expressed concern for the budget going forward, and asked the Mayor and asked that the Council address the financial position of the Borough when considering capital projects.

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

Mrs. Holden indicated that since the Borough of Madison has not received approval of the Budget from the State of New Jersey Division of Local Government Services, adoption will be deferred until such approval is received.

Heidi Wall of Nisivoccia and Company, LLC, Auditor for the Borough of Madison offered summary comments, noting that the municipal budget for the Borough of Madison is in compliance, with a modest increase in the municipal taxes. The increase is due to loss of state aid, pension costs, and increase in health benefits

## ***COMMUNICATIONS AND PETITIONS- none***

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

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

## **Regular Meeting Minutes – June 28, 2010**

**Eugene Zipper, Greenwood Avenue**, objected to outside organizations using the multi-purpose room at the Madison Civic Center. Mr. Zipper objects to The Playwrights Theatre using a taxpayer facility.

**Rosemary Garrubbo Finnegan, Woodland Road**, inquired about sidewalks for the reconstruction project for Woodland Road. Mr. Codey noted that sidewalks are not included in the proposed project.

**Jim McMahon, Woodland Road**, asked why curbing is necessary along Woodland Road and if tabletops can be used at intersections to reduce speeding. Mr. McMahon also inquired about the Brooklake Road reconstruction project.

**George Martin, Woodland Rd**, asked about less expensive ways to reconstruct Woodland Road.

**Thomas Finnegan, Woodland Road**, asked the scope of the Woodland Road reconstruction project. Borough Engineer Robert Vogel indicated that this phase of the reconstruction is from Green Avenue to Garfield Avenue.

### **AGENDA DISCUSSIONS**

#### **06/28/2010-1 AMEND FEES FOR PUBLIC RECORDS AND DOCUMENTS ORDINANCE**

After a brief explanation by Mrs. Osborne, there was consensus to list Ordinance 36-2010 for introduction as recommended.

#### **06/28/2010-2 item removed**

#### **06/28/2010-3 USE OF THE MULTI PURPOSE ROOM AT THE CIVIC CENTER BY PLAYWRIGHTS THEATRE**

Following discussion there was agreement set this item aside until a policy for use of public space within the Borough is adopted.

#### **06/28/2010-4 2009 AUDIT**

Mr. Codey provided a brief explanation of the annual audit. There was agreement to list Resolution R 172-2010 on the Consent Agenda.

#### **06/28/2010-5 RESOLUTION IN SUPPORT OF SUSTAINABLE LAND USE PLEDGE**

Ms. Baillie explained the grant processes and asked for Council support in helping the Borough achieve certification as a sustainable community. Resolution R 175-2010 is listed on Consent Agenda.

#### **06/28/2010-6 SELF CONTAINED LEAF VACUUM**

Public Works Superintendent David Maines provided information regarding the sole bid received for the purchase of a Self Contained Leaf Vacuum. Following discussion, there was agreement to list Resolution R 178-2010 on the Consent Agenda.

#### **06/28/2010-7 APPROPRIATE \$465,000.00 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR THE RECONSTRUCTION OF WOODLAND ROAD**

Borough Engineer Robert Vogel explained the scope of the work for the roadway reconstruction of Woodland Road. Mr. Cerciello raise objection to the preparation of

**Regular Meeting Minutes – June 28, 2010**

the bid specifications. Following discussion there were no objections to listing Ordinance 37-2010 for Introduction.

**06/28/2010-8** APPROPRIATE \$500,000.00 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR THE REHABILITATION OF NORTH STREET PUMP STATION

Mr. Cerciello raise objection to the bidding process. Following discussion of the rehabilitation of North Street Pump station there was agreement to list Ordinance 38-2010 for Introduction.

**ADVERTISED HEARINGS**

The Clerk made the following statement:

The Ordinance scheduled for hearing tonight was submitted in writing at a Regular meeting of the Mayor and Council held on May 24, 2010, was 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 33-2010  
CALENDAR YEAR 2010 ORDINANCE TO EXCEED THE MUNICIPAL  
BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK  
(N.J.S.A. 40A: 4-45.14)**

**WHEREAS**, the Local Government Cap Law, N.J.S.A. 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 0.0% unless authorized by ordinance to increase it to 3.5% over the previous year's 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 Borough Council of the Borough of Madison in the County of Morris finds it advisable and necessary to increase its CY 2010 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 Borough Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$626,471 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

**WHEREAS**, the Borough Council; 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 Borough Council of the Borough of Madison, in the County of Morris, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2010 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 increase by 3.5% amounting to \$626,471 and that the CY 2010 municipal budget for the Borough of Madison be approved and adopted in accordance with this ordinance; and

**Regular Meeting Minutes – June 28, 2010**

**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.

Mayor Holden opened up the public hearing on Ordinance 33-2010. Since no member of the public wished to be heard, the public hearing was closed.

Ms. Baillie moved that Ordinance 33-2010, which the Borough Clerk 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, Mrs. Tsukamoto, Dr. Esposito,  
Mr. Cerciello, Mr. Links

Nays: None

Absent: Mr. Conley

Mayor Holden declared Ordinance 33-2010 adopted and finally passed and ordered the Clerk to publish the notice thereof in the newspaper and to record the ordinance as required by law.

**INTRODUCTION OF ORDINANCES**

The Clerk made the following statement:

Ordinances scheduled for introduction and first reading tonight will have a hearing during the meeting of July 12, 2010 in the 3<sup>rd</sup> Floor Meeting Room of Bayley-Ellard High School, 205 Madison Avenue off Danforth Road in the Borough of Madison at 8 p.m., or as soon thereafter as practical, for further consideration and final adoption. Said ordinances will be published in the Madison Eagle, be posted at the main entrance to Bayley-Ellard High School and be made available to members of the public requesting same, as required by law.

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

ORDINANCE 36-2010 ORDINANCE OF THE BOROUGH OF MADISON  
AMENDING CHAPTER 147 OF THE BOROUGH CODE ENTITLED "FEES"

**WHEREAS**, the Borough Clerk has recommended that the fees for copies of public records be amended; and

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

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that Section 147-1 of the Borough Code entitled "Fees for copies of particular records and documents" shall be amended as follows:

**Regular Meeting Minutes – June 28, 2010**

SECTION 1:

§ 147-1 Fees for copies of particular records and documents.

....

C. Police records.

(1) Copies of motor vehicle accident reports obtained during regular business hours in person: no fee for pages 1-10; \$0.05 per page for page 11 and over, unless otherwise specified by law.

....

(3) All other records in printed form which are available pursuant to law: no fee for pages 1-10; \$0.05 per page for page 11 and over, unless otherwise specified by law.

....

D. General records.

(1) All records in printed form which are available pursuant to law: no fee for pages 1-10; \$0.05 per page for page 11 and over, unless otherwise specified by law.

....

(3) Press proofs of ordinances (if available): no fee for pages 1-10; \$0.05 per page for page 11 and over.

....

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

Ms. Baillie moved that Ordinance 36-2010, which the Borough Clerk read by title, be 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, Mrs. Tsukamoto, Dr. Esposito,  
Mr. Cerciello, Mr. Links

Nays: None

Absent: Mr. Conley

ORDINANCE 37-2010 ORDINANCE OF THE BOROUGH OF MADISON  
APPROPRIATING \$465,000.00 FROM THE GENERAL CAPITAL  
IMPROVEMENT FUND FOR WOODLAND ROAD RECONSTRUCTION

WHEREAS, the Borough Engineer has recommended that the Borough appropriate \$465,000.00 from the General Capital Improvement Fund for Woodland Road reconstruction; and

**Regular Meeting Minutes – June 28, 2010**

**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 \$465,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$465,000.00 from the General Capital Improvement Fund for Woodland Road reconstruction; 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 \$465,000.00 is hereby appropriated from the General Capital Improvement Fund for Woodland Road reconstruction.

**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. Tsukamoto moved that Ordinance 37-2010, which the Borough Clerk read by title, be 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, Mrs. Tsukamoto, Dr. Esposito,  
Mr. Links  
Nays: Mr. Cerciello  
Absent: Mr. Conley

**ORDINANCE 38-2010    ORDINANCE OF THE BOROUGH OF MADISON  
APPROPRIATING \$500,000.00 FROM THE GENERAL CAPITAL  
IMPROVEMENT FUND FOR REHABILITATION OF NORTH STREET  
PUMP STATION**

**WHEREAS**, the Borough Engineer has recommended that the Borough appropriate \$500,000.00 from the General Capital Improvement Fund for rehabilitation of the North Street Pump Station; 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 \$500,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$500,000.00 from the General Capital Improvement Fund for rehabilitation of the North Street Pump Station.

**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:

**Regular Meeting Minutes – June 28, 2010**

SECTION 1: The amount of \$500,000.00 is hereby appropriated from the General Capital Improvement Fund for rehabilitation of the North Street Pump Station.

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. Cerceillo moved that Ordinance 38-2010, which the Borough Clerk read by title, be 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, Mrs. Tsukamoto, Dr. Esposito,  
Mr. Links  
Nays: Mr. Cerciello  
Absent: Mr. Conley

**CONSENT AGENDA RESOLUTIONS**

The Clerk made the following statement:

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

Mrs. Tsukamoto moved adoption of Resolutions R 168-2010, and R 170-2010 through R 181-2010 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, Mrs. Tsukamoto, Dr. Esposito,  
Mr. Cerciello, Mr. Links  
Nays: None  
Absent: Mr. Conley

R 168-2010 RESOLUTION OF THE BOROUGH OF MADISON RENEWING LIQUOR LICENSES IN THE BOROUGH OF MADISON FOR THE 2010-2011 LICENSE TERM

**BE IT RESOLVED** by the Council of the Borough of Madison, County of Morris, State of New Jersey, that the following applications for renewal of Liquor Licenses for the 2010 - 2011 license term be, and hereby are, approved:

**CONSUMPTION LICENSES – FEE \$2,386.00; July 1, 2010 through June 30, 2011**

License #1417-33-018-009  
U S Food and Beverage Corp.  
Poor Herbies  
13 Waverly Place  
Madison, NJ 07940

**Regular Meeting Minutes – June 28, 2010**

**DISTRIBUTION LICENSES - FEE: \$1,798.00; July 1, 2010 through June 30, 2011**

License #1417-44-007-003

VNB Wine and Spirit Inc.

Rose City Liquors

84 Main Street

Madison, NJ 07940

License #1417-44-006-004

ANV Madison LLC

300 Main Street Unit 7A

Madison, NJ 07940

R 170-2010 RESOLUTION OF THE BOROUGH OF MADISON APPROVING 2010 TAXI DRIVER'S PERMIT NO. 10 FOR MARIEL DUARTE OF MADISON SQUARE TRANSPORTATION INC.

**WHEREAS**, in compliance with the provisions of Chapter 173 of the Borough Code, application for a Taxi Driver's Permit for Madison Square Transportation Inc. has been made by Mariel Duarte, 57 Main Street, Peapack, New Jersey; and

**WHEREAS**, the above applicant has complied with all requirements of the State Law and above-mentioned Ordinance;

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of Madison, County of Morris, State of New Jersey, that Taxi Driver's Permit No. 10 be issued to Mariel Duarte effective upon Council approval and through December 31, 2010.

R171-2010 RESOLUTION OF THE BOROUGH OF MADISON ACCEPTING MONETARY DONATION FROM FAIRLEIGH DICKINSON UNIVERSITY, MADISON, NEW JERSEY

**WHEREAS**, Fairleigh Dickinson University has generously offered to donate \$4,000.00 to the Madison Police Department for such use as is determined by the Madison Police Department; and

**WHEREAS**, the Borough Council has concluded that it would be in the best interest of the Borough to accept the donation.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Madison in the County of Morris in the State of New Jersey that the Borough accepts the donation of \$4,000.00.

**Regular Meeting Minutes – June 28, 2010**

**BE IT FURTHER RESOLVED** that the Borough of Madison expresses its gratitude to Fairleigh Dickinson University.

R 172-2010 RESOLUTION OF THE BOROUGH OF MADISON PERTAINING TO THE 2009 AUDIT

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

**WHEREAS**, the Annual Report of Audit for the year 2009 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the Governing Body; and

**WHEREAS**, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs; and

**WHEREAS**, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the Governing Body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the Governing Body have reviewed, as a minimum, the sections of the annual audit entitled: "General Comments and Recommendations"; and

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

**WHEREAS**, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

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

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

R.S. 52:27BB-52 - A local officer or member of a local Governing Body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon

**Regular Meeting Minutes – June 28, 2010**

conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

**NOW, THEREFORE, BE IT RESOLVED** that the Governing Body of the Borough of Madison, County of Morris, State of New Jersey, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

R 173-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING 3RD ANNUAL BATTLE OF THE BUSINESS 5K RUN ON MONDAY, JUNE 28, 2010 AT 6:00 P.M.

**WHEREAS**, the ADP and Sobel & Co., LLC requested Madison's cooperation in connection with their 3rd Battle of the Business 5k Run, Monday June 28, 2010, for the benefit of The Children's Institute; and

**WHEREAS**, the run will begin at 6:00 p.m., on the roadway (DRE) of the former Exxon Mobil site in Florham Park; and

**WHEREAS**, the Rockefeller Group recommends closing off the entrance to the DRE at Ridgedale Avenue during the Battle of the Business 5k Run.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Madison, County of Morris, State of New Jersey, that the request of ADP and Sobel & Co., LLC to hold a "5K run" on the roadway (DRE), on Monday, June 28, 2010, as described herein is hereby approved.

R 174-2010 RESOLUTION OF THE BOROUGH OF MADISON APPOINTING DAVID ELLIOTT TO THE POSITION OF BACK-UP SENIOR CITIZEN VAN DRIVER

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

**WHEREAS**, the Senior Citizen Services Coordinator has certified that David Elliott 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, David Elliott is hereby appointed to the position of part-time back-up Senior Citizen Van Driver.

**BE IT FURTHER RESOLVED**, that David Elliott shall be compensated at a salary in the amount of \$15.00 per hour.

**Regular Meeting Minutes – June 28, 2010**

**R 175-2010 RESOLUTION OF THE MADISON BOROUGH COUNCIL  
SUPPORTING SUSTAINABLE LAND USE PLEDGE**

**WHEREAS**, Land Use is an essential component of overall sustainability for a municipality; and

**WHEREAS**, poor land-use decisions can lead to and increase societal ills such as decreased mobility, high housing costs, increased greenhouse gas emissions, loss of open space and the degradation of natural resources; and

**WHEREAS**, well planned land use can create transportation choices, provide for a range of housing options, create walkable communities, preserve open space, provide for adequate recreation, and allow for the continued protection and use of vital natural resources; and

**WHEREAS**, Given New Jersey's strong tradition of home rule and local authority over planning and zoning, achieving a statewide sustainable land use pattern will require municipalities to take the lead.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, to take the following steps with regard to our municipal land-use decisions with the intent of making Madison Borough a truly sustainable community. It is our intent to include these principles in the next master plan revision and reexamination report and to update our land-use zoning, natural resource protection, and other ordinances accordingly:

Regional Cooperation - We pledge to reach out to administrations of our neighboring municipalities concerning land-use decisions, and to take into consideration regional impacts when land-use decisions.

Transportation Choices - We pledge to create transportation choices with a Complete Streets approach by considering all modes of transportation, including walking, biking, transit and automobiles through, when planning transportation projects and reviewing development applications. We will reevaluate our parking with the goal of limiting the amount of required parking spaces, promoting shared parking and other innovative parking alternatives, and encouraging structured parking alternatives where appropriate.

Natural Resource Protection - We pledge to take action to protect the natural resources of the State for environmental, recreational and agricultural value, avoiding or mitigating negative impacts to these resources. Further, we pledge to complete a Natural Resources Inventory when feasible to identify and assess the extent of our natural resources and to link natural resource management and protection to carrying capacity analysis, land-use and open space planning.

**Regular Meeting Minutes – June 28, 2010**

Mix of Land Uses - We pledge to use our zoning power to allow for a mix of residential, retail, commercial, recreational and other land use types in areas that make the most sense for our municipality and the region, particularly in downtown and town center areas.

Housing Options - We pledge, through the use of our zoning and revenue generating powers, to foster a diverse mix of housing types and locations, including single- and multi-family, for-sale and rental options, to meet the needs of all people at a range of income levels.

Green Design - We pledge to incorporate the principles of green design and renewable energy generation into municipal buildings to the extent feasible and when updating our site plan and subdivision requirements for residential and commercial buildings.

Municipal Facilities Siting - We pledge, to the extent feasible, to take into consideration factors such as walkability, bikability, greater access to public transit, proximity to other land-use types, and open space when locating new or relocated municipal facilities.

**R 176-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING ANNUAL STIPEND OF \$2,500 FOR UTILIZATION OF CERTIFICATION AS “QUALIFIED PURCHASING AGENT”**

**WHEREAS**, the Borough Administrator has recommended that the Madison Purchasing Agent, Elizabeth Crescibene, be given an annual stipend of \$2,500.00 for utilization of her certification as a “Qualified Purchasing Agent” pursuant to N.J.S.A. 40A:11-9; and

**WHEREAS**, Elizabeth Crescibene possesses a current certification as a “Qualified Purchasing Agent” pursuant to N.J.S.A. 40A:11-9(b); and

**WHEREAS**, such designation will allow the Borough of Madison to have a higher bid threshold of \$36,000.00 and a quotation threshold of \$5,400.00 effective July 1, 2010.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Madison in the County of Morris in the State of New Jersey that Elizabeth Crescibene, Purchasing Agent, is hereby granted an annual stipend of \$2,500.00 for utilization of her certification as a “Qualified Purchasing Agent” pursuant to N.J.S.A. 40A:11-9, effective July 1, 2010.

**R 177-2010 RESOLUTION OF THE BOROUGH OF MADISON AMENDING RESOLUTION R 268-2009 INCREASING AMOUNT OF CONTRACT WITH DENNIS HARRINGTON FOR GREEN VILLAGE ROAD DRAINAGE IMPROVEMENTS**

**Regular Meeting Minutes – June 28, 2010**

**WHEREAS**, Resolution R 268-2009 awarded a professional services contract to Dennis Harrington of Madison, New Jersey in an amount not to exceed \$15,000.00, for inspection and construction oversight services for the Green Village Road drainage improvements; and

**WHEREAS**, the Borough Engineer has recommended that the Borough amend Resolution R 268-2009 to increase the award amount by \$7,500.00 to \$22,500.00 for additional inspection and construction oversight services; and

**WHEREAS**, the Director of Finance has attested that funds will be available in an amount not to exceed \$7,500.00 for additional inspection and construction oversight services, which funds were appropriated by Ordinance 49-2008.

**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 R 268-2009 is amended to increase the contract award amount by \$7,500.00 to \$22,500.00 for additional inspection and construction oversight 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 Green Village Road drainage improvements in a total amount not to exceed \$22,500.00, such contract to be in a form approved by the Borough Attorney.

**R 178-2010 RESOLUTION OF THE MADISON BOROUGH COUNCIL  
AWARDING CONTRACT TO ODB COMPANY IN THE AMOUNT OF \$33,121.00  
FOR THE PURCHASE OF A LEAF VACUUM MACHINE**

**WHEREAS**, the Borough of Madison publicly advertised for bids for the purchase of a leaf vacuum machine (the "Contract") in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

**WHEREAS**, the lowest qualified bid was submitted by ODB Company in the amount of \$33,121.00; and

**WHEREAS**, the Superintendent of Public Works has recommended that the Borough Council award the contract to ODB Company in the amount of \$33,121.00; and

**WHEREAS**, the Director of Finance has attested that funds will be available in an amount not to exceed \$33,121.00 for this purpose which funds were appropriated by Ordinance 12-2010.

**Regular Meeting Minutes – June 28, 2010**

**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 contract for the purchase of a leaf vacuum machine is hereby awarded to ODB Company based upon its bid in the amount of \$33,121.00.
2. The Mayor and Borough Clerk are hereby authorized and directed on behalf of the Borough to enter into the contract with ODB Company in a form acceptable to the Borough Attorney.

R 179-2010 RESOLUTION OF THE BOROUGH OF MADISON RATIFYING APPOINTMENT OF SARA GALLOWAY TO THE SUMMER INTERN POSITION OF NATURE DIRECTOR IN THE RECREATION DEPARTMENT (PARKS COMMITTEE) EFFECTIVE JUNE 27, 2010

**WHEREAS**, the Purchasing/Personnel Officer has recommended the appointment of Sara Galloway to the Summer Intern position of Nature Director in the Recreation Department (Parks Committee); and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the appointment of Sara Galloway to the Summer Intern position of Nature Director in the Recreation Department (Parks Committee) effective June 27, 2010 at the rate of pay of \$1,400.00 for the program is hereby ratified.

R 180-2010 RESOLUTION OF THE BOROUGH OF MADISON SUPPORTING SUSTAINABLE JERSEY SMALL GRANT APPLICATION BY THE MADISON ENVIRONMENTAL COMMISSION (MEC) AND MADISON 2020 (GREEN TEAM)

**WHEREAS**, the Madison Environmental Commission (MEC) and Madison 2020 wish to make energy upgrades to Madison's Water & Electric Building; and

**WHEREAS**, the MEC and Madison 2020 wish to submit a grant application in the amount of \$25,000.00 to the Sustainable Jersey Small Grant program.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Madison, County of Morris and State of New Jersey, that the Borough of Madison supports and endorses the above-described application to the Sustainable Jersey Small Grant program by the Madison Environmental Commission and Madison 2020.

**Regular Meeting Minutes – June 28, 2010**

R 181-2010 RESOLUTION OF THE BOROUGH OF MADISON ACCEPTING DONATION OF OFFICE FURNITURE FROM PFIZER

**WHEREAS**, Pfizer has generously offered to donate ten desk sets, ten bookcases, ten filing cabinets and various other office furniture to the Borough of Madison for use by departments and staff within the Borough; and

**WHEREAS**, the Borough Council has concluded that it would be in the best interest of the Borough to accept the donated office furniture.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Madison in the County of Morris in the State of New Jersey that the Borough accepts the donation of the above described office furniture.

**BE IT FURTHER RESOLVED** that the Borough of Madison expresses its gratitude to Pfizer.

Mrs. Tsukamoto moved adoption of Resolution R 169-2010. Ms. Baillie seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

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

R 169-2010 RESOLUTION OF THE BOROUGH OF MADISON RATIFYING APPOINTMENT OF NICHOLAS ESPOSITO TO THE SUMMER INTERN POSITION IN THE WATER AND ELECTRIC UTILITY EFFECTIVE JUNE 21, 2010

**WHEREAS**, the Purchasing/Personnel Officer has recommended the appointment of Nicholas Esposito to the position of Summer Intern in the Water and Electric Utility as a Meter Reader; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the appointment of Nicholas Esposito to the position of Summer Intern in the Water and Electric Utility as a Meter Reader effective June 21, 2010 at the rate of pay of \$9.00 per hour is hereby ratified.

**Regular Meeting Minutes – June 28, 2010**

The Borough Clerk read Resolution R 182-2010 in full. Mrs. Tsukamoto moved adoption of Resolution R 182-2010. Ms. Baillie seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

Yeas: Ms. Baillie, Mrs. Tsukamoto, Dr. Esposito,  
Mr. Cerciello, Mr. Links

Nays: None

Absent: Mr. Conley

R 182-2010 RESOLUTION ADJOURNING A HEARING ON THE RENEWAL OF  
ABC LICENSE #1417-33-015-004

WHEREAS, Prospect Tavern Beef & Ale, LLC (“Prospect Tavern”) has applied for renewal of it liquor license; and

WHEREAS, one objection to the renewal was filed by The Stop & Shop Supermarket Company LLC (“Stop & Shop”); and

WHEREAS, the Mayor and Council opened a hearing on June 28, 2010 in order to consider arguments raised by Stop & Shop in opposition to approval of the application for renewal and response to those arguments by Prospect Tavern; and

WHEREAS, the Mayor and Council have duly considered the arguments made and find that:

1. Stop & Shop’s arguments are procedural in nature, attacking the process and not the merits of whether the license should be renewed;
2. Stop & Shop’s objection is principally to the notices issued in connection with the 2009 approval of the person-to-person and place-to-place transfer, not to the renewal application;
3. Stop & Shop’s challenge to the place-to-place and person-to-person transfer was not raised before the Mayor and Council until June 2010 although the transfer was approved in February of 2009;
4. There are collateral business disputes between Stop & Shop and Prospect Tavern over parking and other issues which may be the reason for the objection;
5. Stop & Shop’s argument regarding whether the deck/patio is a permitted use are zoning issues which should be resolved in a different forum and do not impact either the requested license renewal or the 2009 license transfer approval;
6. No one appeared to argue that Prospect Tavern is not qualified to hold the license or that the location for the license is not a suitable location;
7. The Borough Police Department did not object to Prospect Tavern’s application for license renewal;
8. Prospect Tavern has expended a large amount of money to improve the licensed location and it would be unfair to shut the business down;
9. There is some evidence that the problems identified by Stop & Shop with the license transfer notice may have resulted from confusion created by the Borough which appears to have either published the notice or supplied the form

**Regular Meeting Minutes – June 28, 2010**

of notice to Prospect Tavern, in which case it would be unfair to deprive Prospect Tavern of the opportunity to cure any deficiencies;

WHEREAS, the Mayor and Council have evaluated the legal arguments presented regarding whether the procedure followed with respect to the 2009 approval of the person-to-person and place-to-place transfer of the liquor license was proper and find that both sides have presented compelling arguments; and

WHEREAS, re-noticing the person-to-person and place-to-place transfer of the liquor license will likely cure the procedural issues;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Madison, Morris County as follows:

1. This hearing shall be adjourned until the August 23, 2010 meeting, a period of just under 60 days.
2. Prospect Tavern is directed to re-notice its request to have a person-to-person and place-to-place transfer, curing whatever defects are alleged.
3. Prospect Tavern need not re-advertise the renewal application because no procedural challenge to it has been raised.
4. Prospect Tavern is directed to apply to the Alcoholic Beverage Commission by July 1, 2010, for an administrative interim license to operate pending the final hearing on whether a place-to-place and person-to-person license should be granted and whether the license is to be renewed.

After re-notice, this hearing will re-commence on August 23, 2010.

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

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

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

***Jim McMahon, Woodland Road***, asked about the last time Woodland Road was paved and why Dellwood Road reconstruction wasn't included.

***Rosemary Garrubbo Finnegan, Woodland Road***, noted she supported Mr. Cerciello for Council because of his experience and asked that the Council make every effort to save.

***Robert Catalanello, Woodland Road***, inquired about estimated tax bills recently sent to resident in the Borough of Madison.

***UNFINISHED BUSINESS*** - None

***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.

**Regular Meeting Minutes – June 28, 2010**

Public Safety	\$11,615.54
Health & Public Assistance	8,121.72
Public Works & Engineering	52,757.70
Community Affairs	1,480.77
Finance & Borough Clerk	39,409.81
Utilities	<u>1,384,083.50</u>
Total	<u>\$1,497,469.04</u>

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

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

**NEW BUSINESS**

Mayor Holden announced the following appointment and requested Council confirmation:

OPEN SPACE, RECREATION AND HISTORIC PRESERVATION ADVISORY COMMITTEE  
**Lisa Ellis**, 46 Brittin Street, unexpired term through December 31, 2011

Ms. Baillie moved confirmation of the foregoing appointment. Mrs. Tsukamoto seconded the motion, which passed with the following roll call vote recorded:

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

**ADJOURN**

The Regular Meeting reconvened at 10:25 p.m. and immediately adjourned.

Respectfully submitted,

Elizabeth Osborne  
Borough Clerk  
Approved July 12, 2010 (EO)