

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

**January 9, 2017 - 7 p.m.**

**CALL TO ORDER**

The Regular Meeting of the Mayor and Council of the Borough of Madison was held on the 9th day of January, 2017. Mayor Conley called the meeting to order at 7:00 p.m. in the Committee Room of the Hartley Dodge Memorial, Kings Road, in the Borough of Madison.

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

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

“In compliance with the Open Public Meetings Act, adequate notice of this meeting of the Council was provided by transmitting a copy of the meeting notice to the Madison Eagle and Morris County Daily Record, posting a copy on the bulletin board at the main entrance of the Hartley Dodge Memorial, and filing a copy in the office of the Clerk, all on January 5, 2017. This Notice was made available to members of the general public.”

**ROLL CALL**

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

Mayor Robert H. Conley

Council Members:

Robert Landrigan  
Carmela Vitale  
Astri J. Baillie  
Benjamin Wolkowitz  
Patrick W. Rowe  
Maureen Byrne

Also Present:

Raymond M. Codey, Borough Administrator  
James E. Burnet, Assistant Borough Administrator  
Elizabeth Osborne, Borough Clerk  
Matthew J. Giacobbe, Esq. Borough Attorney

**AGENDA REVIEW**

There was approval of the Regular and Executive Agenda.

**READING OF CLOSED SESSION RESOLUTION**

Mr. Vitale moved:

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

MINUTES FOR APPROVAL (1)

December 12, 2016

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

CONTRACT MATTERS (2)

MADISON CHATHAM JOINT MEETING

ELECTRIC POWER PURCHASE

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

**Regular Meeting Minutes – January 9, 2017**

PERSONNEL MATTERS (2)

DPW SUPERINTENDENT

PERFORMANCE EVALUATION PROCESS

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

LITIGATION MATTERS (2)

TAX APPEALS

34 WALNUT STREET

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

Seconded: Mr. Landrigan

Vote: Approved by voice vote

**RECONVENE IN COUNCIL CHAMBER**

Mayor Conley reconvened the Regular Meeting at 8:10 p.m. in the Council Chamber with all members present. The Pledge of Allegiance was recited by all.

**APPROVAL OF MINUTES**

Mr. Rowe moved approval of the **Executive Minutes of January 9, 2017**. Mr. Wolkowitz seconded the motion, which passed with the following roll call vote recorded:

Yeas: Mr. Landrigan, Mrs. Vitale, Ms. Baillie,  
Mr. Wolkowitz, Mr. Rowe, Mrs. Byrne

Nays: None

Mr. Wolkowitz moved approval of the **Regular Meeting Minutes of January 9, 2017**. Mr. Rowe seconded the motion, which passed with the following roll call vote recorded:

Yeas: Mr. Landrigan, Mrs. Vitale, Ms. Baillie,  
Mr. Wolkowitz, Mr. Rowe, Mrs. Byrne

Nays: None

**GREETINGS TO PUBLIC**

Mayor Conley made the following comments:

**EMPLOYEE OF THE MONTH FOR JANUARY:**

Employee of the Month for January is Frank Russo, Assistant Borough Engineer, for his commitment and dedication in taking on the interim assignment and responsibilities of Acting DPW Superintendent due to the retirement of David Maines while the search process is underway.

**ANNIVERSARY FOR JANUARY:**

Police Chief Darren Dachisen – 25<sup>th</sup> Anniversary on January 28<sup>th</sup>.

The Madison Public Library Board of Trustees will hold its annual reorganization meeting this Thursday, January 12 at 7:30 p.m. The Library has upgraded its public wireless system with funding provided by the Friends of the Madison Public Library. This is an important upgrade in the Library's technology infrastructure as so many

## ***Regular Meeting Minutes – January 9, 2017***

more library patrons are using the wireless system. The next session of the Drew University Minicourses will be starting later in the month. The initial courses are “In Search of a Visual Language: Digital Photography and Social Media in the 21<sup>st</sup> Century” presented by Jim DelGiudice; “Great Art Exhibitions You Might Have Missed” presented by Barbara Tomlinson and “Aesthetics; Va Pensiero – the Operas of Giuseppe Verdi” presented by Robert Butts and “Aesthetics and the Philosophy of Art” presented by Erik Anderson. Information is available at [www.drewminicourses.org](http://www.drewminicourses.org). Thanks to all residents who support the Friends of the Madison Library

### **REPORTS OF COMMITTEES**

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

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

The Hartley Dodge Memorial improvements plans including Plaza site work and East Wing building restoration were submitted to the County of Morris Historic Preservation Trust last Friday as part of the grant process. Asbestos sampling within the East Wing areas affected by the restoration project has been completed by TTI Environmental and a remediation project is anticipated prior to initiating the building restoration work. Bids for soil removal and site remediation at the rear of Hartley Dodge Memorial Building are due on January 24<sup>th</sup>. Signal improvements at Samson Avenue and Kings Road have been evaluated to increase visibility and reduce glare. The 2017 Road Improvement plans and specifications prepared by staff are ready for bid. Central Avenue plans and specifications are being finalized and a separate appropriation request and agreement with the County of Morris will be requested. The Prospect Street reconstruction project has been completed and the initial grant reimbursement request of \$129,375 has been submitted to the State. Rapid Pump and Meter Co. will begin work on the North Street Pump Station on March 6<sup>th</sup> and National Water Main Cleaning Co. will initiate work on Sewer cleaning and repair in February. Plans and specifications for the Elmer Street storm sewer are ready for bid. The Layne Company has been awarded redevelopment work at Well D and began work disassembling the well head last week. A report on the well is anticipated this month. Design work for Well A renovation has been initiated and plans are anticipated this summer. The new 8000 gallon diesel tank was installed at the DPW yard and is operational, and the existing tank has been converted to unleaded. The Construction Department reports total year permit revenues in 2016 of \$1,015,825 which is a 15% increase over 2015 revenues.

#### **Public Safety**

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

In the month of December the Fire Department responded to 126 calls for assistance, including 39 General Alarms, 15 Still Alarms, 29 Investigations and 43 EMS Calls. One Department Drill was held in December and 47 Fire Prevention Inspections were conducted. Sixteen Residential re-sale Smoke Alarm/CO inspections were done. The Total Fire Department responses for 2016 were 1,361. They are broken down as follows; 228 General Alarms, 218 Still Alarms, 332 Investigations and 523 EMS Calls. Twenty four Department Drills were held in 2016.

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

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

For the June 6<sup>th</sup> Primary Election, the filing deadline for Nomination Petitions for Municipal Office is April 3, 2017. Forms are available in the Borough Clerk's Office. The 2017 municipal budget process will be discussed later this evening including budget guidelines and the 2017 schedule, which includes a March introduction date. Completed Capital items will be cancelled and new appropriations are listed for

## **Regular Meeting Minutes – January 9, 2017**

introduction. January 4th was the close of the county tax books, and Madison has resolved approximately 70% of all appeals. Edmunds purchasing maintenance will be completed by the end of the week and the Payroll Department has completed the year end contribution reporting.

### **Utilities**

Mr. Wolkowitz, Chair of the Committee, made the following comments:  
The Water Department has completed flushing twenty-five hydrants and repaired a hydrant on Loveland Road. The Well D repair work has begun. The Electric Department performed a power shut down at Drew University to allow for maintenance of Drew's equipment and installed new transformer on Shunpike Road. They performed line clearance and repaired primary voltage cable on Seven Oaks Court and installed pad-mount transformer at E-well, constructed riser pole conduits, installed primary voltage cable and terminations on the E-well transformer as well.

### **Health**

Mr. Rowe, Chair of the Committee, made the following comments:  
With high incidents of flu in our area, the Health Department reminds residents that Influenza vaccines are still available. Zika Virus monitoring continues with all reported cases in the area testing negative.

### **Community Affairs**

Mrs. Byrne, Chair of the Committee, made the following comments:  
The Senior Center T-Cap workshop last October generated enough enthusiasm that a second session will be held on Thursday, January 19th at 10:00 a.m. T-Caps are turbans made from t-shirts and decorated to appeal to men, women and children who are chemotherapy patients at the Carol G. Simon Cancer Center. Jennifer Luster, RD, continues her monthly healthy cooking series with "Winter Soups to Keep You Warm" on Wednesday, January 18th at 1:00 p.m. Participants watch preparation and then sample the final result while learning about nutritional content and cooking tips. The annual "Taste of Madison" will be held this year on Monday, March 20<sup>th</sup>, at the Park Avenue Club.

### **COMMUNICATIONS AND PETITIONS- None**

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

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

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

### **AGENDA DISCUSSIONS**

#### **01/09/2017-1 2017 MUNICIPAL BUDGET SCHEDULE**

Mr. Burnet presented the proposed schedule for preparing the 2017 Municipal budget, similar to last year's schedule, with an additional meeting to be held Monday, February 6, 2017 at 7:00 p.m. Mr. Burnet noted that all presentation and budget documents will be available on the Finance webpage.

**Regular Meeting Minutes – January 9, 2017**

**01/09/2017-2** 2017 ROAD PROGRAM/MILL & OVERLAY/WATER MAINS  
Robert Vogel , Borough Engineer presented the proposed 2017 Road reconstruction program and the milling and overlay program, noting the early start in the bidding process so that work will be completed this summer. Mr. Vogel explained the proposed appropriation ordinances listed for introduction this evening.

Ordinances 1-2017, 2-2017 and 3-2017 are listed for introduction.

**01/09/2017-3** CANCELLATION OF COMPLETED CAPITAL IMPROVEMENT ORDINANCES

Mr. Burnet noted that remaining funds from completed ordinances listed for cancellation will be returned to the fund from which originally appropriated. Mr. Burnet will provide Council with the status of projects still open.

Resolution 40-2017 listed on Consent Agenda.

**01/09/2017-4** MUNICIPAL EMPLOYEE INDEMNIFICATION

Mr. Codey explained that the proposed ordinance will update Chapter 14 of the Borough Code to be more in line with the Joint Insurance Funds recommendations for indemnification. There was no objection to listing an ordinance for introduction.

Ordinance 4-2017 listed for introduction.

**ADVERTISED HEARINGS - None**

**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.**

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

**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 January 23, 2017 in the 2<sup>nd</sup> Floor Council Chamber of the Hartley Dodge Memorial Building, Kings Road, in the Borough of Madison at 8 p.m., or as soon thereafter as practical, for further consideration and final adoption. Said ordinances will be published in the Madison Eagle, be posted at the main entrance to the Borough offices and be made available to members of the public requesting same, as required by law.

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

ORDINANCE 1-2017 ORDINANCE OF THE BOROUGH OF MADISON  
APPROPRIATING \$1,330,000.00 FROM THE GENERAL CAPITAL  
IMPROVEMENT FUND FOR 2017 ROAD RECONSTRUCTION PROJECTS,  
RELATED WORK AND MISCELLANEOUS PROJECTS

***Regular Meeting Minutes – January 9, 2017***

**WHEREAS**, the Borough Engineer has recommended that the Borough appropriate \$1,330,000.00 from the General Capital Improvement Fund for 2017 Road Reconstruction Projects, including new pavement, traffic calming and pedestrian sidewalk ramp improvements, related work and miscellaneous projects throughout the Borough; and

**WHEREAS**, the Chief Financial Officer has attested to the availability of the funds in the General Capital Improvement Fund in an amount not to exceed \$1,330,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$1,330,000.00 from the General Capital Improvement Fund for the 2017 Road Reconstruction Projects, related work and miscellaneous projects throughout the Borough.

**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 \$1,330,000.00 is hereby appropriated from the General Capital Improvement Fund for the 2017 Road Reconstruction Projects, related work and miscellaneous projects throughout the Borough.

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

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

Mrs. Vitale moved that Ordinance 1-2017, which the Borough Clerk read by title, be adopted. Mr. Rowe seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mr. Landrigan, Mrs. Vitale, Ms. Baillie,  
Mr. Wolkowitz, Mr. Rowe, Mrs. Byrne

Nays: None

**ORDINANCE 2-2017 ORDINANCE OF THE BOROUGH OF MADISON  
APPROPRIATING \$1,136,000.00 FROM THE GENERAL CAPITAL  
IMPROVEMENT FUND FOR 2017 MILLING AND OVERLAY PROJECTS**

**WHEREAS**, the Borough Engineer has recommended that the Borough appropriate \$1,136,000.00 from the General Capital Improvement Fund for 2017 Milling and Overlay projects, including mill, overlay, signage, striping, curb, sidewalk and crack sealing improvements, related work and miscellaneous projects throughout town; and

**Regular Meeting Minutes – January 9, 2017**

**WHEREAS**, the Chief Financial Officer has attested to the availability of the funds in the General Capital Improvement Fund in an amount not to exceed \$1,136,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$1,136,000.00 from the General Capital Improvement Fund for the 2017 Milling and Overlay projects, signage, striping, curb, sidewalk and crack sealing improvements, related work and miscellaneous projects throughout town.

**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 \$1,136,000.00 is hereby appropriated from the General Capital Improvement Fund for the 2017 Milling and Overlay projects, signage, striping, curb, sidewalk and crack sealing improvements, related work and miscellaneous projects throughout town.

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

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

Mrs. Vitale moved that Ordinance 2-2017, which the Borough Clerk read by title, be adopted. Mr. Rowe seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mr. Landrigan, Mrs. Vitale, Ms. Baillie,  
Mr. Wolkowitz, Mr. Rowe, Mrs. Byrne

Nays: None

ORDINANCE 3-2017 ORDINANCE OF THE BOROUGH OF MADISON  
APPROPRIATING \$400,000.00 FROM THE WATER CAPITAL IMPROVEMENT  
FUND FOR WATER MAIN REPLACEMENT PROJECTS AND RELATED WORK  
ON LOCAL ROADS

**WHEREAS**, the Borough Engineer has recommended that the Borough appropriate \$400,000.00 from the Water Capital Improvement Fund for construction of water main Replacements and related work on local roads; and

**WHEREAS**, the Chief Financial Officer has attested to the availability of the funds in the Water Capital Improvement Fund in an amount not to exceed \$400,000.00 for this purpose; and

**WHEREAS**, the Borough Council has determined that the Borough should appropriate \$400,000.00 from the Water Capital Improvement Fund for construction of water main replacements and related work on Local roads; and

**Regular Meeting Minutes – January 9, 2017**

**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 \$400,000.00 is hereby appropriated from the Water Capital Improvement Fund for construction of water main replacements and related work on Local roads.

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

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

Mrs. Vitale moved that Ordinance 3-2017, which the Borough Clerk read by title, be adopted. Mr. Rowe seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mr. Landrigan, Mrs. Vitale, Ms. Baillie,  
Mr. Wolkowitz, Mr. Rowe, Mrs. Byrne  
Nays: None

**ORDINANCE 4-2017 ORDINANCE OF THE BOROUGH OF MADISON  
AMENDING CHAPTER 14 OF THE BOROUGH CODE REGARDING  
INDEMNIFICATION OF MUNICIPAL OFFICIALS AND EMPLOYEES**

**WHEREAS**, the Borough of Madison adopted § 14-1 and § 14-2 of the Code of the Borough of Madison which provides for reimbursement of legal fees, in limited circumstances, to officials and employees of the Borough who incur these expenses arising out of their employment with the Borough; and

**WHEREAS**, it is in the best interest of the Borough to amend Chapter 14 of the Code in order to clarify the limitations and to update the chapter in order to be similar to the MEL's model Indemnification Ordinance and other Joint Insurance fund policies.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Madison, in the County of Morris and State of New Jersey that Chapter 14 of the Borough Code be amended as follows:

**§ 14-1 General conditions; civil actions.**

[Amended 3-14-1977 by Ord. No. 6-77; 9-10-2007 by Ord. No. 61-2007; 2017 by Ord. No. 2]

Subject to the limitations set forth in the subsequent sections of this chapter, whenever any civil action has been or shall be brought against any person (hereinafter referred to as "employee" or "official") holding or formerly holding any office, position or employment with the Borough of Madison for any action or omission arising out of or in the course of the performance of the duties of such office, position or employment, the Borough shall defray all costs of defending such action, including reasonable counsel fees and expenses, together with costs of appeal, if any, and shall save harmless and protect such persons from any financial

**Regular Meeting Minutes – January 9, 2017**

loss resulting from the litigation. The Borough shall provide for defense of and indemnify any present or former employee or official of the Borough who becomes a defendant in a civil action if the person or persons involved:

- A. Acted or failed to act in a matter in which the Borough has or had an interest;
- B. Acted or failed to act in the discharge of a duty imposed or authorized by law; and
- C. Acted or failed to take action in good faith.

However, the Borough shall not indemnify any employee or official against the payment of punitive damages, penalties, or fines, but may provide for the legal defense of such claims in accordance with the standards set forth in this chapter. The Borough may refuse to provide for the defense and indemnification of any civil action referred to in this chapter if the Borough Council determines that:

- A. The act or omission did not occur within the scope of a duty authorized or imposed by law;
- B. The act or omission was the result of actual fraud, willful misconduct, or actual malice; or
- C. The defense of the action or proceeding by the Borough would create a conflict of interest between the Borough and the employee(s) or official(s) involved.

In any other action or proceeding, including criminal proceedings, the Borough may provide for the defense of a present or former employee or official if the Borough Council concludes that such representation is in the best interest of the Borough and that the person to be defended acted or failed to act in accordance with the standards set forth in this ordinance.

Whenever the Borough provides for the defense of any action set forth herein and as a condition of such defense, the Borough may assume exclusive control over the representation of such persons defended and such person shall fully cooperate with the Borough. The Borough may provide for the defense pursuant to this ordinance by authorizing its attorney to act on behalf of the person being defended or by employing other counsel for this purpose or by asserting the right of the Borough under any appropriate insurance policy that requires the insurer to provide the defense. The Borough Attorney or other attorney selected by the Borough Council shall represent the Borough official or employee, at a cost not to exceed the hourly rate which the Borough compensates its Borough Attorney.

**§ 14-2 Criminal actions.**

[Amended 9-10-2007 by Ord. No. 61-2007]

The Borough shall not defray the costs of defending any criminal action against any Borough employee or official except as may be authorized by state statute or other municipal ordinance or resolution of the Borough of Madison, and in those circumstances, the responsibility for defraying the costs of defending such employee or official shall be applicable only when such criminal proceedings shall have been dismissed or result in a final disposition in favor of the employee or official. Further, in the event that the Borough indemnifies the employee or official, the cost of that indemnification shall not exceed the hourly rate paid to the Borough Attorney. Nonetheless, should the Borough Council determine that there is good cause to dismiss the employee or official arising out of the incident or related incidents of the criminal prosecution, the Borough will not reimburse the employee or official for legal defense and costs of defending the suit, even though criminal proceedings against the employee or official may be dismissed or the employee or official found not guilty.

**Regular Meeting Minutes – January 9, 2017**

**§ 14-3 Ethics Proceedings**  
**[Added 2017 by Ord. No. 2]**

The Borough will not provide a defense for employees or officials who are charged with ethical offenses or violations. The Borough Council may, however, authorize the Borough to reimburse the employee or official for the reasonable cost of the defense of ethics proceeding, including investigation, costs and reasonable legal fees, as further defined in this chapter, provided that the ethics proceeding is dismissed or is finally determined in favor of the employee or official. In addition, the Borough may indemnify an employee or official if the Mayor and Council, by a majority vote, finds that a Borough employee or official who is found to have committed an ethical offense acted in a manner that was reasonably debatable at the time that the violation occurred and that the employee or official's actions or omissions did not constitute willful misconduct or an intentional wrong.

**§ 14-4 Limitations.**

[Amended 3-14-1977 by Ord. No. 6-77; 2017 by Ord. No. 2]

The Borough shall not be obligated to defend and indemnify its employees or officials if:

- A. The alleged act or omission was not within the scope of employment or authority, or the act or omission does not arise out of and is not directly related to the employee or official's lawful exercise of his or her authority or duty in furtherance of the employee or official's authority or duty;
- B. The claim arises from circumstances under which the Borough itself would not be liable for the acts of its employees or officials under the doctrine of respondent superior;
- C. The act or omission constitutes a criminal offense, ethical offense, actual fraud, intentional or willful misconduct, actual malice, or an intentional or wrongful act or omission;
- D. There exist policies of insurance, either obtained by the Borough or by any other, by virtue of which the employee or official is entitled to a defense in question from any insurer, including coverage pursuant to the Joint Insurance Fund or Municipal Express Liability Policies;
- E. If the action or proceeding was brought by the Borough itself against the employee or official;
- F. If the Borough employee or official has failed to substantially cooperate with the Borough and its agents, servants, attorneys, and employees in connection with the matter; or
- G. If it is not deemed appropriate by the Borough Council pursuant to the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:10-1 et seq., or any other statute or applicable law.

Specifically excluded from the provisions of this chapter are the following classes of employees, officials, or former employees or officials:

- A. Any municipal employee or official providing any form of professional medical services, such as doctors and nurses, insofar as said civil action arises out of or concerns those professional medical services.
- B. Any part-time professional municipal employee or official, such as the Borough Attorney, Assistant Attorney, Auditor and Engineer, insofar as said civil action arises out of or concerns those professional services. This exclusion does not pertain to full-time professional employees such as the Borough Engineering Administrator and Finance Officer.

**Regular Meeting Minutes – January 9, 2017**

**§ 14-5 Counterclaims or affirmative actions.**

**[Added 2017 by Ord. No. 2]**

If the Borough employee or official files any counteraction, counterclaim, or asserts any affirmative claims in the legal proceedings, the Borough shall not be obligated to reimburse the employee or official for any attorney's fees or costs attributed to such counteraction, counterclaim, or affirmative claim.

**§ 14-6 Notice of claims to be provided to the Borough.**

**[Added 2017 by Ord. No. 2]**

A Borough employee or official shall not be entitled to indemnification or reimbursement pursuant to this chapter unless, within fifteen (15) calendar days of the time he or she is served with any summons, complaint, process, notice, demand or pleading, he or she delivers the original or a copy thereof to the Borough. Any Borough employee or official who receives notice of a claim or is named as a party in any civil suit, ethics proceeding, or criminal proceeding either in his or her official capacity or in an individual capacity for events arising out of or connected directly or indirectly with the performance of his or her duty as a Borough employee or official shall promptly advise the Borough Administrator and the Borough Attorney of the claim or that the civil suit or criminal proceeding has been commenced and shall supply a copy of any and all notices and pleadings pertaining to the matter. The Borough employee or official shall thereafter cooperate with the appropriate Borough agents, attorneys, servants and employees in effectuating the provisions of this chapter.

**§ 14-7 Definitions.**

**[Added 3-14-1977 by Ord. No. 6-77; amended 9-10-2007 by Ord. No. 61-2007; 2017 by Ord. No. 2]**

As used in this chapter, the following terms shall have the meanings indicated:

**OFFICIAL or EMPLOYEE**

Any person elected, appointed or employed by the Borough, paid or unpaid, in any way connected with the municipal government of the Borough of Madison, except for persons appointed to committees having no powers other than to advise. "Employee" shall include all persons on the municipal payroll. These terms shall not mean:

- A. Any person who is not a natural person;
- B. Any person while providing goods or services of any kind under any contract with the Borough except an employment contract;
- C. Any person while providing legal or engineering services for compensation unless said person is a full-time employee of the Borough; or

Any person who as a condition of his or her appointment or contract is required to indemnify and defend the Borough and or/secure insurance.

Ms. Baillie moved that Ordinance 4-2017, which the Borough Clerk read by title, be adopted. Mrs. Vitale seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mr. Landrigan, Mrs. Vitale, Ms. Baillie,  
Mr. Wolkowitz, Mr. Rowe, Mrs. Byrne

Nays: None

**CONSENT AGENDA RESOLUTIONS**

**Regular Meeting Minutes – January 9, 2017**

The Clerk made the following statement:

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

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

Yeas: Mr. Landrigan, Mrs. Vitale, Ms. Baillie,  
Mr. Wolkowitz, Mr. Rowe, Mrs. Byrne  
Nays: None

**R 33-2017 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING A SHARED SERVICE AGREEMENT WITH THE BOROUGH OF CHATHAM TO PROVIDE INFORMATION TECHNOLOGY SERVICES**

**WHEREAS**, the Borough of Chatham and the Borough of Madison wish to renew a Shared Services agreement for the provision of Information Technology Support Services,, wherein Madison provides the Borough of Chatham IT Support Services, subject to existing work load obligations, not to exceed twenty (20) hours per month, nor 250 hours annually, at an hourly rate of \$78.00 with a base charge monthly of \$260.00; and

**WHEREAS**, the Madison Borough Council has determined to renew said shared services agreement.

**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 authorized to enter into a Shared Services agreement with the Borough of Chatham for the provision of Information Technology Support Services, such agreement to be in a form approved by the Madison Borough Attorney.

**R 34-2017 RESOLUTION OF THE BOROUGH OF MADISON APPROVING RENEWAL OF LIVERY OWNER'S LICENSE FOR MADISON LIMOUSINE SERVICE FOR 2017**

**BE IT RESOLVED**, by the Council of the Borough of Madison, County of Morris, State of New Jersey, that the following Livery Owner's License renewal be approved for the year 2017.

<u>LICENSE NO.</u>	<u>NAME</u>	<u>Vehicles</u>
17-1, 17-2, 17-3, 17-4, 17-5, 17-6	Michael Lekas Madison Limousine Service 340 Main Street, Madison	6 Liverie

**Regular Meeting Minutes – January 9, 2017**

R 35-2017 RESOLUTION OF THE BOROUGH OF MADISON APPROVING RAFFLES LICENSE APPLICATION SUBMITTED BY P.T.S.O. MADISON HIGH SCHOOL

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

PTSO MADISON HS  
I.D. No. 274-5-33795  
R.A. No. 1401 – Off premise 50/50  
March 22, 2017

R 36-2017 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING A SHARED SERVICE AGREEMENT WITH THE CITY OF SUMMIT TO PROVIDE INFORMATION TECHNOLOGY SERVICES

**WHEREAS**, the City of Summit and the Borough of Madison wish to renew a Shared Services agreement for the provision of Information Technology Support Services, wherein Madison provides the City of Summit with up to six (6) hours of IT Support Services per day, subject to existing work load obligations, not to exceed twenty (20) hours per month, nor 250 hours annually, at an hourly rate of \$78.00; and

**WHEREAS**, the Madison Borough Council has determined to renew said shared services agreement.

**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 authorized to enter into a Shared Services agreement with the City of Summit for the provision of Information Technology Support Services, such agreement to be in a form approved by the Madison Borough Attorney.

R 37-2017 RESOLUTION OF THE BOROUGH OF MADISON ADOPTING BUDGET GUIDELINES FOR 2017

**WHEREAS**, the Madison governing body previously authorized a comprehensive Strategic Plan process for the Borough of Madison concentrated on the areas of the municipal budget, capital budget, operations/communications and utilities; and

**WHEREAS**, the Municipal Budget Strategic Plan Committee was appointed consisting of dedicated resident volunteers with staff support from Borough Administration; and

**WHEREAS**, the Committee was charged with reviewing the current budget process and preparing a report for the current and future Borough Councils that

**Regular Meeting Minutes – January 9, 2017**

would include observations and recommendations in the form of general guidelines and “Best Practices”; and

**WHEREAS**, the Committee initiated, completed and initially presented their report to the Council in 2014; and

**WHEREAS**, the Committee has prepared the attached Budget Guidelines to provide on-going guidance to the Borough Council and administration as they annually prepare the municipal budget; and

**WHEREAS**, the guidelines should not be considered as hard and fast rules that cannot tolerate exceptions, but rather be seen as a firm, but flexible rubric that needs to be complied with over the long term or revised accordingly, with any consistent material deviations publicly disclosed by the CFO and explained as part of the annual budget process; and

**WHEREAS**, the annual municipal budget shall be established to provide and support the services desired by the residents. The principles employed in its formulation shall include financial prudence, consistency, stability and predictability subject to the realities of inflation, emergencies and New Jersey legal requirements.

**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 attached budget guidelines are approved for the preparation of the 2017 municipal budget and will be reviewed and readopted or revised at the 2018 reorganization meeting and future reorganization meetings thereafter.

(2). The Chief Financial Officer (CFO) shall prepare a five (5) year history of how budgets have performed relative to the guidelines, highlighting any adverse trends, a comparison of the proposed annual budget against the guidelines and their five (5) year trends, highlighting and explaining any material variances from the guidelines and a three (3) year budget projection when the annual budget is initially presented to the governing body each year.

(3). If the proposed budget is not in compliance with the guidelines, the CFO shall indicate the actions required to bring the budget into compliance.

R 38-2017 RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MADISON IN THE COUNTY OF MORRIS AUTHORIZING SETTLEMENT OF THE 2014, 2015 AND 2016 TAX APPEALS ENTITLED DALENA, SUSAN E. V. BOROUGH OF MADISON, DOCKET NOS.: 006338-2014; 006578-2015; 005641-2016 OF THE TAX ASSESSMENT OF BLOCK 4402, LOT 12, KNOWN AS 88 GARFIELD AVENUE IN THE BOROUGH OF MADISON, MORRIS COUNTY, NEW JERSEY

**WHEREAS**, appeals of the real property tax assessment for tax years 2014, 2015 and 2016 on Block 4402, Lot 12 have been filed by the Taxpayer, Susan E. Dalena; and

**Regular Meeting Minutes – January 9, 2017**

**WHEREAS**, the proposed Stipulation of Settlement, a copy of which is incorporated herein as if set forth at length, has been reviewed and recommended by the Borough Tax Appeal Attorney, Assessor and Borough Tax Expert; and

**WHEREAS**, the settlement of said matter as more fully set forth below is in the best interest of the Borough of Madison.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough of Madison, New Jersey, as follows:

1. Settlement of the 2014 tax appeal is hereby authorized as follows:

88 Garfield Avenue  
Block 4402, Lot 12  
**Year: 2014**

<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Settlement Amount</u>
Land: \$ 849,500	N/A	WITHDRAWN
Imprvts: \$1,131,900	N/A	WITHDRAWN
Total: \$1,981,400	N/A	WITHDRAWN

2. Settlement of the 2015 tax appeal is hereby authorized as follows:

88 Garfield Avenue  
Block 4402, Lot 12  
**Year: 2015**

<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Settlement Amount</u>
Land: \$ 849,500	N/A	\$ 849,500
Imprvts \$1,131,900	N/A	\$1,031,900
Total: \$1,981,400	N/A	\$1,881,400

3. Settlement of the 2016 tax appeal is hereby authorized as follows:

88 Garfield Avenue  
Block 4402, Lot 12  
**Year: 2016**

<u>Original Assessment</u>	<u>County Board Judgment</u>	<u>Settlement Amount</u>
Land: \$ 849,500	N/A	\$ 849,500
Imprvts: \$1,131,900	N/A	\$ 950,500
Total: \$1,981,400	N/A	\$1,800,000

4. All municipal officials are hereby authorized to take whatever action may be necessary to implement the terms of this Resolution and authorizes the Special Tax Counsel to enter into the Stipulation of Settlement as provided by Taxpayer.

R 39-2017 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING SETTLEMENT THE SETTLEMENT OF CERTAIN TAX APPEALS

**Regular Meeting Minutes – January 9, 2017**

**R 40-2017 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 certain 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 ordinances annexed hereto are hereby cancelled.

**R 41-2017 RESOLUTION OF THE BOROUGH OF MADISON INCREASING THE TAX COLLECTOR'S OFFICE CHANGE FUND**

**WHEREAS**, the Madison Borough Tax Collector's Office currently has a Change Fund consisting of three (3) drawers of fifty dollars (\$50.00) each drawer; and

**WHEREAS**, the Chief Financial Officer has recommended that the Council adopt a Resolution increasing the allowable amount of the Change Fund to one hundred dollars (\$100.00) for each drawer; and

**WHEREAS**, the Borough Council has determined to authorize such increase.

**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 Fund in the Madison Tax Collector's Office is hereby increased to one hundred dollars (\$100.00) for each drawer.

**R 42-2017 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING SUBMISSION OF 2017 GRANT PROGRAM APPLICATION TO THE MORRIS COUNTY HISTORIC PRESERVATION TRUST TO SUPPORT THE CONSTRUCTION AND RENOVATION OF THE EAST WING OF HARTLEY DODGE MEMORIAL**

**WHEREAS**, the Borough Administrator has recommended that the Borough authorize the Mayor and Borough Clerk to submit a Grant Application to the Morris County Historic Preservation Trust Fund 2017 Grant Program to support the construction/renovation of the East Wing of Hartley Dodge Memorial and exterior

**Regular Meeting Minutes – January 9, 2017**

plaza; and

**WHEREAS**, the Borough Council has determined it is appropriate to authorize the Mayor and Clerk to submit a matching Grant Application to the Morris County Historic Preservation Trust Fund 2017 Grant Program to support the construction/renovation of the East Wing of Hartley Dodge Memorial and exterior plaza.

**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 Mayor and Borough Clerk are hereby authorized and directed on behalf of the Borough to sign and submit the Grant Application to the Morris County Historic Preservation Trust Fund 2017 Grant Program to support the construction/renovation of the East Wing of Hartley Dodge Memorial and exterior.

**R 43-2017 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING APPOINTMENT OF KENNETH L. O'BRIEN TO THE POSITION OF DEPARTMENT OF PUBLIC WORKS SUPERINTENDENT**

**WHEREAS**, the Borough Administrator has recommended the appointment of Kenneth L. O'Brien to the position of Director of Public Works; and

**WHEREAS**, Kenneth L. O'Brien holds a Certified Public Works Manager certificate, CPWM # M-0391, in good standing.

**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 Kenneth L. O'Brien is hereby appointed to the position of Director of Public Works.

**BE IT FURTHER RESOLVED**, that he be compensated at the annual salary of \$134,000.00 per year.

***UNFINISHED BUSINESS*** - None

***APPROVAL OF VOUCHERS***

On motion by Mrs. Vitale, seconded by Mr. Landrigan 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	\$63,660.24
Health & Public Assistance	36,364.63
Public Works & Engineering	211,004.30
Community Affairs	7,778.08
Finance & Borough Clerk	4,499,162.29
Utilities	<u>736,122.02</u>
Total	<u>\$5,554,091.56</u>

**Regular Meeting Minutes – January 9, 2017**

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

Yeas: Mr. Landrigan, Mrs. Vitale, Ms. Baillie,  
Mr. Wolkowitz, Mr. Rowe, Mrs. Byrne

Nays: None

**NEW BUSINESS**

Mayor Conley announces the following appointments requiring Council confirmation:

DOWNTOWN DEVELOPMENT COMMISSION

**Larry Jasen** *At Large*, 4 N Oak Court, for a three year term through December 31, 2019.

MUNICIPAL ALLIANCE ADDRESSING SUBSTANCE ABUSE

**John Hoover** *At Large*, 17 Overhill Drive, for a three year term through December 31, 2019.

RECREATION ADVISORY COMMITTEE

**Pat Lukasavage** *Little League Baseball*, 29 Belleau Avenue, for a one year term through December 31, 2017.

SENIOR CITIZEN ADVISORY COMMITTEE

**Bill List** *Tax Preparation*, 26 Rose Avenue, for a one year term through December 31, 2017.

SHADE TREE MANAGEMENT BOARD

**Brian Monaghan**, 19 Green Hill Road, for an unexpired five year term through December 31, 2020.

Mr. Rowe moved confirmation of the foregoing appointments. Ms. Byrne seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

Yeas: Mr. Landrigan, Mrs. Vitale, Ms. Baillie,  
Mr. Wolkowitz, Mr. Rowe, Mrs. Byrne

Nays: None

**ADJOURN**

There being no further business to come before the Council, the meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Elizabeth Osborne  
Borough Clerk  
Approved January 23, 2017 (EO)