

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

June 14, 2010 – 6:30 p.m.

CALL TO ORDER

The Regular Meeting of the Mayor and Council of the Borough of Madison was held on the 14th day of June 2010. Mayor Holden called the meeting to order at 6:30 p.m. in the Mayor's Office, Room #210 of Bayley-Ellard High School, 205 Madison Avenue, in the Borough of Madison.

STATEMENT IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT

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

"In compliance with the Open Public Meetings Act, adequate notice of this meeting of the Council was provided by transmitting a copy of the meeting notice to the Madison Eagle and Morris County Daily Record, posting a copy on the bulletin board at the main entrance of Bayley-Ellard High School, and filing a copy in the office of the Clerk, all on January 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
Robert H. Conley – arrived at 7:15 p.m.
Jeannie Tsukamoto
Vincent A. Esposito
Sebastian J. Cerciello
Donald R. Links

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 (1)

Executive Session Minutes of May 24, 2010

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

CONTRACT MATTERS (3)

CIVIC CENTER LEASE AGREEMENTS

GREEN ACRES GRANT FUNDS

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MRC/BOE ANNEXATION

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

PERSONNEL MATTERS (2)

MUNICIPAL PROSECUTOR

SUMMER INTERNS

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

LITIGATION MATTERS (2)

ABC HEARING PROCESS

PROPOSED LIGHTING ORDINANCE

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 with the ABC Board Hearing at 7:10 p.m. in the 3rd Floor Meeting Room of Bayley-Ellard with all members present, except Mr. Conley who arrived at 7:15 p.m.

ABC HEARING – Genesis Restaurant Group License # 1417-33-011-008

Mr. Mezzacca explained that the Borough of Madison received a letter objecting to the renewal of the liquor license for Genesis Restaurant Group trading as 54 Main, by one of the principal owners of the license. Joseph Vassallo, attorney for part owner Steven Hedden, objects to the renewal of the license. Joseph Iossa, also part owner, wishes to go forward with the renewal for the 2010-2011 license period. Mr. Mezzacca indicated receipt of information regarding bankruptcy proceedings in which Mr. Iossa was made the debtor in possession of the business. The case was appealed to the Superior Court and a ruling issued on January 10, 2007, in which the Judge ordered denying any claims or restraints to the liquor license or its use. This matter is now sent to the law division for trial. Mr. Mezzacca spoke with Assistant Attorney General J. Wesley Geiselman with the Division of Alcoholic Beverage Control for the State of New Jersey, who indicated that he has been investigating the license since mid March. Mr. Mezzacca recommended that the governing body take no action to renew the license, and noted that Mr. Geiselman suggests that Mr. Iossa apply for an Ad Interim license to allow for more time to complete the investigation. On advice of counsel, the governing body had no objection to the application for an Ad Interim license.

Mayor Holden opened the hearing to anyone wishing to be heard.

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

Mr. Conley arrived at 7:15 p.m. and was present for the balance of the meeting.

Mr. Codey 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 Madison ABC Board 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 June 7, 2010. This Notice was made available to members of the general public.”

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

Mayor Mary-Anna Holden

Council Members:

Astri J. Baillie

Robert H. Conley

Jeannie Tsukamoto

Vincent A. Esposito

Sebastian J. Cerciello

Donald R. Links

Mrs. Tsukamoto motioned to accept the recommendation of the Borough Attorney to take no action to renew the license at this time. Ms. Baillie seconded the motion. There was no further 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

Abstain: Mr. Conley

Mr. Mezzacca noted that an objection was received this afternoon regarding the renewal of liquor license #1417-33-015-003, Prospect Tavern Beef & Ale, LLC, from Howard Geneslaw, Esq., attorney for Stop & Shop. Mr. Mezzacca spoke with special Borough Counsel Richard Cushing, who recommended carrying the hearing until the June 28th meeting of the Mayor and Council, noting that these issues were raised previously in court and dismissed from the suit. A June 28th hearing will give all parties an opportunity to be heard. The Mayor and Council raised no objections to the recommendation.

Ms. Baillie motioned to adjourn the ABC Board Hearing, Mrs. Tsukamoto seconded and Mayor Holden closed the hearing at 7:20 p.m.

Mayor Holden reconvened the Regular Meeting at 8:00 p.m. in the 3rd Floor Meeting Room of Bayley-Ellard with all members present. The Pledge of Allegiance was recited by all.

APPROVAL OF MINUTES

Ms. Baillie moved approval of the **Special Meeting Minutes of May 18, 2010**. Mrs. Tsukamoto seconded the motion, which passed by the following roll call vote:

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

Dr. Esposito, Mr. Cerciello, Mr. Links

Nays: None

Ms. Baillie moved approval of the **Executive Minutes of May 24, 2010**. Mrs. Tsukamoto seconded the motion, which passed by the following roll call vote:

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

Dr. Esposito, Mr. Cerciello, Mr. Links

Nays: None

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Ms. Baillie moved approval of the **Regular Meeting Minutes of May 24, 2010**, with the following corrections:

Page 5 of 12, item **05/24/2010-2**:

... The design presented is on **property leased by** Madison High School ~~property~~ commonly referred to as the "Pit". The concept is for synthetic multi-purpose fields for several sports, including soccer, lacrosse, football and field hockey. The remaining areas are to be developed into passive recreation areas, including walking areas, dog parks, a gazebo and parking. Phase 1A, the synthetic turf field, is on the High School property. Phase 1B, **the Pit area**, will require DEP permits as it is a wetlands area. ~~A cost estimate was provided for Phase 1A.~~ Mr. Carrino indicated....

Mrs. Tsukamoto seconded the motion, which passed by the following roll call vote:

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

GREETINGS TO PUBLIC

Mayor Holden made the following comments:

Mayor Holden thanked all those residents who volunteered at the many Memorial Day events.

Mayor Holden made the following announcements:

Employees of the Month for June are Patricia Graham and Patty Macaluso of the Borough Clerk's Office for their extra efforts with daily procedures, preparation for the Council meetings and the elections, which made the transition for the new Borough Clerk a smooth and effortless one.

June Anniversaries:

June 10th – Philip Cervone of the Department of Public Works - 25th Anniversary

June 10th – Dominick Renzulli of the Department of Public Works - 25th Anniversary

REPORTS OF COMMITTEES

Community Affairs

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

Ms. Baillie announced that the annual Farmers' Market will again be held on Thursdays beginning June 24, 2010, along Waverly Place.

Finance and Borough Clerk

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

Public Safety

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

Mrs. Tsukamoto announced that the Madison Police Department will hold an Open House at the Public Safety Complex on Saturday, June 26, 2010, between the hours of 9:00 a.m. and 2:00 p.m. Residents are invited to bring their children and tour the Public Safety Complex facility, police vehicles and equipment, and meet Madison Police Officers. Mrs. Tsukamoto announced that Madison Firefighters Kevin Williams, Brian Allen and Dave Carey have completed 120-hour EMT training and 10-hour Hospital Emergency Room training, and passed the NJ State exam for certification. Mrs. Tsukamoto noted that these Firefighters took all classes and

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testing on their own time, at a savings of approximately \$27,000.00 to the Borough of Madison. Also Firefighters Bruce Barrios and James Blair completed 250 hours of training for Fire Subcode Official. The Fire Department is continuing their efforts to recruit volunteer members. Anyone interested should go to the Fire Department's new website at www.madisonfd.com

Utilities

Dr. Esposito, Chair of the Committee, made the following comments:

Dr. Esposito thanked the many members of the Madison Water Utility Department for their work on replacing water sewers along Lincoln Place, which saved the Borough approximately \$120,000.00.

Public Works and Engineering

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

Mr. Cerciello provided an update on a proposed plan for the construction of a pavilion at Memorial Park on Rosedale Avenue. Mr. Cerciello noted that on August 21st, he would like to meet with members of the governing body, Mr. Codey, Borough Engineer Robert Vogel and any Borough personnel who wish to be involved, to come up with ideas for the proposed pavilion. Mr. Cerciello indicated that then he can go to organizations to construct the pavilion. Mr. Cerciello is hopeful on Saturday, September 19th, to have a town picnic, at which time a presentation regarding the pavilion will be made. Mr. Cerciello asked that Mr. Mezzacca draw up waivers for the Boy Scouts regarding the construction work at Memorial Park.

Health & Public Assistance

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

COMMUNICATIONS AND PETITIONS - None

INVITATION FOR DISCUSSION (1 of 2)

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

06/14/2010-1 AMEND ZONING ORDINANCE OFFICE RESEARCH ZONE

Ms. Baillie explained that the Madison Planning Board amended the Borough Master Plan in 2009 and has recommended modifying the Office Research (OR) Zone. The Verizon site located on Park Avenue, which is the only property located within the OR zone, sits on a County arterial road and should continue to be non-residential zoning, taking into consideration the site's location relative to colleges and universities, plan development in adjacent municipalities and large size. Ordinance 35-2010 is listed for introduction.

06/14/2010-2 TIGER GRANT APPLICATION

Mr. Codey noted that this is a Federal Grant opportunity to build a parking garage on Kings Road behind the Public Safety Complex. This application differs from the

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previous application in that it has a 20% matching funds element and with the work completed to the Public Safety Building, the Hartley Dodge Memorial Building and renovation of the train station, the Borough's portion is already matched. There was no objection to listing Resolution R 166-2010 on the Consent Agenda.

06/14/2010-3 TREE REMOVAL

Mr. Codey explained that this item is an award to Tree King, Inc., for tree and stump removal in the amount of \$30,000.00 under the Morris County Cooperative Pricing Council that requires approval by the governing body. Resolution R 148-2010 is listed on Consent Agenda.

06/14/2010-4 DIESEL FUEL

Mr. Codey noted that the purchase of diesel fuel and gasoline exceed the bid threshold, therefore award by the governing body is required for the purchase through the Morris County Cooperative Pricing Council. Resolution R 149-2010 is listed on Consent Agenda.

06/14/2010-5 GASOLINE

There was agreement to list Resolution R 150-2010 on the Consent Agenda.

ADVERTISED HEARINGS

The Clerk made the following statement:

Ordinance 20-2010 scheduled for hearing tonight was submitted in writing at a Regular Meeting of the Mayor and Council held on April 12, 2010, Ordinances 30-2010 through 34-2010 were submitted in writing at a Regular Meeting of the Mayor and Council held on May 24, 2010; all were introduced by title and passed on first reading, were published in the Madison Eagle and made available to members of the general public requesting same.

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

ORDINANCE 20-2010

ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 195 OF THE BOROUGH CODE, LAND DEVELOPMENT ORDINANCE, REGARDING OUTDOOR DINING AT BUSINESS ESTABLISHMENTS

WHEREAS, the Borough Planner has recommended amending Chapter 195 of the Borough Code, the Madison Land Development Ordinance, in regard to outdoor dining at business establishments; and

WHEREAS, the Borough Council has considered the proposed amendment to the Madison Land Development Ordinance and wishes to amend the Code as recommended.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey that Chapter 195 of the Borough Code entitled "Madison Land Development Ordinance" shall be amended as follows:

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SECTION 1: Section 195-32.4, entitled CBD-1, CBD-2 Central Business District Zones Regulations shall have the following added to it:

D. Conditional Uses:

...

(4) Outdoor Dining.

SECTION 2: Section 195-32.5, entitled CC Community Commercial Zone Regulations shall have the following added to it:

D. Conditional Uses

...

(7) Outdoor Dining

SECTION 3: Section 195-33.B entitled “Outdoor Dining”, shall have the following added to it:

...

(11) Outdoor Dining:

- (b) Outdoor dining refers only to the service of food and beverages, consistent with the definition of restaurant, but extended to include privately owned outdoor property on which a restaurant operates as the principal permitted use; outdoor dining on any public sidewalk or right-of-way shall continue to be governed by Borough Ordinance Section 166-43 and associated permit requirements.
- (c) Outdoor dining does not include an outdoor bar or any other similar outdoor accessory use that serves only beverages, nor does it include any drive through or take out windows;
- (d) Public access shall be provided from within the principal restaurant use with a secondary means of emergency egress in accordance with applicable NJ building codes;
- (e) Outdoor dining areas shall be designed in accordance with barrier free requirements;
- (f) The calculation of off-street parking requirements shall include outdoor seating occupancy;
- (g) The approval of any application for outdoor dining shall not be construed as approval by the Borough Council for extension and/or renewal of any license under ABC jurisdiction; such extensions and/or renewals shall only be granted by the Borough Council.
- (h) All outdoor dining areas shall be clearly delineated by a solid decorative fence, wall or other structure at least than 4.5 feet in height but no more than six feet in height;
- (i) Hours of operation of outdoor dining areas shall not extend later than 10:00 pm;
- (j) All outdoor lighting for shall be downward facing and shall be turned off by 10:30pm;
- (k) No amplified music shall be permitted in outdoor dining areas.
- (l) No outdoor dining area that serves alcoholic beverages shall be located within 200 feet of a school or public park.
- (m) No outdoor dining area shall obstruct pedestrian access serving one or more stores or businesses in addition to the property on which outdoor dining is proposed.

SECTION 4: This Ordinance shall take effect as provided by law.

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Mayor Holden opened up the public hearing on Ordinance 20-2010. Since no member of the public wished to be heard, the public hearing was closed.

There was agreement that Ordinance 20-2010, which was read by title, be carried to the Borough Council meeting of July 12, 2010.

**ORDINANCE 30-2010
ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$65,000.00
FROM THE ELECTRIC CAPITAL IMPROVEMENT FUND FOR PURCHASE OF
NEW STYLE PENNGLOBE VICTORIAN FIXTURES**

WHEREAS, the Electric Utility Superintendent has recommended that the Borough appropriate \$65,000.00 from the Electric Capital Improvement Fund for the purchase of new style Pennglobe Victorian fixtures for the commercial district; and

WHEREAS, the Director of Finance has attested to the availability of the funds in the Electric Capital Improvement Fund in an amount not to exceed \$65,000.00 for this purpose; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$65,000.00 from the Electric Capital Improvement Fund for the purchase of new style Pennglobe Victorian fixtures for the commercial district; 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 \$65,000.00 is hereby appropriated from the Electric Capital Improvement Fund for the purchase of new style Pennglobe Victorian fixtures for the commercial district.

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

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

Mayor Holden opened up the public hearing on Ordinance 30-2010. Since no member of the public wished to be heard, the public hearing was closed.

Mr. Cerciello moved that Ordinance 30-2010, which was read by title, be finally adopted. Mrs. Tsukamoto seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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

Mayor Holden declared Ordinance 30-2010 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.

**ORDINANCE 31-2010
ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$5,000.00
FROM THE WATER CAPITAL IMPROVEMENT FUND FOR INSTALLATION OF
FIRE ALARM SYSTEM AT WATER & LIGHT PLANT**

WHEREAS, the Electric Utility Superintendent has recommended that the Borough appropriate \$5,000.00 from the Water Capital Improvement Fund for the installation of a fire alarm system at the Water & Light Plant; and

WHEREAS, the Director of Finance has attested to the availability of the funds in the Water Capital Improvement Fund in an amount not to exceed \$5,000.00 for this purpose; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$5,000.00 from the Water Capital Improvement Fund for the installation of a fire alarm system at the Water & Light Plant; 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 \$5,000.00 is hereby appropriated from the Water Capital Improvement Fund for the installation of a fire alarm system at the Water & Light Plant.

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

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

Mayor Holden opened up the public hearing on Ordinance 31-2010. Since no member of the public wished to be heard, the public hearing was closed.

Mr. Cerciello moved that Ordinance 31-2010, which was read by title, be finally adopted. Mrs. Tsukamoto seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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

Mayor Holden declared Ordinance 31-2010 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.

**ORDINANCE 32-2010
ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$5,000.00
FROM THE ELECTRIC CAPITAL IMPROVEMENT FUND FOR INSTALLATION
OF FIRE ALARM SYSTEM AT WATER & LIGHT PLANT**

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WHEREAS, the Electric Utility Superintendent has recommended that the Borough appropriate \$5,000.00 from the Electric Capital Improvement Fund for the installation of a fire alarm system at the Water & Light Plant; and

WHEREAS, the Director of Finance has attested to the availability of the funds in the Electric Capital Improvement Fund in an amount not to exceed \$5,000.00 for this purpose; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$5,000.00 from the Electric Capital Improvement Fund for the installation of a fire alarm system at the Water & Light Plant; 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 \$5,000.00 is hereby appropriated from the Electric Capital Improvement Fund for the installation of a fire alarm system at the Water & Light Plant.

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

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

Mayor Holden opened up the public hearing on Ordinance 32-2010. Since no member of the public wished to be heard, the public hearing was closed.

Mr. Cerciello moved that Ordinance 32-2010, which was read by title, be finally adopted. Mrs. Tsukamoto seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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

Nays: None

Mayor Holden declared Ordinance 32-2010 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.

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)

A Public Hearing is scheduled for June 28, 2010.

ORDINANCE 34-2010

ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 195 OF THE BOROUGH CODE, LAND DEVELOPMENT ORDINANCE, SECTION 31 ENTITLED "CERTAIN PERMITTED USES."

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WHEREAS, the Borough Council has determined to amend Chapter 195 of the Borough Code, the Madison Land Development Ordinance, Section 195-31, entitled “Certain Permitted Uses” to regulate retail business hours in all commercial zones of establishments located within 300 feet of any residential zone; and

WHEREAS, the Borough Council has considered the proposed amendment to the Madison Land Development Ordinance and wishes to amend the Code.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey that Chapter 195 of the Borough Code entitled “Madison Land Development Ordinance” shall be amended as follows:

SECTION 1: Section 195-31, entitled “Certain Permitted Uses” is hereby amended to add the following section:

§ 195-31. Certain Permitted Uses

E. HOURS OF BUSINESS OPERATIONS IN CERTAIN AREAS.

No retail establishment located in any non-residential zone, including CBD-1, CBD-2, and CC Zones, that is located within 300 feet of any residential zone, shall conduct business between the hours of 11:00 p.m. of each day and 6:00 a.m. of the following day. The distance shall be measured from any property line of the retail establishment to the closest residential zone line.

SECTION 2: All other provisions of Section 195-31 that are not amended herein shall remain the same.

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

Mayor Holden opened up the public hearing on Ordinance 34-2010. Since no member of the public wished to be heard, the public hearing was closed.

Ms. Baillie moved that Ordinance 34-2010, which was read by title, be finally adopted. Mr. Conley seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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

Mayor Holden declared Ordinance 34-2010 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:

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The ordinance scheduled for introduction and first reading tonight will have a hearing during the meeting of July 12, 2010, in the 3rd 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 ordinance 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 Ordinance 35-3010 for first reading and asked the Clerk to read said ordinance by title:

**ORDINANCE 35-2010
ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER
195 OF THE MADISON BOROUGH CODE ENTITLED “LAND
DEVELOPMENT ORDINANCE”**

STATEMENT OF PURPOSE: The purpose of this ordinance is to modify the OR district in accordance with the recommendations of the 2009 Land Use Element Amendment of the Borough of Madison’s Comprehensive Plan.

WHEREAS, the Madison Borough Planning Board has reviewed the Zoning Ordinance of the Borough of Madison and recommends that the Borough Council consider amending the Zoning Ordinance to modify the OR district in accordance with the recommendations of the 2009 Land Use Element Amendment of the Borough of Madison’s Comprehensive Plan; and

WHEREAS, the Planning Board recommends the adoption of the amendments to the Zoning Ordinance to the Borough Council and finds that they are not inconsistent with the 2002 Master Plan and amendments thereto.

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

SECTION 1: Section 195-7 entitled “Definitions” of Chapter 195 of the Madison Borough Code entitled “Land Development Ordinance”, shall be amended to add the following definition:

RESEARCH AND DEVELOPMENT -- Research & development includes uses involved in the conduct of basic and applied research, as well as the application of such knowledge to the production process, which do not pose a public nuisance by virtue of noise, vibration, odor, air emissions or discharge of hazardous substances. R&D uses include a mix of research facilities, laboratories, corporate offices, and support services in a coordinated and high-quality, aesthetic environment. Research & development uses can range from incubator facilities for start-ups and growing technology/research companies to established research corporations, but shall not include testing on animals; testing of blood and tissue samples shall be permitted.

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SECTION 2: Chapter 195 of the Madison Borough Code entitled “Land Development Ordinance”, Section 195-32.7 entitled “OR Office-Research regulations.” shall be amended as follows:

§195-32.7. OR Office-Research Zone regulations

A. Purpose. The purpose of this zone is to permit a wide range of office and research and development uses in accordance with current best practices of green building and sustainable site design to minimize impacts on adjacent residential areas to the maximum extent possible. This purpose encompasses the rehabilitation and reuse of existing site improvements and infrastructure, as well as any future new construction within the zone.

B. . . .

(3) Research and development uses.

. . . .

E. Supplemental Requirements:

(1) All pervious areas in the required front yard and/or between the front building façade and the street right-of-way shall be fully planted and maintained in a combination of lawn area or ground cover with a mix of native deciduous and evergreen shrubbery and trees. Landscaping around any parking areas shall contain a mix of deciduous and evergreen plantings sufficient to screen the view of vehicles in all seasons from adjacent residential uses. The landscape plan shall be prepared by a licensed landscape architect and reviewed by the Madison Shade Tree Management Board.

(2) No chainlink or vinyl fencing shall be permitted along any public street frontage nor adjacent to any residential use.

(3) The selection of building design elements, such as materials, fenestration, color and texture, should balance the needs of the proposed uses of the site with elements to achieve harmony with the neighborhood and Borough.

(4) Site lighting should be harmonious with the building style and design and shall use only downward facing fixtures to minimize spillage and glare. Lighting intensities shall be the minimum required to adequately light the site and shall consider the proximity and nature of adjoining uses. See also Chapter 195-25.6 for additional standards.

(5) All building facades shall be treated as front facades in terms of architectural detailing and treatments.

(6) Buildings are required to incorporate vertical and horizontal articulation through variations in build-to-lines, incorporation of entry treatments and pergolas, careful selection of materials, the use of projections and fenestration, and/or similar architectural treatments to improve the visual appearance of the buildings.

(7) Applicants for development in the OR Zone shall submit photo simulations showing the massing, scale, materials and finishes proposed for the project from various viewpoints in context with surrounding properties. These simulations shall be submitted at the time of the initial application for site plan approval.

(8) All proposals for development in this zone shall be required to prepare a Traffic Impact Statement in accordance with Chapter 195-

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20.G that shall consider increases in cut through traffic through neighboring local streets.

(9) For the purpose of calculating impervious coverage and to encourage the use of sustainable site design components that increase groundwater recharge, all pervious pavement and engineered green roof systems shall receive a credit towards the calculation of impervious coverage. These areas, provided they are designed and maintained in accordance with best engineering practices, shall receive deductions for purposes of calculating impervious coverage in the OR Zone, as follows:

[a] Green Roof: engineered green roofs may be considered for a reduction in impervious coverage provided they cover a minimum of 500 square feet of contiguous roof area. Deductions shall be as follows:

[1] a reduction of 20% in impervious coverage for systems with unit weights 10-25 pounds/square foot saturated and vegetated;

[2] a reduction of 35% in impervious coverage for systems with unit weights 25-40 pounds/square foot saturated and vegetated;

[3] a reduction of 50% in impervious coverage for systems with unit weights 40+ pounds/square foot saturated and vegetated;

[4] Additional coverage reduction for system designed to retain entire 100 year design storm may be granted based on review and determination by the Board Engineer.

[b] Pervious Paving Systems: pervious paving systems may be considered for a reduction in impervious coverage, provided they cover a minimum of 5% of all parking stalls or 2.5% of total paved area of the site and provided they demonstrate compliance with design criteria of Chapter 9.7 of the New Jersey Department of Environmental Protection Best Management Practices Manual, latest version, in order to qualify for coverage credits. Deductions shall be as follows:

[1] 20% reduction in impervious coverage for impervious concrete pavers without storage bed;

[2] 40% reduction in impervious coverage for impervious concrete pavers with stone storage bed;

[3] 50% reduction in impervious coverage for porous paving systems;

[4] Additional coverage reduction may be granted for storage bed designed to retain the entire 100 year design storm based on review and determination by the Board Engineer.

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(10) Standards related to site design and layout, including, but not limited to landscaping, stormwater management, lighting, parking, etc. outlined in other sections of Chapter 195, Land Development, shall apply. In the event of inconsistencies between standards elsewhere in Chapter 195 and in this section, the more restrictive standard shall apply.

(11) Accessory uses, including shared conference rooms for use by multiple tenants, cafeterias, fitness facilities, and similar amenities designed for the sole use of building occupants shall not exceed 15% of a building's gross floor area.

(12) Laboratory floor area shall not exceed 25% of a building's gross floor area.

SECTION 3: Chapter 195 of the Madison Borough Code entitled "Land Development Ordinance", Attachment I, Schedule I, Height, Yard and Bulk Requirements shall be revised as follows:

- Office & Research Zone Maximum Stories: 3 stories
- Office & Research Zone Height (feet): 55 feet and elevation 282' (based on NAVD88)
- Office & Research Zone Maximum Impervious Cover: 57%(r)
 - **Add note r.** See Section 195-32.7.E.(9) for additional information on the calculation of impervious coverage.

SECTION 4: All other provisions of the Ordinance not inconsistent herewith shall remain the same.

SECTION 5: This Ordinance shall take effect as provided by law.

Ms. Baillie moved that Ordinance 35-2010, which the Borough Clerk read by title, be adopted. Mr. Conley seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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

CONSENT AGENDA RESOLUTIONS

The Clerk made the following statement:

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

Mrs. Tsukamoto moved adoption of the Resolutions 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:

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

R 146-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING THE TAX COLLECTOR TO PREPARE AND MAIL ESTIMATED TAX BILLS IN ACCORDANCE WITH P.L. 1994, C. 72

WHEREAS, the Borough of Madison has scheduled budget adoption on June 28, 2010 and the Morris County Board of Taxation is unable to certify Madison's tax rate at this time and the Borough of Madison Tax Collector will be unable to mail the Borough's 2010 tax bills on a timely basis;

WHEREAS, the Borough of Madison Tax Collector in consultation with the Borough of Madison Chief Financial Officer has computed an estimated tax levy in accordance with N.J.S.A. 54:4-66.3, and they have both signed a certification showing the tax levies for the previous year, the 2010 estimated tax rates and the range of permitted estimated tax levies;

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MADISON, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY on this 14th day of June, 2010 as follows:

1. The Borough of Madison Tax Collector is hereby authorized and directed to prepare and issue estimated tax bills for the Borough of Madison for the third installment of 2010 taxes.
2. The entire estimated tax levy for 2010 is hereby set at \$55,425,358.
3. In accordance with law the third installment of 2010 taxes shall not be subject to interest until the later of August 10 or the twenty-fifth calendar day after the date the estimated tax bill were mailed. The estimated tax bills shall contain a notice specifying the date on which interest may begin to accrue.

R 147-2010 RESOLUTION OF THE BOROUGH OF MADISON RATIFYING APPOINTMENT OF CYNTHIA KROEGER TO THE SUMMER INTERN POSITION IN THE MADISON MAIN STREET DEPARTMENT EFFECTIVE MAY 24, 2010

WHEREAS, the Purchasing/Personnel Officer has recommended appointment of Cynthia Kroeger to the position of Summer Intern in the Madison Main Street Department; and

WHEREAS, the Borough Council agrees with this recommendation.

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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 Cynthia Kroeger to the position of Summer Intern in the Madison Main Street Department effective May 24, 2010 at the rate of pay of \$9.00 per hour is hereby ratified.

R 148-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING CONTRACT FOR TREE REMOVAL THROUGH THE MORRIS COUNTY CO-OPERATIVE PRICING COUNCIL

WHEREAS, the Borough of Madison desires to enter into a contract for tree removal from an authorized vendor under the Morris County Co-Operative Pricing Council program; and

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

WHEREAS, Tree King Inc., of Landing, New Jersey has been awarded Morris County Co-Operative Pricing Council contract number 18 Tree Removal/Trimming/Stump Grinding Services, Category A: Tree Removal; and

WHEREAS, the Superintendent of Public Works has recommended that the Borough Council utilize this contract for tree removal in the amount of \$30,000.00; and

WHEREAS, the Director of Finance has attested that funds will be available in an amount not to exceed \$30,000.00 for this purpose, which funds are available in the Operating Budget.

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

1. A contract for tree removal from Tree King, Inc., of Landing, New Jersey, at a total price not to exceed \$30,000.00 is hereby approved under the Morris County Co-Operative Pricing Council contract number 18.

2. The Mayor and Borough Clerk are hereby authorized and directed on behalf of the Borough to execute a purchase order and contract to Tree King Inc., of Landing, New Jersey, for tree removal at a total price not to exceed \$30,000.00, in a form acceptable to the Borough Attorney.

R 149-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING CONTRACT FOR ULTRA LOW SULFUR DIESEL FUEL THROUGH THE MORRIS COUNTY CO-OPERATIVE PRICING COUNCIL

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WHEREAS, the Borough of Madison desires to enter into a contract for ultra low sulfur diesel fuel from an authorized vendor under the Morris County Co-Operative Pricing Council program; and

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

WHEREAS, Finch Fuel Oil Company, Inc., of Kearny, New Jersey has been awarded Morris County Co-Operative Pricing Council contract number 2 Ultra Low Sulfur Diesel Fuel; and

WHEREAS, the Superintendent of Public Works has recommended that the Borough Council utilize this contract for ultra low sulfur diesel fuel in the amount of \$34,600.00; and

WHEREAS, the Director of Finance has attested that funds will be available in an amount not to exceed \$34,600.00 for this purpose, which funds are available in the Operating Budget.

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

1. A contract for ultra low sulfur diesel fuel from Finch Fuel Oil Company, Inc., of Kearny, New Jersey, at a total price not to exceed \$34,600.00 is hereby approved under the Morris County Co-Operative Pricing Council contract number 2 Ultra Low Sulfur Diesel Fuel.

2. The Mayor and Borough Clerk are hereby authorized and directed on behalf of the Borough to execute a purchase order and contract to Finch Fuel Oil Company, Inc., of Kearny, New Jersey, for ultra low sulfur diesel fuel at a total price not to exceed \$34,600.00, in a form acceptable to the Borough Attorney.

R 150-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING CONTRACT FOR MOTOR GASOLINE THROUGH THE MORRIS COUNTY CO-OPERATIVE PRICING COUNCIL

WHEREAS, the Borough of Madison desires to enter into a contract for motor gasoline from an authorized vendor under the Morris County Co-Operative Pricing Council program; and

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

WHEREAS, Allied Oil, LLC, of Hillsborough, New Jersey has been awarded Morris County Co-Operative Pricing Council contract number 1 Motor Gasoline; and

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WHEREAS, the Superintendent of Public Works has recommended that the Borough Council utilize this contract for motor gasoline in the amount of \$120,100.00; and

WHEREAS, the Director of Finance has attested that funds will be available in an amount not to exceed \$120,100.00 for this purpose, which funds are available in the Operating Budget.

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

1. A contract for motor gasoline from Allied Oil, LLC, of Hillsborough, New Jersey, at a total price not to exceed \$120,100.00 is hereby approved under the Morris County Co-Operative Pricing Council contract number 1 Motor Gasoline.
2. The Mayor and Borough Clerk are hereby authorized and directed on behalf of the Borough to execute a purchase order and contract to Allied Oil, LLC, of Hillsborough, New Jersey, for motor gasoline at a total price not to exceed \$120,100.00, in a form acceptable to the Borough Attorney.

R 151-2010 RESOLUTION OF THE BOROUGH OF MADISON
APPROPRIATING \$1,173.00 FROM THE FIRE DEPARTMENT TRUST ACCOUNT
FOR CAD EQUIPMENT

WHEREAS, the Acting Fire Chief has recommended that the Borough appropriate \$1,173.00 from the Fire Department Trust Account to purchase equipment for the CAD system; and

WHEREAS, the Director of Finance has attested to the availability of the funds in the Fire Department Trust Account in an amount not to exceed \$1,173.00 for this purpose; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$1,173.00 from the Fire Department Trust Account to purchase equipment for the CAD system; and

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

1. The amount of \$1,173.00 is hereby appropriated from the Fire Department Trust Account to purchase equipment for the CAD system.
2. The budget of the Borough is hereby amended to conform with the provisions of this Resolution.

R 152-2010 RESOLUTION OF THE BOROUGH OF MADISON APPROVING
TEMPORARY SIGNS FOR MORRIS COUNTY 4H CLUB

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WHEREAS, the 4-H Association and the Rutgers Cooperative Extension of Morris County have requested permission to put up temporary signs advertising the Morris County 4-H Fair on July 23-25, 2010, in Chester; and

WHEREAS, the signs would be located at the intersection of Shunpike Road and Loantaka Way, at the intersection of Loantaka Way and Madison Avenue, and at Main Street at the Chatham border, commencing on July 16, 2010 and removed by July 30, 2010; and

WHEREAS, the Zoning Officer has recommended that a temporary sign permit be issued.

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 request of the 4-H Association and the Rutgers Cooperative Extension of Morris County to put up temporary signs as described herein from July 16, 2010 to July 30, 2010, is approved.

R 153-2010 RESOLUTION OF THE BOROUGH OF MADISON RATIFYING APPOINTMENT OF RALPH A. SANDELLO TO THE SUMMER INTERN POSITION IN THE PUBLIC WORKS DEPARTMENT (WATER) EFFECTIVE MAY 24, 2010

WHEREAS, the Purchasing/Personnel Officer has recommended appointment of Ralph A. Sandello to the position of Summer Intern in the Public Works Department (Water); 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 Ralph A. Sandello to the position of Summer Intern in the Public Works Department (Water) effective May 24, 2010 at the rate of pay of \$9.00 per hour is hereby ratified.

R 154-2010 RESOLUTION OF THE BOROUGH OF MADISON RATIFYING APPOINTMENT OF MICHAEL JAMES CLARK TO THE SUMMER INTERN POSITION IN THE LAND USE SERVICES DIVISION EFFECTIVE JUNE 1, 2010

WHEREAS, the Purchasing/Personnel Officer has recommended appointment of Michael James Clark to the position of Summer Intern in the Land Use Services Division; 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 Michael James Clark to the position of Summer Intern in the Land Use Services Division effective June 1, 2010 at the rate of pay of \$9.00 per hour is hereby ratified.

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R 155-2010 RESOLUTION OF THE BOROUGH OF MADISON APPOINTING MARYANN O'DONNELL MCCOY, ESQ. AS MADISON MUNICIPAL PROSECUTOR

WHEREAS, the Borough of Madison has a need to obtain the Professional Services of Maryann O'Donnell McCoy, Esq., Prosecutor, as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Maryann O'Donnell McCoy, Esq., is currently the Alternate Municipal Prosecutor; and

WHEREAS, Gary Grabas, Esq., has resigned as Municipal Prosecutor; and

WHEREAS, the Borough Administrator of the Borough of Madison has determined that the value of the professional services may exceed \$17,500; and

WHEREAS, the anticipated term of the contract is the remainder of 2010 and may be extended as approved by this governing body; and

WHEREAS, said Professional Services provider has submitted a proposal indicating willingness to provide the services for the remainder of the annual fee not to exceed \$20,000.00 plus a litigation rate of \$90.00 per hour as described in the contract; and

WHEREAS, said Professional Services provider has completed and submitted a Business Entity Disclosure Certification which certifies that said provider has not made any reportable contributions to a political or candidate committee in the Borough of Madison, County of Morris, State of New Jersey in the previous one year, and that the contract will prohibit said Professional Services provider from making any reportable contributions through the term of the contract, and

WHEREAS, in accordance with N.J.A.C. 5:30-5.4, the Chief Financial Officer has certified as to the availability of funds for this contract.

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

1. The Mayor is hereby authorized to execute a contract for the professional services of Maryann O'Donnell McCoy, Esq., as Prosecutor, the cost of such professional service agreement not to exceed the amount certified by the Chief Financial Officer.
2. The Borough Clerk is hereby directed to publish notice of the adoption of this resolution in the official newspaper of the Borough within ten (10) days of its adoption pursuant to N.J.S.A. 40A:11-5.

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3. The resolution and contract are on file and available for public inspection in the office of the Municipal Clerk during regular business hours Monday through Friday.

BE IT FURTHER RESOLVED that the Business Entity Disclosure Certification and the Determination of Value be placed on file with this resolution.

R 156-2010 RESOLUTION OF THE BOROUGH OF MADISON APPROVING RAFFLES LICENSE APPLICATIONS SUBMITTED BY FRIENDS OF THE MADISON PUBLIC LIBRARY AND AUXILIARY OF THE MADISON VOLUNTEER AMBULANCE CORPS

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

FRIENDS OF THE MADISON PUBLIC LIBRARY
I.D. No. 274-5-37411
R.A. No. 1156 – On Premise
August 7, 2010

AUXILIARY OF THE MADISON VOLUNTEER AMBULANCE CORPS
I.D. No. 275-10-10817
R.A. No. 1157 – Off Premise
November 15, 2010

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

R 157-2010 RESOLUTION OF THE BOROUGH OF MADISON RATIFYING APPOINTMENT OF ROBERT EMMERICH TO THE SUMMER INTERN POSITION IN THE FINANCE DEPARTMENT EFFECTIVE JUNE 8, 2010

WHEREAS, the Purchasing/Personnel Officer has recommended appointment of Robert Emmerich to the position of Summer Intern in the Finance Department; 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 Robert Emmerich to the position of Summer Intern in the Finance Department effective June 8, 2010 at the rate of pay of \$9.00 per hour is hereby ratified.

R 158-2010 RESOLUTION OF THE BOROUGH OF MADISON RENEWING LIQUOR LICENSES IN THE BOROUGH OF MADISON FOR THE 2010-2011 LICENSE TERM

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

CLUB LICENSES - FEE: \$180.00; July 1, 2010 through June 30, 2011

License # 1417-31-019-001
Center Pub Assoc Of Drew University
36 Madison Avenue
Madison, NJ 07940

License #1417-31-020-001
Club License
Madison Lodge BPO Elks #1465
192 Main Street
Madison, NJ 07940

License #1417-31-022-001
North Star Athletic Club
95 North Street
Madison, NJ 07940

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

License #1417-33-005-003
The Cambridge Shanghai Company LLC
Shanghai Jazz Restaurant and Bar
24 Main Street
Madison, NJ 07940

License #1417-33-010-005
L'Allegria Restaurant Corp
9-11 Prospect Street
Madison, NJ 07940

License #1417-33-017-005
Sals Pub Inc.
Rocco's Restaurant
30 Cook Plaza
Madison, NJ 07940

License #1417-33-024-008
Plaza Lanes Inc.
53 Madison Plaza
Madison, NJ 07940

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

License #1417-44-001-008
Whole Food Markets Group Inc.
Whole Foods Market
Madison, NJ 07940
Mailing address: 550 Bowie Street
Austin Texas 78703

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License #1417-44-003-006
Silver Sea Enterprises Inc.
Bottle Hill Wine & Spirits Wine Rx
26 Cook Plaza
Madison, NJ 07940

License # 1417-44-004-009
Trid Corp
Madison Wine Cellars
29 Main Street
Madison, NJ 07940

License #1417-44-009-007
Shah Traders Inc.
Madison Liquor & Convenience
6 Elm Street
Madison, NJ 07940

License #1417-44-013-010
Jelma Inc.
Gary's Wine & Marketplace
121 Main Street
Madison, NJ 07940

License #1417-44-016-004
Payel LLC
Neil's Liquors & Deli
114 Park Avenue
Madison, NJ 07940

R 159-2010 RESOLUTION OF THE BOROUGH OF MADISON ADOPTING REVISED DEFERRED COMPENSATION PROGRAM WITH LINCOLN NATIONAL LIFE INSURANCE COMPANY AND LINCOLN FINANCIAL GROUP

WHEREAS, the Borough Council of the Borough of Madison (hereinafter referred to as the “Employer”) by resolution previously adopted a Deferred Compensation Plan (hereinafter referred to as the “Plan”) for the purpose of making available to eligible employees the accrual of tax benefits under a Section 457 Deferred Compensation Plan; and

WHEREAS, the Economic Growth and Tax Relief Reconciliation Act of 2001, the 2005 final regulations issued under the Uniformed Services Employment and Reemployment Rights Act of 1994, the Pension Protection Act of 2006, final Treasury Regulation §1.457-4, the Heroes Earnings Assistance and Relief Tax Act of 2008 , and the Worker, Retiree and Employer Recovery Act of 2008 amended sections of the Internal Revenue Code (the “Code”) and the rules and/or regulations issued thereunder affecting Section 457 Deferred Compensation Plans (cumulatively referred to as the “Acts and Regulations”);

WHEREAS, the Employer desires its Plan to conform with the changes in the Code and Treasury regulations brought about by the Acts and Regulations;

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WHEREAS, the Employer desires to adopt a restated Plan that conforms with the changes in the Code and Treasury regulations resulting from the Acts and Regulations;

WHEREAS, such revised Plan shall supersede the previously adopted Plan;

NOW, THEREFORE BE IT RESOLVED that the Employer hereby adopts a revised Plan 76-PD-Lincoln-120709.

BE IT FURTHER RESOLVED that The Lincoln National Life Insurance Company and Lincoln Financial Group, its agent, has agreed to continue to be the provider of the Deferred Compensation Program for employees; and

BE IT FURTHER RESOLVED that the Lincoln National Life Insurance Company and Lincoln Financial Group its agent, will continue to provide, for the benefit of the participants the Multi-Fund Variable Annuity contract; and

BE IT FURTHER RESOLVED that there has been no collusion, or evidence or appearance of collusion, between any local official and a representative of Lincoln National Life Insurance Company and Lincoln Financial Group, its agent, in the selection of a provider pursuant to N.J.A.C. 5:37 - 5.7.

BE IT FURTHER RESOLVED that the Finance Director or Business Administrator is authorized to execute an Administrative Services Agreement with the Lincoln National Life Insurance Company and Lincoln Financial Group, its agent, (12-SA-Lincoln-072595) and such other agreements as are necessary to implement the Deferred Compensation Program. It is implicitly understood that there is to be no cost or contribution by the Employer to the program; and

BE IT FURTHER RESOLVED that the Finance Director or Business Administrator is authorized to serve as the “Administrator” of the plan, represent the **Employer**, and execute individual deferred compensation agreements with each said employee; and

BE IT FURTHER RESOLVED by the Employer that the Clerk forward a certified true copy of this resolution to the Finance Director or Business Administrator; and

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be forwarded to the Director of the Division of Local Government Services at P.O. Box 803; Trenton, NJ 08625-0803.

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R 160-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING EXECUTION OF A LEASE AGREEMENT WITH THE ADULT SCHOOL OF THE CHATHAMS, MADISON AND FLORHAM PARK FOR A PORTION OF THE MADISON CIVIC CENTER BUILDING AT 28 WALNUT STREET IN MADISON

WHEREAS, the Borough of Madison owns the building located at 28 Walnut Street known as Block 1601, Lot 42 in the Borough of Madison and referred to as the “Civic Center”; and

WHEREAS, The Adult School of the Chathams, Madison and Florham Park is a non-profit entity providing services to Madison residents; and

WHEREAS, the Borough Council is desirous of leasing space in the Civic Center to The Adult School of the Chathams, Madison and Florham Park; and

WHEREAS, the Lease would provide a lease of space in a portion of the front lower level of the Civic Center to The Adult School of the Chathams; Madison and Florham Park for a three-year lease commencing July 1, 2010, for a nominal rent of one dollar (\$1.00) per year, on such further terms as have been discussed by the Council in executive session, and are reflected in the Lease Agreement and Exhibit A attached thereto; and

WHEREAS, the Lease may be made pursuant to N.J.S.A. 40A:12-15.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the Mayor and Borough Clerk are hereby authorized to execute a Lease prepared and approved by the Borough Attorney on the terms set forth herein and on such other terms as discussed by the Borough Council in executive session, said Lease to commence on July 1, 2010.

R 161-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING EXECUTION OF A LEASE AGREEMENT WITH PLAYWRIGHTS THEATRE OF NEW JERSEY FOR A PORTION OF THE MADISON CIVIC CENTER BUILDING AT 28 WALNUT STREET IN MADISON

WHEREAS, the Borough of Madison owns the building located at 28 Walnut Street known as Block 1601, Lot 42 in the Borough of Madison and referred to as the “Civic Center”; and

WHEREAS, Playwrights Theatre of New Jersey is a non-profit entity providing services to Madison residents; and

WHEREAS, the Borough Council is desirous of leasing space in the Civic Center to Playwrights Theatre of New Jersey; and

WHEREAS, the Lease would provide a lease of space in a portion of the front lower level of the Civic Center to Playwrights Theatre of New Jersey for a

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three-year lease commencing July 1, 2010, for a nominal rent of one dollar (\$1.00) per year, on such further terms as have been discussed by the Council in executive session, and are reflected in the Lease Agreement and Exhibit A attached thereto; and

WHEREAS, the Lease may be made pursuant to N.J.S.A. 40A:12-15.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the Mayor and Borough Clerk are hereby authorized to execute a Lease prepared and approved by the Borough Attorney on the terms set forth herein and on such other terms as discussed by the Borough Council in executive session, said Lease to commence on July 1, 2010.

R 162-2010 RESOLUTION OF THE BOROUGH OF MADISON GRANTING TURN THE TOWNS TEAL, INC. PERMISSION TO TIE RIBBONS AROUND TREES ON THE MAIN STREETS OF MADISON FROM SEPTEMBER 1, 2010 THROUGH SEPTEMBER 30, 2010 IN SUPPORT OF THEIR TURN THE TOWNS TEAL CAMPAIGN TO FIGHT OVARIAN CANCER

WHEREAS, Turn the Towns Teal, Inc. has requested permission for ribbons to be tied on Borough street trees on the main streets of the Borough from September 1, 2010 to September 30, 2010 in support of their “Turn the Towns Teal Campaign” to fight ovarian cancer; and

WHEREAS, the Borough Council has determined to grant this request with the understanding that the ribbons be removed after September 30, 2010.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, County of Morris, State of New Jersey, that the request for ribbons to be tied on Borough street trees from September 1, 2010 to September 30, 2010 in support of the Turn the Towns Teal, Inc. “Turn the Towns Teal Campaign” to fight ovarian cancer is hereby approved.

BE IT FURTHER RESOLVED that the Kaleidoscope of Hope Foundation will arrange for removal of the ribbons after September 30, 2010.

R 163-2010 RESOLUTION OF THE BOROUGH OF MADISON RATIFYING APPOINTMENT OF CHRISTIAN PISAURO TO THE SUMMER INTERN POSITION IN THE WATER AND ELECTRIC UTILITY EFFECTIVE JUNE 1, 2010

WHEREAS, the Purchasing/Personnel Officer has recommended Christian Pisauro appointment of to the position of Summer Intern in the Water and Electric Utility; and

WHEREAS, the Borough Council agrees with this recommendation.

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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 Christian Pisauro to the position of Summer Intern in the Water and Electric Utility effective June 1, 2010 at the rate of pay of \$9.00 per hour is hereby ratified.

R 164-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING REQUEST FOR EXTENSION OF TIME FOR DATE OF AWARD OF CONSTRUCTION CONTRACT AND RECEIPT OF 2009 MUNICIPAL AID FROM THE NEW JERSEY DEPARTMENT OF TRANSPORTATION

WHEREAS, Madison has received an award from the New Jersey Department of Transportation (NJDOT), MA-2009-Madison Borough-00577, Roadway Preservation for Woodland Road in the Borough of Madison, said award dated January 28, 2009; and

WHEREAS, the NJDOT award requires a construction contract to be awarded no later than June 28, 2010; and

WHEREAS, the Madison Borough Engineer has requested the NJDOT grant an extension of time for the award of the construction contract in this matter due to an extended period of public involvement related to sidewalk construction, requests for cost reduction while maintaining scope of original two-phase project approach and State funding for same, and the budget approval process delays due to severe proposed cuts in State formula aid, resulting in the Madison capital final budget adoption scheduled to occur on June 28, 2010; and

WHEREAS, the Borough Engineer had previously determined that reconstruction of Woodland Road is needed due to road conditions and need for curb and drainage structure.

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 Council hereby supports and endorses the request of the Madison Borough Engineer for an extension of time from the New Jersey Department of Transportation to award a contract for the Woodland Road construction and maintain the 2009 Municipal Aid award set forth in the contract under Job Number 8700585.

R 165-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING WIFFLEBALL TOURNAMENT TO BENEFIT JO'S HOPE FOUNDATION

WHEREAS, the Borough Administrator has recommended authorizing the request of Edward Sallie for a Wiffleball Tournament to benefit the Jo's Hope Foundation, on August 7, 2010 at the Rosedale baseball fields; and

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WHEREAS, the Borough Administrator recommends waiving the application fee for such event.

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 a Wiffleball Tournament to benefit the Jo's Hope Foundation as requested by Edward Sallie is hereby authorized to be held at the Rosedale baseball fields on Saturday, August 7, 2010, the application fee is hereby waived, and the arrangements are subject to such safety requirements as may be directed by the Madison Police Department and/or Fire Department.

R 166-2010 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING SUBMISSION OF TIGER DISCRETIONARY GRANT APPLICATION TO U.S. DEPARTMENT OF TRANSPORTATION

WHEREAS, the Borough Administrator has recommended that the Borough Council authorize the Mayor and Borough Clerk to submit a TIGER Discretionary Grant Application to the U.S. Department of Transportation to promote public transportation; and

WHEREAS, the Borough Council has determined it is appropriate to authorize the Mayor and Clerk to sign a TIGER Discretionary Grant Application to the U.S. Department of Transportation to promote public transportation.

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 a TIGER Discretionary Grant Application to the U.S. Department of Transportation to promote public transportation.

INVITATION FOR DISCUSSION (2 of 2)

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

Tom Haralampoudis, Pomeroy Road - asked several questions regarding the turf fields project on the 49 Acres recreation site. On behalf of the Environmental Commission, Mr. Haralampoudis requested that the Commission be allowed to contribute to the project and noted that they wish to be included in any future site work details. Mr. Haralampoudis stated that the project is now taking on a new

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dimension and may have additional environmental concerns. Mr. Haralampoudis asked if the governing body had considered toning down the 49 Acres project and perhaps rehabilitating another property. Mr. Haralampoudis asked about a time line for the commencement of the project. Mayor Holden explained that many pieces have to be worked on before beginning the project. Mr. Haralampoudis inquired about financing. Mayor Holden noted she is hopeful that the project will be started sometime in 2010.

Don Brunner, Redmond Drive - inquired the reason for a special meeting of the Mayor and Council held on May 31, 2010, at 10 Maple Avenue.

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.

Public Safety	\$66,478.70
Health & Public Assistance	4,139.18
Public Works & Engineering	254,004.39
Community Affairs	7,292.18
Finance & Borough Clerk	1,038,004.64
Utilities	<u>65,181.68</u>
Total	<u>\$1,435,100.77</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:

PLANNING BOARD

Michael Kopas, 2 Loantaka Way, Class IV, unexpired three-year term through December 31, 2012.

Mayor Holden announced the following appointments and requested Council confirmation:

DDC

Richard Schwabcher, of Quest Diagnostics, Giralda Farms Representative, unexpired term through December 31, 2012.

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

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

Nays: None

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MAASA

Colette Crescas, 7 Albright Circle, unexpired term through December 31, 2012.

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

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

Nays: None

RECONVENE AND ADJOURN

The Regular Meeting reconvened at 8:55 p.m. and immediately adjourned.

Respectfully submitted,

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