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**BOROUGH COUNCIL
MINUTES – JANUARY 16, 2007**

REGULAR MEETING

A Regular Meeting of the Borough Council was held in the Council Chambers of the Borough Hall on Monday, January 16, 2007. The Meeting was called to order at 6:30 p.m. by Mayor O'Brien, followed by the Invocation given by Councilmember Weber and the Pledge of Allegiance.

The Mayor advised that adequate notice of this meeting was provided by an annual notice sent to the Home News and Tribune and the Star Ledger and filing a copy with the Borough Clerk within seven days following the annual organization meeting of the body.

Present were Councilmembers Dacey, Grossman, Totin, Vahalla and Weber.
Councilmember Dyas arrived at 7:40 p.m.

Also present were Mayor O'Brien, Borough Administrator Boerth, Borough Attorney Frizell, and Borough Clerk Lacina.

APPROVAL OF THE MINUTES

On a motion made by Council President Totin, seconded by Councilmember Vahalla, the Regular Minutes of December 16, 2006 and January 2, 2007 were approved.

PROCLAMATION – YOUTH ART MONTH

Mayor O'Brien read the following Proclamation:

**YOUTH ART MONTH 2007
PROCLAMATION**

WHEREAS, art education contributes powerful education benefits to all elementary, middle, and secondary students including the following:

*art education develops students' creative problem solving and critical thinking abilities;

*art education teaches sensitivity to beauty, order and other expressive qualities;

*art education gives students a deeper understanding of multi- cultural values and beliefs;

*art education reinforces and brings to life what students learn in other subjects; and

*art education interrelates students learning in art production, art history, art criticism and aesthetics.

WHEREAS, our national leaders have acknowledged the necessity of including arts experiences in all students' education,

THEREFORE, BE IT RESOLVED that support should be given to art teachers as they attempt to strengthen art education in their schools and communities.

NOW, THEREFORE, I, EDMUND O'BRIEN, MAYOR OF THE BOROUGH OF METUCHEN, DO HEREBY PROCLAIM March 2007 be observed as

YOUTH ART MONTH

In the Borough of Metuchen and that all residents are urged to give full support to quality school art programs for children and youth.

Dated: January 16, 2007

COMMUNICATIONS
CONSENT AGENDA

4. Receive the minutes of the following meetings:
-Shade Tree Commission – December 11, 2006
-Traffic & Transportation Commission – October 18, 2006

On a motion made by Council President Totin, seconded by Councilmember Dyas, with all in favor, Item No. 4 was received and/or approved.

OTHER COMMUNICATIONS

None.

REPORTS OF THE COUNCILMEMBERS

Council President Totin presented the Library schedule of events for the end of January. Council President Totin also reminded that the Library remains on winter hours.

Councilmember Weber made motion to appoint Eileen Millet to the Parking Authority. This motions was seconded by Councilmember Dyas, with all in favor.

Councilmember Vahalla had no report.

Councilmember Grossman noted the Municipal Pool was accepting early bird applications. The reduced rate is valid until March 15th.

Councilmember Dyas noted the Shade Tree Commission had reorganized and selected George Fromm as their new Chairman. Councilmember Dyas also noted the Traffic and Transportation Commission had re4elected Dan LeBar as their Chair.

Councilmember Dacey noted that the Borough would be awarding a contract for Phase II of the Myrtle Park Improvements to Stilo Excavating. The improvements would include, but were not limited to drainage and parking lot improvements.

Councilmember Dacey noted that the specifics were being worked out for the purchase of a new scoreboard for Myrtle Park. The Board of Education, Travel Soccer and Little League have made an offer to purchase the scoreboard, which the Borough would install.

REPORTS OF OFFICERS

Mr. Frizell noted that the litigation over the zoning at the Gulton Tract is proceeding and on the calendar for April 2007.

REPORT OF THE BOROUGH ADMINISTRATOR

Mr. Boerth noted the Ordinance to increase the cap allowance has been pulled from the agenda due to an extension to introduce the budget. Mr. Boerth noted the Borough now has extra time to introduce the ordinance to expand the "CAP".

Mr. Boerth noted the Borough is now facing an issue with legislation that has expired that previously allowed the health insurance and homeland security to be outside of "CAPS". Since the legislation has not been reinstated, the Borough will have to account for an additional \$1.3- \$1.5 million dollars from outside to inside the "CAPS". This movement has created a \$500,000 - \$750,000 deficit even before any salary increase or other increases have been considered for the budget year. Mr. Boerth noted the issue is a very serious one and the Borough is looking for a solution.

REPORT OF THE MAYOR

Mayor O'Brien then commented that this budget year has produced an initial deficit of \$600,000 minimum due to the bringing of health insurance cost from outside to inside the "CAPS". The Mayor noted that for the previous 30 years, insurance cost were outside the "CAPS" because it was realized that the health insurance premiums were exceeding the cost of living by double. Being outside the "CAPS", the Borough was allowed to accept the increase as was governed by the industry.

Mayor O'Brien then noted that the legislation that allowed the health insurance increases to remain outside of "CAPS" had expired. The Borough works on a calendar year and therefore must introduce a balanced budget by February 15th. The Mayor noted that there is nothing anyone in the Borough can do about the matter. The law had expired and the Borough was obligated to amend the budget figures according, resulting in a initial deficit.

Mayor O'Brien noted that he, along with Councilmembers Dyas and Grossman would be going to Trenton on January 17th and would bring the issue to the Governors attention. Until amended legislation was enacted, the Borough's hands are tied on the matter said the Mayor.

COMMENTS FROM THE PUBLIC

The Mayor opened the meeting to public comment.

Joe Ernest, PBA President, asked why the Borough had chosen to delay the introduction of the Ordinance. Mr. Ernest also questioned if the Council would put the matter before a referendum and allow the residents to vote on the increase.

Mayor O'Brien noted that a referendum would be risky, as the issue must be specifically state on the ballot that the increases would be for health insurance. Mayor O'Brien noted the PBA's concern over the matter and stated their efforts would best be served in Trenton before the legislators that could actually amend the problem.

Mr. Ernest noted that if this was a state mandate, then why other area towns were not experiencing the same deficit problems and threatening job freezes and lay-offs. Mr. Ernest noted that South Amboy just hired 5 police officers and their town is much smaller than Metuchen.

Mayor O'Brien noted that Perth Amboy was laying-off eight police officers. The Mayor stated that the towns on fiscal year budget would experience this problem mid-year when their budgets were introduced. Mayor O'Brien stated that he could not believe that other towns were not in the same situation as Metuchen.

Councilmember Dacey noted that Bergen County, for which he is administrator, has zero lined the budget and decided that 83 vacancies would not be filled this year. Councilmember Dacey noted the new catch phrase in Trenton is "property tax reform" and the legislators are willing to try any angle NOT to appear as if they are responsible for increased taxes.

Eileen Switzer, 160 Mason Drive, questioned how far the Borough was willing to allow attrition to lower the numbers of police officers. She questioned if another five leave tomorrow, would they be replaced?

Mayor O'Brien noted the answer was difficult, as any organization that has to make up \$600,000 - \$750,000 has to do it through reducing staff. The Mayor noted the Borough is forced to make cuts and it will be done in the best interest of the Borough. Mayor O'Brien stated that their only plan now is to freeze open positions.

Mrs. Switzer questioned how the decision can be made sacrificing the safety and security of the residents.

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Bill McDuffie, Jr., 32 Martin Street, questioned Councilmember Dacey, if Bergen County's number would be made up through lay-offs at the police department and public works.

Mr. Dacey noted that in the past few years, civilian sector jobs have been reduced through attrition while the public safety jobs have increased 150 members. However, everyone is concerned over the 4% cap proposed by the Governor. Mr. Dacey noted that the State Health Benefits saw a premium increase of 15% last year. A hard cap would mean the constant lowering and/or closing of services.

Joe Miciak, 239 Amboy Avenue, stated that the analogy between Bergen County and Metuchen Borough was unfair due to the size difference and a freeze of 83 jobs in Bergen was a "drop in the bucket" compared to what Metuchen would face.

Mayor O'Brien stated that even if the Borough wanted to they could not raise the budget above the allowable "CAP" increase of 3.5%. The Local Finance Board would not approve it.

Mr. Miciak again noted the comparison between the two governmental functions was unfair.

Mayor O'Brien noted that there is no question this will lead to a degradation of services that the residents expect. However, the Mayor noted that he and the Council understood the concern and stated the issue needed to be taken up with the lawmakers in Trenton.

Mr. Miciak stated that it would behoove the Mayor to lobby on behalf of the PBA.

Mr. Ernest noted that the PBA does have a lobby in Trenton. Mr. Ernest stated that they are not asking for a budget increase to add officers, just to keep the force at current levels. The job freeze means a reduction of 10% to the borough's police force.

Mayor O'Brien asked the PBA members, along with the public, to contact the Governor and the legislators in Trenton of the need for this "CAP" exception. The Mayor noted that as it currently stands, it is impossible to make up the current deficit without reducing personnel.

David Sachs, 469 Wakefield Drive, noted reducing the police department means a expected drop in revenue coming into the town through court fines, which offsets the police salaries. Mr. Sachs noted that beyond a decline in services, there will be a decline in revenue for the town.

Mayor O'Brien noted the point and again stated that the Borough cannot do anything until the law changes. Mayor O'Brien asked the public to send their concerns to the legislators so that the cap exception can be reinstated. The Mayor then explained that a police officer in Metuchen, after 5 years, makes \$100,000 between salary and benefits; a Public Works employee makes \$50,000. The Borough is being forced to make decision it shouldn't have to make. Mayor O'Brien stated the matter can only be remedied in Trenton.

Councilmember Dacey noted the Council is not comfortable with replacing the two officers at this time, to only have to lay-off the new employees mid-year.

Stanley Lease, 28 Franklin Place, questioned if the Board of Education is experiencing the same problem.

The Mayor stated he was unfamiliar with how the Board's budget works or how "CAP" laws apply to them.

Diane Callamusso, 12 Newman Street, noted that Public Works has already lost 4-5 positions the last few years through attrition and stated that if the residents were made aware of this problem would be willing to pay extra to ensure their safety and current level of services.

Mayor O'Brien again stated that a "CAP" referendum would be a risky proposition as the question would have to directly reference the health insurance line item. The only other answer is cuts.

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Mrs. Switzer then noted the residents should be equally concerned over positions not being replaced through attrition. What services will the Borough be left with, she asked?

Council President Totin noted the residents need to get the attention of the lawmakers in the matter. Only legislative changes can help matters now.

Mayor O'Brien stated the matter may be remedied when Governor Corzine proposed his 4% cap plan. Until then, the Borough Administrator will call around to other municipalities and see what they are doing.

Mayor O'Brien stated that at this time the Borough is working on a more detailed plan and the matter was blown out of proportion too early.

Mrs. Switzer noted that it was good that the matter came to light so that the residents can see how their services can be affected.

Mr. Miciak noted that he agreed a referendum was a risky proposition.

Mr. Ernest questioned if funds could be redirected from other proposed projects in town to make up the \$600,000 deficit.

The Mayor noted that it could not be redirected from bonded projects or grant funded projects.

Councilmember Vahalla noted the Borough is looking at every alternative.

Mr. Miciak noted that on weekends the Borough usually only operates with two police officers. What happens if one gets sick or laid-off? There is no back up.

Councilmember Dyas noted the intention is not to reduce safety.

Mr. Lease questioned if the current plan was not to hire two officers and lay-off another two.

Mayor O'Brien noted that the Borough does not have a concrete plan but everything is on the table.

Mr. Lease questioned how the matter was resolved in Bergen.

Councilmember Dacey noted that Bergen County had been working on the problem since the summer of 2006. Councilmember Dacey stated that he realized the gravity of the situation and how a \$600,000 deficit affects a town like Metuchen.

Councilmember Weber also noted the deficit did not include mandated pension contributions.

Mr. Boerth noted the Borough was responsible for an additional \$150,000 this year (outside of "CAPS").

Mrs. Callamusso questioned if this cap problem was the reason a DPW employee was not replaced this fall.

Mayor O'Brien stated that it was not an issue then. The Mayor noted the thought was the Local Finance Board would have realized the serious nature of the problem and would have solved it through legislation.

Mr. McDuffie questioned where the League of Municipalities is on this issue.

Mayor O'Brien noted that he was on the telephone weekly to Mr. Dressel during the consolidation issue.

Jim Conlon, Sharon Court, noted that through some research it was found that the average town size in New Jersey is 14,880; not much larger than Metuchen. Mr. Conlon noted that he has always been pleased with the services offered by the Police Department, DPW and other departments throughout

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the town. Mr. Conlon urged the public to take action against the consolidation efforts.

Mayor O'Brien noted that the immediate problem before the town was the deficit caused by the cap issue.

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Mr. Conlon questioned what would happen if the Borough decided not to adopt their budget. Then the State Police would have to take over.

Rob Donnan, Fire Department Chief, questioned what items were inside/outside “CAPS”.

Mr. Boerth noted that pensions, debt service and shared services remained outside “CAPS”.

Mr. Lease questioned if there were grants available to hire police officers.

Mayor O’Brien stated that most of the grants that paid for police officers had dried up and at this point they would not be helpful.

Mr. Ernest noted that not replacing employees through attrition has brought the ranks of the entire municipal government down to 71 and further cuts can practically dissolve the town.

Councilmember Weber questioned when the referendum could be held.

Mr. Boerth provided the necessary deadlines, noting a referendum date of March 27th.

Hearing no further comment, the Mayor closed the public portion.

NEW BUSINESS
CONSENT AGENDA

RESOLUTION NO. 2007-29

Resolution – Refund of Sidewalk Escrow Fee #06-021 S

WHEREAS, Eleanor Brennan posted \$165.00 for sidewalk escrow fees,

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to Eleanor Brennan,

NOW, THEREFORE, BE IT RESOLVED, that Eleanor Brennan be refunded \$165.00 from the Sidewalk Inspection Escrow account.

Dated: January 16, 2007

RESOLUTION NO 2007-30

WHEREAS, the Tax Collector received the necessary amount to redeem the following Tax Sale Certificate for the following property:

<u>Cert #</u>	<u>Block/Lot</u>	<u>Address</u>	<u>Lienholder</u>
040009	85/79.2	11 School Street	Farbaniec/Malinowski

BE IT FURTHER RESOLVED that the Tax Collector be authorized to cancel this lien from the municipal records.

Dated: January 16, 2007

RESOLUTION NO. 2007-31

Resolution – Refund of Sidewalk Escrow Fee #06-026 S

WHEREAS, Gloria Muldowney posted \$412.50 for curb and sidewalk escrow fees,

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to Gloria Muldowney,

NOW, THEREFORE, BE IT RESOLVED, that Gloria Muldowney be refunded \$412.50 from the Sidewalk Inspection Escrow account.

Dated: January 16, 2007

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RESOLUTION NO. 2007-32

WHEREAS, the Tax Collector received the necessary amount to redeem the following Tax Sale Certificates on the following properties:

Cert #	Block/Lot	Address	Lienholder
040009	85/79.2	11 School Street	Farbaniec/Malinowski
05-00003	48.1/62	46-48 Liberty Street	Crusader Servicing
05-00004	48.1/62.A	50-52 Liberty Street	American Tax Funding
03-003	90/41	63 Center Street	American Tax Funding
03-014	214/68	206 Lodi Ave	Michael Mastellone

BE IT FURTHER RESOLVED that the Tax Collector be authorized to cancel these liens from the municipal records.

Dated: January 16, 2007

RESOLUTION NO. 2007-33

WHEREAS, on December 4, 2006 in accordance with the Borough of Metuchen Ordinance, \$500.00 was posted by Ideal Construction as the required Performance Guarantees for Street Opening #835-87 Delaware; and

WHEREAS, the Director of Public Works advises that said work has been completed in a manner satisfactory to his department; and

WHEREAS, the Director of Public Works advises it is in order to release the monies previously deposited,

NOW, THEREFORE, BE IT RESOLVED, by The Borough Council of the Borough of Metuchen that the Chief Financial Officer be and is hereby authorized to release said funds in the amount of \$500.00 to Ideal Construction, 400 Amboy Avenue, Metuchen, NJ 08840 as recommended by the Director of Public Works.

Dated: January 16, 2007

RESOLUTION NO. 2007-34

WHEREAS, the Mayor and Borough Council have been notified by Robert Donnan, Chief of the Metuchen Fire Department, that Eric Goldenberg has been elected to be a permanent member of the Eagle Hook and Ladder Company of the Metuchen Fire Department; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Metuchen that in accordance with Chapter 8 of the Code of the Borough of Metuchen, Eric Goldenberg be and he is hereby elected, approved, and confirmed as a permanent member of the Eagle Hook and Ladder Company for the Fire Department of the Borough of Metuchen.

Dated: January 16, 2007

RESOLUTION NO. 2007-35

WHEREAS, the Borough Council of the Borough of Metuchen has received the resignation of Officer Timothy Hayduk from the Metuchen Police Department, effective January 28, 2007; and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Metuchen that the resignation of Officer Timothy Hayduk Police Department, effective January 28, 2007 is hereby accepted.

Dated: January 16, 2007

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RESOLUTION NO. 2007-36

Refund of 2006 taxes

WHEREAS, the following have made overpayment of 2006 taxes,

Name	Block/Lot	Address	Amount		Year
Neil & Paula Best	125.6/17	207 Dellwood Ave	\$3,546.47	Property owner made duplicate payment	2006/4th
Wells Fargo for Michael & Lorraine Pasquerello	93.01/14.02	147 E. Chestnut Street	\$6,276.61	Attorney made duplicate payment	2006/4th
Michael & Cara Miller	131.1/6 C-406	165 Essex Street #406	\$1,013.20	Duplicate payment made at sale	2006/4th
Kathleen & William Pappas	85/11	310 W. Chestnut Ave	\$1,864.29	Duplicate payment made by property owner	2006/4th

WHEREAS, sufficient documentation of proof of overpayment of taxes has been provided to the Tax Collector,

NOW, THEREFORE, BE IT RESOLVED, that the above listed tax property owners as described above be refunded 2006 taxes as described, in the amount of \$12,700.57.

Dated: January 16, 2007

RESOLUTION NO. 2007-37

Resolution – Refund of Sidewalk Escrow Fee #06-027 S

WHEREAS, Joseph Taylor posted \$424.00 for apron and sidewalk escrow fees,

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to Joseph Taylor,

NOW, THEREFORE, BE IT RESOLVED, that Joseph Taylor be refunded \$424.00 from the Sidewalk Inspection Escrow account.

Dated: January 16, 2007

RESOLUTION NO. 2007-38

WHEREAS, bids were received by the Borough Engineer on January 12, 2007 for the Myrtle Park Field Improvements for the Borough of Metuchen; and

WHEREAS, the Borough Council has reviewed the recommendation made by the Borough Engineer on said bids; and

WHEREAS, the Finance Officer has determined that sufficient funds will be available through in the amount of \$481,934.69 as evidenced by the Finance Officer's certification,

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen,

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County of Middlesex, State of New Jersey that the contract for Myrtle Park Field Improvements be and the same is hereby awarded to Stilo Excavating, 404 Vail Court, South Plainfield, NJ 07080.

BE IT FURTHER RESOLVED, that the Mayor and the Borough Clerk are hereby authorized and directed to execute the contract for the same.

BE IT FURTHER RESOLVED that the Borough Engineer is hereby authorized and directed to return the certified check or bid bond of the following unsuccessful bidders::

1. A. Juliano & Sons
2. Tec-Con Contractors
3. Defino Contracting
4. Down to Earth Contracting
5. Robustelli Contracting
6. Highway Safety Systems, Inc.
7. Z. Brothers Con. Contractors
8. Applied land Technologies
9. Flanagans Contracting
10. V&K Construction

BE IT FURTHER RESOLVED that the certified check or bid bond of the successful bidder and the next lowest bidders:

1. Stilo Excavating
2. Precise Construction
3. Green Acres Contracting

be returned upon the receipt of a fully executed contract and other required documents.

Dated: January 16, 2007

RESOLUTION NO. 2007-39

WHEREAS, there exists a need for the service of a Municipal Engineering Consultant in the Borough of Metuchen, County of Middlesex, State of New Jersey; and

WHEREAS, the maximum amount of the contract is \$90,000 and funds will be available in the 2007 Budget as evidenced by the Chief Financial Officer's Certification; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the award of contracts for "Professional Services" without competitive bids and the contract itself must be available for public inspection;

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

1. The Mayor and Borough Clerk are hereby authorized and directed to execute an agreement with Katherine Elliott, Birdsall Engineering, 611 Industrial Way West, Eatontown, NJ 07724
2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with 40A:11-5(1)(a) of the Local Public Contracts Law because the contract is for a service performed by person(s) authorized by law to practice a recognized profession that is regulated by law.
3. A notice of this action shall be printed once in The Home News Tribune

Dated: January 16, 2007

On a motion made by Council President Totin, seconded by Councilmember Vahalla, with all in favor, the above Resolutions No. 2007-29 through No. 2007-39 were adopted.

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OTHER NEW BUSINESS

BILL RESOLUTION

BE IT RESOLVED by the Mayor and Borough Council of the Borough of Metuchen that the proper warrants be drawn and all bills paid totaling \$321,687.82.

Dated: January 16, 2007

I, Rebecca Cuthbert, Chief Financial Officer of the Borough of Metuchen do hereby certify that funds are available for the payment of bills for the Borough of Metuchen.

/s/ Rebecca Cuthbert, CFO

On a motion made by Council President Totin, seconded by Councilmember Dyas, with all in favor, this Resolution was adopted.

COMMENTS FROM THE PUBLIC ON NEW BUSINESS MATTERS ONLY

The Mayor opened the public hearing.

Jim Conlon, Sharon Court, noted that when the meetings are broadcast, only the Mayor is heard well. The Councilmembers are not picked up on the microphone and neither is the audience.

Hearing no further comment, the Mayor closed the public portion.

On a motion made by Council President Totin, seconded by Councilmember Weber, the meeting was adjourned at 9:16 p.m.

BOZENA LACINA, RMC
Municipal Clerk