

11/05/07

**BOROUGH COUNCIL  
MINUTES – NOVEMBER 5, 2007**

**REGULAR MEETING**

A Regular Meeting of the Borough Council was held in the Council Chambers of the Borough Hall on Monday, November 5, 2007. The Meeting was called to order at 7:30 p.m. by Mayor O'Brien, followed by the Invocation given by Councilmember Grossman 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 Dyas, Grossman, Vahalla and Weber  
Councilmembers Dacey and Totin were absent. Councilmember Vahalla presided as Council President

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 acting Council President Vahalla, seconded by Councilmember Dyas, the Regular Minutes of October 15, 2007 were approved.

**COMMUNICATIONS**

**CONSENT AGENDA**

4. Receive the minutes of the following meetings:  
-Shade Tree Commission – September 10, 2007
5. Letter from Cornerstone Café requesting permission to remain open one additional hour on November 22, 2007(Thanksgiving Eve) – discuss.
6. Letter from the National Multiple Sclerosis Society requesting permission to follow route through Metuchen for their Annual MS Walk on April 13, 2008 – receive and approve.

Mayor O'Brien noted that the Borough has only ever extended the hours for liquor licenses on New Years Eve and on one occasion St. Patrick's Day. The Mayor also stated that the granting of the hour would be extended to all the liquor licenses in town and not just the requestor.

Acting Council President Vahalla noted the day before Thanksgiving is traditionally the day alumni return to town from college and gather at local establishments to meet with classmates. However, the closing time has always been 1 a.m. on Wednesday and should continue as such.

Councilmember Weber agreed that 1 a.m. is sufficient for a Wednesday evening.

Councilmember Grossman stated that the Borough cannot start to set precedents for "eves" of all holidays or perceived holidays as the request would be asked for every year.

On a motion made by acting Council President Vahalla, seconded by Councilmember Dyas, with all in favor, Items No. 3m, 4 and No. 6 were received and/or approved. Item No. 5 – request to extend closing time – was denied.

**OTHER COMMUNICATIONS**

None.

11/05/07

### **REPORTS OF THE COUNCILMEMBERS**

Councilmember Weber had no report.

Councilmember Vahalla recognized Senior Citizens Inc. for another successful fundraiser and acknowledged their donations to the Senior's Center which have totaled over \$100,000 to date.

Councilmember Grossman noted that on December 2<sup>nd</sup>, the First Aid Squad will hold a Breakfast Fundraiser. Details will follow at the next meeting.

Councilmember Dyas noted the Traffic and Transportation Commission will closely examine the intersection at Central and Durham Avenue since the tragic accident that claimed the life of three year old. The Commission will be in contact with the Freeholders to explore all options to create a safer intersection.

### **REPORTS OF OFFICERS**

Mr. Frizell noted that the Borough is preparing their case for the appeal of the NJ's liquor license hearing. Mr. Frizell noted that the Alcoholic beverage Commission has denied a request to proceed with one officer representing the Borough and all witness will have to attend the appeals trial.

Councilmember Vahalla questioned what the overtime cost would be to the Borough.

Mr. Frizell stated the numbers would have to be worked out and stated the Borough could work to resolve the matter by other means.

Mr. Frizell also noted the Board of Public Utilities would be contacted regarding a matter with PSE&G and their lack of service on connecting street lights. Mr. Frizell noted that PSE&G had been contacted three times and the matter is now a year old.

Councilmember Weber asked, in regards to NJ's Tavern, if Mr. Frizell could reach an accord with Mr. Farrell.

Mr. Frizell noted that there is a "perception gap" between what the Borough finds happened at the establishment and what the owner saw happen.

Mr. Frizell stated that he has spoken with Shirley Bishop, the Borough's consultant for COAH, regarding the COAH certification process which is currently stalled. Mr. Frizell stated that Ms. Bishop is hopeful that the Borough will maintain their certification.

### **REPORT OF THE BOROUGH ADMINISTRATOR**

Mr. Boerth had no report.

### **REPORT OF THE MAYOR**

Mayor O'Brien had no report.

### **COMMENTS FROM THE PUBLIC**

The Mayor opened the meeting to public comment.

Hearing no comment, the Mayor closed the public portion.

11/05/07

**NEW BUSINESS**  
**CONSENT AGENDA**

**RESOLUTION NO. 2007-160**

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

**WHEREAS**, The Annual Report of Audit for the year **2006** has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S. 40A:5-6, and a copy has been received by each member of the governing body, and

**WHEREAS**, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34, and

**WHEREAS**, the Local Finance Board has promulgated a regulation requiring that the Governing Body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled:

General Comments  
Recommendations

and

**WHEREAS**, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments  
Recommendations

as evidenced by the group affidavit form of the governing body, and

**WHEREAS**, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board, and

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

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

R.S. 52:27BB-52 - "A local officer or member of a local governing body who, after a date fixed for compliance fails or refuses to obey an order of the Director of Local Government Services, under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Council of the Borough of Metuchen, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Dated: November 5, 2007

11/05/07

**RESOLUTION NO. 2007-161**

**WHEREAS**, the Contract for the Middlesex County Open Space & Recreation – Bicycle/Pedestrian Grant Program and CDBG Program Sidewalk & Ramp Improvements has been approved in a contract between the Mayor and Council and JADS Construction Co., Inc. of New Jersey; and

**WHEREAS**, the net decrease to the Borough for Change Order #1 is **\$8,260.00**;

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Metuchen that the proper officials are hereby authorized to execute the said attached Change Order #1.

Dated: November 5, 2007

**RESOLUTION NO. 2007-162**

**WHEREAS**, the County of Middlesex has noticed the Metuchen Police Department that funding is available for State/Community Partnership Grant Program and Family Court Services; and

**WHEREAS**, the Borough of Metuchen wishes to apply to the County of Middlesex for funding through the State/Community Partnership Grant Program and Family Court Services; and

**WHEREAS**, the Police Chief of the Borough of Metuchen has reviewed said application and finds approval thereof to be in the best interests of the Borough of Metuchen; and

**WHEREAS**, said project is a joint project between the County of Middlesex and the Borough of Metuchen for the purposes therein described,

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

- (1) that as a matter of public policy the Police Department of the Borough of Metuchen wishes to participate with the County of Middlesex to the greatest extent possible;
- (2) that the County of Middlesex be requested to accept said application on behalf of the Borough of Metuchen; and
- (3) that the Chief Financial Officer will accept the funds in connection with said project from the County of Middlesex and make disbursement with said application.

Dated: November 5, 2007

**RESOLUTION NO. 2007-163**

**WHEREAS**, the Borough of Metuchen has submitted proposals to the County of Middlesex for the Open Space, Recreation and Farmland Preservation Trust Fund Grant program; and

**WHEREAS**, the Borough of Metuchen has been awarded a Open Space Recreation Grant in the amount of \$500,000; and

**WHEREAS**, the award will provide improvements to Myrtle Park and Charles Field in the Borough of Metuchen,

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Metuchen that the Mayor and Borough Clerk are hereby directed and authorized to execute all necessary documents to effect the provisions of this grant agreement.

11/05/07

Dated: November 5, 2007

**RESOLUTION NO. 2007-164**

**Resolution – Refund of Sidewalk Escrow Fee #07-015 S**

**WHEREAS**, DiAntonio Masonry, LLC posted \$112.00 for sidewalk escrow fees,

**WHEREAS**, the Planning Board Secretary has requested that the escrow fees be refunded to DiAntonio Masonry, LLC,

**NOW, THEREFORE, BE IT RESOLVED**, that DiAntonio Masonry, LLC be refunded \$112.00 from the Sidewalk Inspection Escrow account.

Dated: November 5, 2007

**RESOLUTION NO. 2007-165**

**WHEREAS**, there are unexpended balances in various 2007 appropriation accounts not required for the balance of 2007; and

**WHEREAS**, additional sums are required for the operating expenses of other Borough accounts,

**NOW, THEREFORE, BE IT RESOLVED**, that the following transfers be approved:

<b>Appropriation</b>	<b>From</b>	<b>To</b>
METV OE		1,400.00
Senior Citizen Center SW		8,000.00
Senior Citizen Center OE	8,000.00	
Assessor SW	1,400.00	
<b>TOTAL</b>	<b>9,400.00</b>	<b>9,400.00</b>
Pool SW	9,200.00	
Pool OE		9,200.00

Dated: November 5, 2007

**RESOLUTION NO. 2007-166**

**WHEREAS**, the Borough of Metuchen’s Escrow checking account has issued numerous checks drawn on this account; and

**WHEREAS**, some of these checks have been outstanding for over six months and are therefore non-negotiable,

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Metuchen that the following checks drawn on the Commerce Escrow checking account be canceled and the balance returned to the Commerce Current account in the total amount of \$2,096.49.

<b>Check #</b>	<b>Amount</b>	<b>Check #</b>	<b>Amount</b>
5371	2.99	6094	2.50
5370	137.50	6314	160.00
5612	423.00	6316	108.75
6074	112.00	6320	63.75
6086	393.50	6453	692.50

11/05/07

Dated: November 5, 2007

**RESOLUTION NO. 2007-167**

**REFUND 2007 TAXES**

**WHEREAS**, a successful State Tax Court Appeal judgment was awarded to Block 152, Lot 25.2 and Block 152, Lot 25.3, assessed to Franco Bros. Realty a.k.a. Prospect Realty Associates,

**WHEREAS**, the assessed value for Block 152 Lot 25.2 changed in 2007 by a \$590,000 reduction, resulting in an overpayment of taxes for 2007 of \$25,842.00,

**WHEREAS**, the assessed value for Block 152 Lot 25.3 changed in 2007 by a \$410,000 reduction, resulting in an overpayment of taxes for 2007 of \$17,958.00,

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Metuchen, that the Tax Collector be and is hereby authorized to reduce the 2007 tax billings on Block 152, Lot 25.2 and Block 152, Lot 25.3 due to the successful State Tax Court Appeals including amendments, resulting in a refund to Franco Brothers for 2007 taxes in the amount of \$ 43,800.00

Dated: November 5, 2007

**RESOLUTION NO. 2007-168**

**REFUND 2005 AND 2006 TAXES**

**WHEREAS**, a successful State Tax Court Appeal judgment was awarded to Block 36 Lot 50, assessed to Metuchen Manor for 2004,

**WHEREAS**, the assessed value changed in 2004 to an assessed value of \$3,110,500 for Block 36 Lot 50,

**WHEREAS**, the assessed value for 2005 and 2006 was not updated in the assessment records, causing an overpayment of taxes for 2005 in the amount of \$15,891.20 and in the amount of \$17,180.80 for 2006,

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Metuchen, that the Tax Collector be and is hereby authorized to reduce the 2005 and 2006 taxes on Block 36 Lot 50 due to the successful State Tax Court Appeals including amendments, resulting in a refund to Metuchen Manor for 2005 taxes for \$15,891.20, and a refund for 2006 taxes for \$17,180.80.

Dated: November 5, 2007

On a motion made by acting Council President Vahalla, seconded by Councilmember Weber, with all in favor, the above Resolutions No. 2007-160 through No. 2007-168 were adopted.

**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 \$4,726,068.19.

Dated: November 5, 2007

**11/05/07**

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 acting Council President Vahalla, 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.

Hearing no comment, the Mayor closed the public portion.

On a motion made by acting Council President Vahalla, seconded by Councilmember Dyas, the meeting was adjourned at 7:45 p.m.

---

BOZENA LACINA, RMC  
Municipal Clerk