

**BOROUGH OF METUCHEN**  
**COUNCIL MINUTES – JANUARY 22, 2013**

A Regular Meeting of the Borough Council was held in the Council Chambers of Borough Hall on Tuesday, January 22, 2013. The Meeting was called to order at 7:31 p.m. by Mayor Vahalla. The Invocation given by Councilwoman Rasmussen was followed by the Pledge of Allegiance.

The Mayor advised that adequate notice of this meeting was provided by an annual notice sent to the Home News 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 Wallace, Rasmussen, Inserro, Grayzel, Cammarano and Council President Muldoon.

Also present were Mayor Vahalla, Borough Administrator Boerth, Borough Attorney Murphy and Borough Clerk Harris.

**AGENDA SESSION**

On a motion by Councilwoman Rasmussen, seconded by Councilman Cammarano, with all in favor the agenda session was opened.

Councilman Grayzel requested the Resolution R2013-13 be removed from the Consent Agenda for a separate vote.

On a motion by Councilwoman Rasmussen, seconded by Councilman Cammarano, with all in favor the agenda session was closed.

**PEARL STREET PARKING LOT**

Council President Muldoon stated that this presentation is to share preliminary plans and ideas for the redevelopment of the Pearl Street Parking Lot. Council President Muldoon introduced the Borough Planner Mr. Jim Constantine to discuss the current conditions surrounding the Pearl Street Lot and that the plans to redevelop the Pearl Street Lot have been discussed over 30 years ago. Borough Planner Constantine discussed what he felt the public and developers wanted to see at the newly renovated site. Woodmont Properties and Nexus Parking representatives provided the Borough Council and the public renderings of what the other redevelopment sites look like and potentially what the Pearl Street Lot could look like.

**OPEN TO PUBLIC**

Mayor Vahalla opened the meeting to the public for comment.

Eric Berger (376 Middlesex Avenue) stated that he felt that there needs to be an extra level on the proposed parking deck as part of the Pearl Street Redevelopment project.

Tom Rockafeller (36 Linden Avenue) stated that he felt that there was an excess of parking proposed because the lots would be empty on the weekends.

Diane Anderson (14 Washington Place) stated that she would like to have assigned parking in the proposed development. She also asked if the development would be built quickly and approximately how big the units would be.

It was explained that all people that would be residing in the luxury apartments would have a parking space. The project has a process to go through before building could occur. The project design must be approved by both the Parking Authority and the Borough Planning Board as well as obtaining any necessary State and County approvals. The parking structure would then need to be built prior to any retail or living areas.

Robert Russo (215 Columbia Ave) stated that he felt that the proposed building should not be similar to other buildings in Metuchen. He stated that the town needs to create a building that has some interest and will stand out in order to draw people from outside of Metuchen to patron the new retail business on the site.

Council President Muldoon stated that the building site will incorporate similar building characteristics but will also have distinct new characteristics as well. Council President Muldoon stated that the town piazza will also be a focal point of the project.

Councilwoman Inzerro stated that she also felt that the plans for the redevelopment should enhance that which makes Metuchen different from other towns.

Nora Pagel (313 Midland Avenue) stated that she thinks redevelopment project is a wonderful idea but hopes that some better accommodations can be made to alleviate the pedestrian and commuter issues currently happening at the parking lot. Ms. Pagel also stated that she felt this would force Main Street to improve in order to keep up with the new development on Pearl Street.

Angela Sielski (Metuchen Chamber of Commerce) expressed her concerns with the fact that many town events are held in the Pearl Street Parking Lot and suggested making the piazza interchangeable space so that the events that have occurred in the parking lot for many years can continue at that location.

Mayor Vahalla stated that the preliminary drawings show the possibility of being able to gate off a larger portion of the project to increase the open area.

Ms. Sielski stated that she wanted to be mindful of closing off the street and affecting the already existing business in the area.

Tim Kelly (64 Pleasant Place) asked how many 1, 2 and 3 bedroom units will be constructed.

The Woodmont representative stated that some 3 bedroom affordable housing units are required to be provided and that approximately 6 to 8 or 10 to 15 percent of the total units would be affordable units on the site but that the actual number has not been determined yet. There would be approximately 158 one bedroom units and 93 two bedroom units.

Mr. Kelly asked how the units would be marketed.

It was stated that the market units would be down along the rail line and a heavy internet presence would also be established.

Mr. Kelly asked who the target demographic would be.

The demographic would not be the typical family. Younger professionals would be most likely attracted to this type of environment.

Mr. Kelly asked if there was a maximum amount of population density the Council is reviewing for Metuchen.

Borough Planner Constantine stated that at some point the Borough may want to review the density in the town but as of right know there are zoning regulations that allow other sites to explore the idea of placing rental units and for sale units in Metuchen.

Mr. Kelly asked who receives the money from the sale of the Pearl Street Lot.

Mayor Vahalla explained that the monies would go to the Parking Authority. The Parking Authority currently gives the Borough monies to offset the tax base and some of the monies received from the sale of the lot will go to the Borough as additional monies to offset the tax base.

Steve Weisblum (114 West Chestnut Ave) asked what the alternate plan for the Grocery Store would be if it is decided that it could not compete with the grocery stores in close proximity in neighboring towns.

Mr. Steve Santolla (Woodmont Properties) stated that the plan was to try and locate a green grocer.

Tom Rockafeller (36 Linden Avenue) asked what type of analysis was done to determine whether or not the parking lot should be leased or sold.

Mayor Vahalla stated that Mr. Jeff Otto who is a Real-Estate Financial Planner, Borough Planner Constantine and the Parking Authority collaborated to make this decision. Mayor Vahalla also stated that the Borough will be utilizing two grants which both require the Borough to maintain ownership of certain aspects of the property.

Rosanna Marinucci (6 Lawrence Street) asked what the rental fees would be for the rental units at this site.

Mr. Santolla stated they would range between \$1700 and \$2200 depending on if it was a one or two bedroom unit and its location.

Rosanna Marinucci asked if traffic lights would be placed on Central Avenue and Pearl Street Steve Santolla stated that the traffic pattern would be altered so that arrival and departure times of residents and commuters will be spaced out throughout the day which would decrease the congestion in the area.

Robert Russo (215 Columbia Avenue) asked if there will be lighted crosswalks provided by the Developer near the proposed Piazza.

Mayor Vahalla stated that the ideas need to be discussed with the Planning Board.

Mr. Santola stated that they are looking at different ways to make the Piazza a safe place for pedestrians.

Tyreen Rueter (16 Durham Ave) requested that public art be displayed in the area and that the Greenway should somehow be connected with this project due to its proximity.

Patrick Gibson (72 Lake Avenue) stated that he was in favor of the project.

Hearing no one else wishing to comment Mayor Vahalla closed the public comment portion of the meeting.

On a motion by Council President Muldoon, seconded by Councilman Wallace, with all in favor a brief recess was taken.

### **COMMUNICATIONS CONSENT AGENDA**

On a motion by Council President Muldoon, seconded by Councilman Cammarano, with all in favor the Communications Consent Agenda, Item #4 was approved.

4. Receive and Accept Parking Authority Minutes of November 20, 2012 and December 18, 2012.

On a motion by Council President Muldoon, seconded by Councilwoman Rasmussen, with all in favor the meeting was reconvened.

### **COUNCIL REPORTS**

Council President Muldoon had no report.

### **RECREATION**

Councilman Wallace discussed the upcoming Recreation Commission events.

### **TRAFFIC AND TRANSPORTATION**

Councilman Wallace stated that Bill Leary from Keep Middlesex Moving attending the Traffic and Transportation meeting and discussed the pedestrian crossing flags.

### **MUNICIPAL ALLIANCE/YOUTH SERVICES**

Councilwoman Rasmussen stated that the Youth Service Board reorganized at their meeting.

### **SHADE TREE**

Councilwoman Rasmussen stated that the Shade Tree Commission had their annual reorganization meeting and discussed the Tree of Life.

### **DEVELOPMENT**

Councilwoman Rasmussen stated the Development Commission met and decided to discuss with other towns that have a development district to help bring ideas back for the Development Commission to help improve the downtown area. Many other upcoming issues were also discussed.

### **SENIOR CITIZENS**

Councilwoman Inerro stated that the Commission met in December and had their annual holiday dinner.

Councilwoman Inerro also discussed the ideas of a complete streets policy and would like to help facilitate that idea. Mayor Vahalla and Council President Muldoon also stated that this should be presented to the Traffic and Transportation Committee prior to it being brought to the Council for review and discussion.

## **ARTS COUNCIL**

Councilman Grayzel discussed the upcoming art exhibits in Metuchen.

## **EMS**

Councilman Cammarano stated the Metuchen EMS charitable donation mailers were mailed and that residents should be expecting them.

## **LIBRARY**

Councilman Cammarano stated that the Library Commission met and discussed ideas to improve the appearance of the Library.

## **REPORT OF BOROUGH ATTORNEY**

Borough Attorney Murphy had no report.

## **REPORT OF BOROUGH ADMINISTRATOR**

Borough Administrator Boerth stated that the Lake Avenue and Route 27 Bridge Project demolition will be starting sometime this week and go into the next week.

## **MAYOR'S REPORT**

Mayor Vahalla stated that two new members are being accepted into the Fire Department tonight. Mayor Vahalla also stated that he was a key note speaker at the New Hope Baptist Church's Martin Luther King ceremony and also attended the breakfast.

## **CONSENT AGENDA**

On a motion by Council President Muldoon, seconded by Councilwoman Rasmussen, with all in favor the New Business Consent Agenda item numbers 6 through 14 encompassing resolutions R2013-33 through R2013-41 were approved.

### **RESOLUTION NO.2013-33**

### **RESOLUTION OPPOSING THE CLOSING OF THE WOODBRIDGE AND TOTOWA DEVELOPMENTAL CENTERS**

**WHEREAS**, in an effort to reduce New Jersey's reliance on institutional care, the Task Force on the Closure of State Development Centers was created by the state legislature and charged with reviewing certain criteria of each of the state-operated facilities including but not limited to the local economic impact of losing a center; the availability of a community to provide or develop services for those leaving who wanted to leave or didn't oppose moving outside the region; the state's ability to maintain operations, and projected repair and maintenance of each center; and

**WHEREAS**, among the seven state-operated facilities for this purpose is the Woodbridge Development Center (hereinafter referred to as WDC), a residential facility, established in 1965 for persons with development disabilities and located on 68-acres in the Avenel section of Woodbridge Township ; and

**WHEREAS**, the North Jersey Development Center (hereinafter referred to as “NJDC”), a residential facility opened in February of 1928 for individuals with developmental disabilities and located on a 188 acre tract of land in Totowa, New Jersey; and

**WHEREAS**, in July (2012), the task force recommended WDC and North Jersey Developmental Center in Passaic County be shuttered by 2017; and

**WHEREAS**, while indicating that no one piece of information or experience was a determining factor in which of the seven state-operated facilities would be recommended for closure, there are other factors that should have been considered before making their decision. These factors include the rights (federal law requires government to meet the needs of the individual) of the clients at WDC and NJDC to have treating professionals make judgments about how their needs are best met and that transferring clients from long-term institutional care to community housing has its own set of problems including higher rates of mortality and an increased likelihood of abuse in a community; and

**WHEREAS**, the Municipal Council of the Borough of Metuchen is deeply concerned by not only the recommendation by the task force to displace WDC and NJDC clients but the wide reaching economic effect with the loss of approximately 1,600 jobs in the Woodbridge area and approximately 1,000 in the Totowa area; and

**WHEREAS**, the opinion that both Central and Northern New Jersey including both Woodbridge and Totowa’s relatively strong economy is more able to absorb a closure should not be relative to the Task Force’s decision.

**NOW, THEREFORE BE IT RESOLVED**, by the Municipal Council of the Borough of Metuchen, that it expresses its disagreement with the findings and conclusion of the Task Force on the Closure of Developmental Centers; opposing the closing of the WDC as it is a vital and valuable resource that should be kept in operation for the benefit of its clients and employees; and

**BE IT FURTHER RESOLVED** by the Municipal Council of the Borough of Metuchen that certified copies of this Resolution be forwarded to Governor Chris Christy, 18<sup>th</sup> District Senator Barbara Buono, Assemblyman Peter J. Barnes III and Assemblyman Patrick Diegnan Jr., and the surround communities of Metuchen.

Dated: January 22, 2013

**RESOLUTION NO. 2013-34**

**RESOLUTION AUTHORIZING SUBMISSION AND ACCEPTANCE OF YOUTH SERVICE BOARD/MUNICIPAL ALLIANCE AGREEMENT FOR 2013 TO MIDDLESEX COUNTY (DEDR)**

**WHEREAS**, the Borough of Metuchen, County of Middlesex, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and

**WHEREAS**, the Borough Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and

**WHEREAS**, the Borough Council has applied for funding to the Governor's Council on Alcohol and Drug Abuse through the County of Middlesex

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

- 1) The Borough of Metuchen does hereby authorize submission of an application and acceptance of monies for the Metuchen Municipal Alliance grant for calendar year 2013 in the amount of **\$13, 257.00**; and
- 2) The Borough of Metuchen acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

Dated: January 22, 2013

**RESOLUTION NO. 2013-35**  
**RESOLUTION APPOINTING OF FIREFIGHTER – GUERRA**

**WHEREAS**, the Mayor and Borough Council have been notified by Rob Donnan, Chief of the Metuchen Fire Department, that **Gunther Guerra** has been elected to be a permanent member 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, **Gunther Guerra** be and he is hereby elected, approved, and confirmed as a permanent member of the Fire Department of the Borough of Metuchen.

Dated: January 22, 2013

**RESOLUTION NO. 2013-36**  
**RESOLUTION APPOINTING OF FIREFIGHTER – RIVELEY**

**WHEREAS**, the Mayor and Borough Council have been notified by Rob Donnan, Chief of the Metuchen Fire Department, that **Matthew B. Riveley** has been elected to be a permanent member 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,

**Matthew B. Riveley** be and he is hereby elected, approved, and confirmed as a permanent member of the Fire Department of the Borough of Metuchen.

Dated: January 22, 2013

**RESOLUTION NO. 2013-37**

**RESOLUTION AUTHORIZING BOND REDUCTION FOR AMBOY HOLDINGS BLOCK  
197 LOTS 52 AND 56-187 AND 199 AMBOY AVENUE**

**WHEREAS**, Amboy Holdings, LLC. has requested a *partial* release of the performance bond for various site improvements for Block 197, Lots 52 and 56, 187 and 199 Amboy Avenue; and

**WHEREAS**, the Borough Engineer in a letter dated October 11, 2012 has agreed to a *partial* reduction as the improvements which has been performed have been completed in an acceptable manner; and

**WHEREAS**, the Borough Engineer recommends the partial release of the bond, in the amount of \$173,498.98 surety and \$19,277 (cash portion) reduced from the posted amounts for a new performance bond figure of \$74,356.70(surety) and \$8,261.86 (cash portion); and

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Metuchen that the Chief Financial Officer is hereby authorized and directed to release \$173,498.98 of the performance bond and \$19,277.66(cash portion), to Amboy Holdings, LLC, 411 Amity Street, Elizabeth, NJ 07202.

Dated: January 22, 2013

**RESOLUTION NO.2013-38**

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #12-027  
DONALD LAPORTA – 41 CARLTON ROAD**

**WHEREAS**, Donald LaPorta posted \$400.00 for apron and sidewalk escrow fees at 41 Carlton Road; and

**WHEREAS**, the Planning Board Secretary has requested that the escrow fees be refunded to Donald LaPorta,

**NOW, THEREFORE, BE IT RESOLVED**, that Donald LaPorta be refunded \$400.00 from the Sidewalk Inspection Escrow account.

Dated: January 22, 2013

**RESOLUTION NO.2013-39**

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #12-024  
101 LAKE AVENUE**

**WHEREAS**, Michael Medich posted \$460.00 for apron & sidewalk escrow fees at 101 Lake Avenue; and

**WHEREAS**, the Planning Board Secretary has requested that the escrow fees be refunded to Michael Medich,

**NOW, THEREFORE, BE IT RESOLVED**, that Michael Medich be refunded \$460.00 from the Sidewalk Inspection Escrow account.

Dated: January 22, 2013

**RESOLUTION NO. 2013-40**  
**RESOLUTION – REFUND ESCROW BALANCE**

**WHEREAS**, the Planning Board Secretary has requested that the following escrow accounts be closed and the balance be refunded to the depositors,

**WHEREAS**, the Planning Board Secretary has contacted the Board Engineer, Planner and Attorney for authorization to release the funds and determine the projects are closed,

**WHEREAS**, the Planning Board Secretary has provided a list to the Chief Finance Officer with a sign-off from the Board Professionals, that the following escrow projects are complete and can be closed, and that no further billing from the professionals for these projects will be paid.

**BE IT RESOLVED** by the Mayor and Council of the Borough of Metuchen for the Chief Financial Officer/Tax Collector be instructed to refund, in the amount indicated, the following escrow balances to the depositors, as the project has been determined to be closed:

<b>ESCROW ACCOUNT</b>	<b>AMOUNT</b>	<b>DEPOSITOR</b>
06-761 E	242.86	The District at Metuchen 587 Middlesex Avenue

Dated: January 22, 2013

**RESOLUTION NO. 2013-41**  
**RESOLUTION – REFUND ESCROW BALANCE**

**WHEREAS**, the Planning Board Secretary has requested that the following escrow accounts be closed and the balance be refunded to the depositors,

**WHEREAS**, the Planning Board Secretary has contacted the Board Engineer, Planner and Attorney for authorization to release the funds and determine the projects are closed,

**WHEREAS**, the Planning Board Secretary has provided a list to the Chief Finance Officer with a sign-off from the Board Professionals, that the following escrow projects are

complete and can be closed, and that no further billing from the professionals for these projects will be paid.

**BE IT RESOLVED** by the Mayor and Council of the Borough of Metuchen for the Chief Financial Officer/Tax Collector be instructed to refund, in the amount indicated, the following escrow balances to the depositors, as the project has been determined to be closed:

<b>ESCROW ACCOUNT</b>	<b>AMOUNT</b>	<b>DEPOSITOR</b>
09-855 E	490.00	Epic Group, Inc. Hillside Avenue & Inn Place
09-868 E	115.88	Javier Nunez 115 Hollywood Avenue
11-931 E	233.25	Glenn Gawronski 204 E. Chestnut Street
12-945 E	275.00	Robert Narus 119 University Avenue
12-946 E	680.00	Marta Erwinska 6 Beverly Court

Dated: January 22, 2013

**ITEMS REMOVED FROM CONSENT AGENDA**

On a motion by Council President Muldoon, seconded by Councilwoman Rasmussen, with one abstention from Councilman Cammarano, item number 5, Resolution No. R2013-13 was approved.

**RESOLUTION NO. 2013-13**  
**RESOLUTION AUTHORIZING THE AWARD OF A**  
**CONTRACT FOR BOROUGH ENGINEER**

**WHEREAS**, the Borough of Metuchen has a need to acquire the services of a *Borough Engineer* as a fair and open contract pursuant to the provisions of *N.J.S.A. 19:44A-20.5*; and,

**WHEREAS**, the Chief Financial Officer has determined and certified in writing that the value of the acquisition will exceed \$5,000; and,

**WHEREAS**, the anticipated term of this contract is *calendar year 2013*; and,

**WHEREAS**, the maximum amount of the contract is \$40,000 and funds will be available in the 2013 Budget as evidenced by the Chief Financial Officer's Certification.

**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 Thomas J. Herits of the firm of Maser Consulting P.A., 331 Newman Springs Road, Suite 203, Red Bank, NJ 07701.
2. This contract is awarded as a fair and open "Professional Service" in accordance with *N.J.S.A. 19:44A-20.5*.
3. A notice of this action shall be printed once in The Home News Tribune.

Dated: January 22, 2013

**BILL RESOLUTION**

On a motion by Council President Muldoon, seconded by Councilwoman Rasmussen, with all in favor the Bill Resolution in the amount of **\$2,894,966.82** was approved.

**ORDINANCE INTRODUCTION**

On a motion by Council President Muldoon, seconded by Councilwoman Rasmussen with all in favor Ordinance No. 2013-1 was taken up on first reading.

Borough Clerk Harris read the ordinance by title.

On a motion by Council President Muldoon, seconded by Councilwoman Rasmussen Ordinance No. 2013-1 was passed on first reading, published according to law and a public hearing date set for February 4, 2013

ROLL CALL VOTE:

AYES: Cammarano, Grayzel, Inserro, Rasmussen, Wallace, and Muldoon

NAYS: None

ABSTENTIONS: None

**ORDINANCE NO. 2013-1**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF METUCHEN, VARIOUS CHAPTERS, TO AMEND CERTAIN APPLICATION, LICENSE AND PERMIT FEES.**

**BE IT ORDAINED** by the Borough Council of the Borough of Metuchen, as follows:

**Section 1.** Section **169-3** of Chapter 169, **Swimming Pool**

s, of the Code of the Borough of Metuchen, is hereby amended to add/change the following fees to read as follows:

**RESIDENT MEMBERSHIPS**

**Prior to April 15**

**NEW MEMBERS**

**MEMBERS FEES**

**FROM TO**

(1)Resident Family. ; (equivalent membership: one)	<del>\$300</del>	\$310
(2)Resident Family Plus.	<del>\$390</del>	\$400
(3)Resident Individual.	<del>\$165</del>	\$170
(4)Resident Senior.	<del>\$60</del>	\$65

**Resident Rates (after April 15)**

(1) Resident Family. (equivalent membership: one);	<del>\$360</del>	\$370
(2) Resident Family PLUS.	<del>\$450</del>	\$460
(3) Resident Individual.	<del>\$175</del>	\$180
(4) Senior	<del>\$60</del>	\$65

**Non Resident Rates:**

	MEMBERS FEES	
(1) Nonresident family.	<del>\$490</del>	\$500
(2) Nonresident Family PLUS.	<del>\$575</del>	\$585
(3) Nonresident Individual	<del>\$265</del>	\$270
(4) Nonresident senior.	<del>\$160</del>	\$165

Dated; January 22, 2013

On a motion by Council President Muldoon, seconded by Councilwoman Rasmussen, with all in favor Ordinance No. 2013-2 was taken up on first reading.

Borough Clerk Harris read the ordinance by title.

On a motion by Council President Muldoon, seconded by Councilwoman Rasmussen Ordinance No. 2013-2 with amendment to Section 59-33 to read “The keeping of more than four cats and or four dogs of licensing age, without written permission of the Secretary of the Board of Health, upon the showing of good cause, shall be prohibited. The denial of permission for the keeping of more than four cats and or four dogs of licensing age shall be subject to appeal to the Board of Health. “was passed on first reading, published according to law and a public hearing date set for February 4, 2013

ROLL CALL VOTE:

AYES: Cammarano, Grayzel, Inserro, Rasmussen, Wallace, and Muldoon

NAYS: None  
ABSTENTIONS: None

**ORDINANCE NO. 2013-2**  
**AN ORDINANCE AMENDING CHAPTER 59 OF THE CODE OF METUCHEN,**  
**ENTITLED, “ANIMALS”**

**WHEREAS**, the Council of the Borough of Metuchen adopted Chapter 59 of the Code of the Borough of Metuchen, entitled, “Animals”; and

**WHEREAS**, Section 59-33, prohibits the keeping of more than two cats and or two dogs over six months of age without written permission of the enforcing official of the Borough of Metuchen; and

**WHEREAS**, the Council of the Borough of Metuchen deems that based upon the request and recommendation of the health inspector, it is in the best interest of the Borough to revise the oversight and supervision of Section 59-33 from the enforcing official to the licensing official, i.e. the Secretary of the Board of Health, and to amend the age of the dogs and or cats from over six months to the age that the animals are required to be licensed; and

**WHEREAS**, the Borough has determined that the intentional feeding of wild animals not only attracts predators, feeding wild animals can result in wild animals being concentrated at artificial feeding areas, making them more susceptible to disease transmission. Further, the feeding of wild animals can be extremely disruptive to the natural feeding habits of the wild animals. Moreover, animals fed by humans are drawn into heavy traffic areas seeking handouts, and are killed by vehicles, or cause accidents killing humans; and

**WHEREAS**, due to the threat to the health and safety of all Borough residents, the Council of the Borough of Metuchen deem it in the best interest of the health, safety and welfare of its residents to amend Chapter 59 of the Code of the Borough of Metuchen.

**NOW THEREFORE BE IT ORDAINED** by the Council of the Borough of Metuchen, that § 59-33 of the Code of the Borough of Metuchen, entitled, “Unauthorized keeping of dogs or cats” should be amended to state as follows:

**§ 59-33. Unauthorized keeping of dogs or cats.**

The keeping of more than four cats and or four dogs of licensing age, without written permission of the Secretary of the Board of Health, upon the showing of good cause, shall be prohibited. The denial of permission for the keeping of more than four cats and or four dogs of licensing age shall be subject to appeal to the Board of Health.

**BE IT FURTHER ORDAINED** by the Council of the Borough of Metuchen, that Article 3 of Chapter 59 of the Code of the Borough of Metuchen, entitled, “Wildlife Feeding”, specifically, §§ 59-43 through 59-47 should be amended and § 59-45.1 shall be created to state as follows:

### **Article 3. Wildlife Feeding**

#### **§ 59-43. Purpose.**

The purpose of this article is to prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by the Borough of Metuchen, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply. In addition, it has been well established that the feeding of wild animals is both detrimental to the animals and causes a public health nuisance and safety hazard that is detrimental to the health and general welfare of the public.

#### **§ 59-44. Definitions and word usage.**

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**FEED** - To give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

**PERSON** - Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

**WILDLIFE** - All animals that are neither human nor domesticated.

**WILD ANIMALS** - Any animal, which is not normally domesticated in this state, including but not limited to bears, coyotes, deer, feral cats, foxes, groundhogs, opossums, raccoons, skunks, and waterfowl **and any domesticated unlicensed animal, including but not limited to stray cats and/or dogs.**

#### **§ 59-45. Prohibited conduct.**

A. No person shall feed, in any public park or on any other property owned or operated by the Borough of Metuchen, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers, or unconfined wildlife at environmental education centers).

B. No person shall purposely or knowingly, as said terms are defined in Title 2C of the New Jersey Revised Statutes, feed, bait, or in any manner provide access to food to any wild animal in said Borough, on lands either publicly or privately owned. This section shall not apply to the feeding of farm animals.

C. No person shall purposely or knowingly leave or store any refuse, garbage, food product, pet food, forage product or supplement, salt, seed or birdseed, fruit, grain in a manner that would constitute an attractant to any wild animal.

D. No person shall fail to take remedial action to avoid contact or conflict with wild animals, which may include the securing or removal of outdoor trash, cooking grills, pet food, bird feeders or any other similar food source or attractant after being advised by the Borough to undertake such remedial action. Further, after an initial contact or conflict with a wild animal, no person shall continue to provide, or otherwise fail to secure or remove, any likely food sources or attractants, including, but not limited to, outdoor trash, grills, pet food or bird feeders.

E. Nothing in this section shall apply to (1) any agent of the Borough authorized to implement an alternative control method set forth in any approved community based deer management plan and possessing a special deer management permit issued by the New Jersey Division of Fish and Wildlife in accordance with the provisions of P.L. 2000, c.46, or (2) any hunter engaging in baiting for the purpose of hunting pursuant to a valid hunting license issued in accordance with the provisions of Title 23 of the New Jersey Revised Statutes.

**§ 59-45.1 - Feeding of songbirds and other backyard birds permitted**

A. Feeding of songbirds and other backyard birds shall be permitted outdoors at such times and in such numbers that: (1) Such feeding does not create an unreasonable disturbance that affects the rights of surrounding property owners and renders other persons insecure in the use of their property and; (2) Does not create an accumulation of droppings on the property and surrounding properties and; (3) Does not become an attractant for rodents or other wild animals and; (4) Bird feeders are placed at least five (5) feet above the ground.

**§ 59-46. Enforcement.**

A. This article shall be enforced by the Health Officer of the Borough of Metuchen.

B. Any person found to be in violation of this article shall be ordered to cease the feeding immediately.

C. Each property owner shall have the duty to remove any above named materials or device placed on the owner's property in violation of this Ordinance.

D. Failure to remove such materials or device or to make such modifications within twenty-four (24) hours after notice from the Borough shall constitute a separate violation of this Ordinance.

E. No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this ordinance.

**§ 59-47. Violations and penalties.**

Any person(s) who is found to be in violation of the provisions of this article shall be subject to a fine not to exceed \$1,000.

**BE IT FURTHER ORDAINED** that the remaining sections and provisions of Chapter 56 of the Code of Metuchen not mentioned herein shall remain in full force and effect; and

**BE IT FURTHER ORDAINED** that every section of this ordinance or subdivision or separate part thereof shall be considered a separate provision to the intent that if any portion shall be declared unconstitutional it shall not affect the remaining parts of this ordinance; and

**BE IT FURTHER ORDAINED** by the Council of the Borough of Metuchen that all Ordinances or parts of Ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

**BE IT FURTHER ORDAINED** that this ordinance shall take effect immediately upon final passage thereof and publication thereof as provided for by law.

**PUBLIC COMMENT**

Mayor Vahalla opened the meeting to public comment on any items on the agenda.

Hearing no one wishing to speak Mayor Vahalla closed the public comment portion of the meeting.

**ADJOURNMENT**

On a motion by Council President Muldoon, seconded by Councilwoman Rasmussen, with all in favor the meeting was adjourned at 10:21pm.

Respectfully Submitted:

Kathryn Harris  
Municipal Clerk