

BOROUGH OF METUCHEN COUNCIL MINUTES
October 17, 2016
7:30 PM

The Regular Meeting of the Borough Council was held in the Council Chambers of Borough Hall on Monday, October 17, 2016.

The Meeting was called to order at 7:30 p.m. by Acting Mayor Grayzel.

Adequate notice of this meeting has been given in accordance with the Open Public Meeting Act, pursuant to Public Law 1975, Chapter 231. Said notice was sent to the Home News Tribune and Star Ledger on January 4, 2016, posted in Borough Hall and on file in the Clerk's Office. All requirements of the "Open Public Meetings Act" have been satisfied.

The Invocation was given by Councilwoman Inserro and followed by the Pledge of Allegiance.

Present were Councilmembers Inserro, Leibfried, Muldoon, Rasmussen, Wallace, and Council President Grayzel. Mayor Cammarano was absent. Also present were Jennifer Maier, Borough Administrator, Denis Murphy, Esq. and Susan Jackson, Borough Clerk.

Agenda Session

Acting Council President Muldoon made a motion to open the Agenda Session, second by Councilwoman Rasmussen, with all in favor, motion carried, 6-0.

Acting Mayor Grayzel would like to have a motion to amend the Appointment portion of the meeting to add Gail Zelle as a member of the Accessibility Commission. Acting Council President Muldoon made the motion, second by Councilman Leibfried, with all in favor, motion passed, 6-0.

With no further actions taken Acting Mayor Grayzel asked for a motion to close the agenda session.

Acting Council President Muldoon made a motion to close the Agenda Session, second by Councilman Leibfried, with all in favor, motion carried, 6-0.

Regular Meeting

Acting Mayor Grayzel introduced Sheri Rose Rubin to give a status update on the Accessibility Committee. He spoke about her determination to start an Accessibility Commission and they have been in existence since 2014.

Ms. Rubin, 114 Spring Street, Chairperson of the Accessibility Commission gave the following report:

Thank you so much for inviting me tonight to speak about the accessibility committee. It is my pleasure to update you on our progress since we were established in April 2014 with the support and dedication of this administration and in particular the unwavering commitment of Councilman Grayzel.

We have been busy during this year and half and I most proud to announce that all the members of our committee are either individuals with disabilities or family members of individuals with disabilities. This fact alone makes us experts and a true representation of the spirit of volunteerism in the face of complicating obstacles.

Our committee has been able to establish a presence in the Borough through the following mission statement:

Metuchen's Accessibility committee works to advance the safety, acceptance and full participation of people with special needs in our community. We will achieve this through communication, education, advocacy and program development. We value the input from residents and local agencies and encourage everyone to get involved.

In our short time in existence we have been recognized by other community organizations such as Bike-Walk Metuchen, the Recreation committee, the Library, the Borough Improvement League and the Arts Council as an important stake holder in Metuchen events and planning. We hope to continue to have a seat at the table for all future projects and developments.

We have been able to promote our good works online through the Borough webpage, a Twitter account and two active Facebook pages.

In the short year and a half we have:

- Advocated for and participated in accessibility renovations at the library and with the support of Director Chan, seen greatly improved accessibility there. Additionally, upgrades to Borough Hall access have been implemented.*
- We have participated in the county fairs, brought a sign language interpreter to the Junebug performances, and conducted an accessibility fair with fun activities for children to increase awareness of various types of disabilities.*
- We are proud of our unique initiative called The Safer Winter Project. The Safer Winter Project is our effort to address the accessibility needs of Metuchen residents during the ice and snow of winter. We have been able to secure a list of people willing shovel snow and ice for those who cannot manage to do it themselves so that more areas of the Borough will remain free of dangerous barriers. We connect residents in need with people willing to help and were successful last winter during the major snow storm of January 2016. We plan to continue this effort this coming winter.*
- Additionally, we are extremely excited to be part of a Recreation Commission sub-committee tasked with designing an upgrade to the existing Oakland Park Playground. With our efforts and the genuine support of everyone involved, we have planned not only an accessible playground that meets the minimum regulations, but a fully INCLUSIVE playground with ramped structures, flat surfaces and inclusive play areas. Hopefully the county will support our goals with grants to make this project a possibility. Inclusive playgrounds are without a doubt an attraction for many and will bring families into Metuchen to spend money in our downtown and it brings me great pleasure that this playground is centrally located at the sight of many community events. We hope to address significant accessibility issues at Olmezer Park as well.*
- We sponsored Metuchen Moves, from 1 month to 100 years, a Public Forum on Downtown Accessibility for which we achieved some nice media publicity. By way of survey, it was shown that the biggest accessibility concerns are sidewalks, playgrounds, and parking.*

We have set goals for the future including:

1. Conducting a presentation to the Chamber of Commerce and the new Downtown Alliance to highlight the importance of the business community to embrace customers and visitors with disabilities. Too often it is assumed that because of disability, shopping and dining are not a priority. Nothing could be further from the truth and statistics demonstrate the buying power of the disability community and the overall business benefits of making a business more welcoming and accommodating.

2. Addressing continuing concerns about traffic signals in town that do not comply with the needs of individuals who have visual and intellectual disabilities. In order to provide safety for all residents, these signals should include both the visual cue to cross as well and an audible sound.

3. Collecting important information such as how many people in the Borough need assistance and what type of assistance is needed in the event of a large scale emergency. We plan to work with the police and Emergency Services personnel at some point in the future.

4. And, continuously advocating for a town-wide accessibility survey to address all areas needing both physical and programmatic improvements.

However, to further promote the full inclusion of individuals with disabilities in Metuchen, we do have a few requests:

1. If possible, we would like to be allotted a small budget for expenses such as printing. Several individuals with disabilities are not able to access online resources and request information in traditional formats. I, as well as members of our committee, have spent our own money producing material and developing our resources and this has become difficult for us.

2. And finally, our committee worked very hard, along with some members of the Parking Authority to secure the services of an accessibility expert from Maser Consulting who proposed a comprehensive plan to address the current state of accessibility in the Borough related to parking and routes of travel. The initial aspect of the plan determined that changes were necessary to bring the Borough into compliance with both the 26 year old ADA and the 6 year old ADA Standards for Accessible Design as they relate to parking. As of this moment there is not a single accessible spot in the 53 parking spots on Main Street. The law requires a minimum number of at least 3. In lots around town, excluding the new parking deck, comprising of a total of more than 630 spots, the law requires a minimum of 13 spaces that we do not have with naturally coordinating accessible routes to and from the parking areas as well as signage to direct drivers to accessible parking. Our committee has exhausted our informal avenues to achieve this goal and we urge the Council to adopt this as a priority.

A lack of accessibility is too often excused by detailing the extra cost, inconvenience, or lack of need, but all of Metuchen will be served by continuing to recognize our legal and moral obligations to think of accessibility as an requirement for and benefit to all residents and visitors - including those who are not disabled, disabled, temporarily disabled, elderly, commuters, bikers, children, families and all visitors.

Thank you so very much for trusting us with this important responsibility and we look forward to many years of productivity.

Acting Mayor Grayzel congratulated the Accessibility Commission for making itself a part of the community conversation. The Commission has done a great job on educating the community the needs of the people with disabilities. It has been very positive in its approach in trying to point out how easy and simple it is to accommodate people with disabilities.

Acting Mayor Grayzel turned the meeting over to Councilman Muldoon to introduce the presentation on the Wayfinding and Signage by the Parking Authority.

Councilman Muldoon spoke about the Parking Authority's Wayfinding and Signage campaign. They have been actively engaged in the development of a Wayfinding and Signage system for the Borough. This grew out of a recommendation from the Parking Management Plan. It was noted in the plan that a system to direct commuters and visitors to parking facilities was not very efficient. There are many lots in the Borough but most people are unaware of the locations. The Parking Authority has moved forward in addressing the issue to create a Wayfinding and Signage program.

The Parking Authority put out a RFP to find a company to help with designing a Wayfinding and Signage program. Tonight the design system will be shared with the Borough. Some of the members of the Parking Authority, Historic Preservation Committee, BIL, the Arts Council and the Development Commission are present tonight and all had input in the development of the Wayfinding and Signage Program.

Councilman Muldoon introduced Sue Labovian from Studio L'Image, the design firm that the Parking Authority has been working with. She will take the Borough through the process and designs that have been proposed.

Ms. Labouvie gave a Power Point presentation which included the topics of:

- Design Progress Presentation;
- The Process which included meetings with representatives from different Committees and Commissions;
- Branding Program to determine the "look and feel" of the wayfinding sign program;
- Wayfinding Signage Design Objectives to create a unique sign program to reflect Metuchen's historic, creative, tree-lined community;
- Sign Types which includes Gateway, Vehicular Directional, Pedestrian Directional, Map/Kiosk, Parking ID and Parking Directional signs;
- Proposed materials of the signs; and
- Next Steps in the process

Ms. Labouvie presented a map showing where each sign/map would be located within the Borough.

There was further discussion between the Council Members and Ms. Labouvie about the color/design of the signs. The Council thanked Ms. Labouvie for making the presentation and is very excited with moving forward.

Acting Council President Muldoon made a motion to approve the Borough Council minutes of October 4, 2016 second by Councilman Leibfried, with an abstention from Councilwoman Rasmussen; all others

were in favor, motion carried, 5-0-1.

Public Comment

Acting Mayor Grayzel opened Public Comment to any members of the public wishing to speak.

Daniel Lebar, 581 Middlesex Avenue, Metuchen had two follow-ups on the Accessibility report. The first is the improvements that had been made to the Municipal Building for handicapped door system. The action buttons on the front entrance is not functioning. Second is the surveying of the curb cuts. There is an issue with flooding and icing on certain curb cuts depending on the season and would like to know if there are any way to correct these issues. Ms. Maier addressed Mr. Lebar's concerns. She will have the front door buttons checked and have any problems corrected. As for the other issue, the problem is actually created from the sprinkling system in the housing complex. She has spoken with Mr. Herits to address the issue. It will probably mean having to put in another sewer drain to catch the drainage. She also addressed the other location with the same issue.

Ernest Docs, Graham Avenue, Metuchen questioned when Bridge Street will be completed. Ms. Maier stated that the Borough still hasn't received any official notification regarding the Transportation Trust Fund and until the funds are freed up there will be no work done on that project. Mr. Docs also asked about the pot holes from Middlesex Ave. from Bridge Street to Memorial Parkway and wondered if that section of roadway will be fixed. Ms. Maier stated that she believes that section is supposed to receive cold patch. He also questioned if street sweeping will be resumed. Ms. Maier responded that there is a resolution on tonight's agenda to purchase a Street Sweeper. He said that PW is out on Main Street sidewalks sweeping. Ms. Maier stated that Public Work staff isn't out doing the sweeping but people who are sweeping at the request of the MDA.

Seeing no one else wishing to speak, Acting Mayor Grayzel closed the Public Comment.

Ordinance – Public Hearing

Ordinance 2016-24

Acting Council President Muldoon asked for the presentation of Affidavit of Publication for Ordinance 2016-24.

Borough Clerk presented the affidavit of publication stating that said Ordinance 2016-24 has been published one time in the Home News Tribune according to Law on October 7, 2016.

Acting Council President Muldoon moved that the affidavit of publication be received and filed, second by Councilwoman Rasmussen, with all favor, motion carried, 6-0.

Acting Council President Muldoon asked Borough Clerk to read Ordinance 2016-24 by title.

Borough Clerk read Ordinance 2016-24 by title only

Ordinance 2016-24

Ordinance Amending Chapter 53 of the Borough of Metuchen,
Entitled, "Alcoholic Beverages", Specifically Section 53-3,
Entitled, "Location of Premises"

Acting Mayor Grayzel opened the Public Hearing on Ordinance 2016-24.

Ernest Docs, Graham Avenue, Metuchen stated that there isn't any specific information on the ordinance. Acting Mayor Grayzel stated that this ordinance doesn't involve any specific business just the distance of any potential new business in relation to current businesses.

Seeing no one else wishing to speak, Acting Mayor Grayzel closed Public Hearing.

Acting Council President Muldoon made a motion to pass Ordinance 2016-24 on second reading and be published according to law, second by Councilman Leibfried.

Acting Mayor Grayzel asked for a roll call vote.

Roll Call: Inerro, Leibfried, Muldoon, Rasmussen, Wallace and Grayzel voted yes.

Ordinance 2016-24 was adopted, 6-0

ORDINANCE 2016-24

*Borough of Metuchen
County of Middlesex
State of New Jersey*

ORDINANCE AMENDING CHAPTER 53 OF THE BOROUGH OF METUCHEN, ENTITLED, "ALCOHOLIC BEVERAGES", SPECIFICALLY SECTION 53-3, ENTITLED, "LOCATION OF PREMISES"

WHEREAS, § 53-3 of the Code of the Borough of Metuchen provides for the location of premises for plenary retail consumption and plenary retail distribution licensees within the Borough; and

WHEREAS, the Council of the Borough of Metuchen deem it in the best interest of the Borough and economic development therein to rescind the current restrictions on the locations of premises for the transfer of plenary retail consumption licenses.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Metuchen that it hereby amends Chapter 53 of the Code of the Borough of Metuchen, entitled, "Alcoholic Beverages", specifically § 53-3, entitled, "Location of Premises" to state as follows:

§ 53-3 Location of premises.

A. No new plenary retail distribution license shall hereafter be issued for, nor shall a plenary retail distribution license be transferred to, a premises within 300 feet of any such existing plenary retail distribution licensed premises in the Borough.

B. The aforesaid distance shall be measured in the normal way that a pedestrian would properly walk from the plenary retail distribution licensed premises to the nearest entrance of the plenary retail distribution premises sought to be licensed.

BE IT FURTHER ORDAINED that if any part of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance; and

BE IT FURTHER ORDAINED that all ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed or amended to the extent of such inconsistency; and

B. Receive and Accept Block Party/Street Closing for Home Street – Saturday, October 22, 2016 (Rain Date: October 23/2019) – 4 PM to 11 PM

C. Receive and Accept Block Party/Street Closing for Milton Street – Sunday, October 23, 2016 – 1:00 PM to 6:00 PM

Other Communications

Reports of Councilmembers

Acting Mayor Grayzel opened Reports of Councilmembers.

Councilman Muldoon –

- Has no report at this time

Councilwoman Inzerro –

- On December 7, 2016, The Metuchen Municipal Alliance will be holding a special event at the Library at 7:00 PM. This is a result of a grant that was received from the Substance Abuse and Mental Health Services Administration. There will be a session on underage drinking with guest speakers and a panel in one of the Town Talks.
- Metuchen Senior Inc., the fundraising arm for the Metuchen Senior Citizens will be hosting the annual dinner at Metuchen High School on Sunday at 1:00 PM.

Councilman Leibfried –

- Has no report at this time.

Councilwoman Rasmussen –

- Shade Tree Commission gave away more sampling trees at the Farmers' Market on Saturday.
- Development Commission had the Executive Director attend the meeting. He discussed volunteer opportunities with the members.
- Environmental Commission meets on Wednesday.
- The Chamber of Commerce's Country Fair was a great success. A great effort was made by many of the participants in the "Classic TV" theme.
- The Chamber of Commerce is initiating a need type of membership concept called "Friends of the Chamber". They will be discontinuing the Family membership for 2017. More details will follow.
- Presbyterian Church is requesting donations for their food pantry. They are looking for canned products such as soups, meats, pastas and supermarket gift cards. Please leave requested items in the hallway of the church and bring any gift cards to the church office.

Councilman Wallace –

- No report at this time.

Reports of Officers

Denis Murphy, Esq. –

- No report at this time.

Jennifer Maier, Administrator –

- Discussed the two ordinances, Ord. 2016-27 and 2016-28, on the agenda for introduction. One is the “Development Fee” ordinance conforms to current law and also reflects Metuchen’s current compliance with its affordable housing obligation has been achieved through a Court Judgement of Compliance and Repose rather than through substantive certification by COAH. The Development Fee ordinance and Spending Plan are now subject to court rather than COAH review. The second ordinance complies with the Special Master’s requirements for having achieved the judgement of Compliance and Repose. We were given a 120 days to complete certain tasks, including this ordinance revision. The ordinance makes the two parcels in the first Affordable Housing ordinance on Safety Place and South Main Street, which were designated for potential inclusionary developments over-lay zones instead of conditional uses. There is no substantive change. This is simply a technical revision requested by the Special Master and the Court. Secondly, it includes certain organizations in the affirmative marketing plan for affordable units including the Fair Share Housing Center, New Brunswick NAACP, Plainfield NAACP, Metuchen NAACP and Latino Action Network. Thirdly, it clarifies language on the control periods of affordable housing as per the Special Master’s request.

Councilman Grayzel –

- The Metuchen Recreation Committee and the Chamber of Commerce will sponsor the annual Halloween Parade to be held on Sunday, October 30th between 2:00 and 3:30 PM at Metuchen High School.
- The TV & Technology Commission has put a survey on the Borough Website and is asking residents to please fill in the survey. The Commission would appreciate any input you may have on the different venues of communication.

New Business – Resolutions 2016-240 through 2016-258

Acting Council President Muldoon moved New Business Consent Agenda – Resolution 2016-240 through R2016-258, second by Councilwoman Rasmussen, with all in favor, motion carried, 6-0

RESOLUTION 2016-240

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION APPROVING 2015 ANNUAL AUDIT

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 **2015** has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A:56, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-24 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, 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 “Comments and 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 "Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; 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, pursuant to N.J.A.C. 5:30-6.5; 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 N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

RESOLUTION 2016-241

*Borough of Metuchen
County of Middlesex
State of New Jersey*

**RESOLUTION APPROVING THE 2015 ANNUAL AUDIT CORRECTIVE ACTION PLAN AND
AUTHORIZING THE FILING OF SAID PLAN WITH THE DIVISION OF LOCAL
GOVERNMENT SERVICES**

WHEREAS, the Borough of Metuchen is required, pursuant to the Single Audit Act Amendments of 1996, to prepare a Corrective Action Plan based on the findings and recommendations contained in the Annual Audit for 2015; and

WHEREAS, the Borough is required to submit a Corrective Action Plan to the Division of Local government Services as part of the annual audit process, and to file a copy of said plan with the Borough Clerk; and

WHEREAS, the Borough Council has received the 2015 Annual Audit – Corrective Action Plan.

NOW, THEREFORE, BE IT RESOLVED BY the Borough Council of the Borough of Metuchen, County of Middlesex, State of New Jersey:

1. That the 2015 Annual Audit – Corrective Action Plan, a copy of which is attached hereto and incorporated herein by reference, is hereby approved.

2. That the proper Borough officials are hereby authorized and directed to file said Corrective Action Plan with the Division of Local Government Services, and to file a copy in the Borough Clerk's Office.

RESOLUTION 2016-242

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION AMENDING CERTAIN SALARIES

BE IT RESOLVED, by the Mayor and Council of the Borough of Metuchen that the pay of each officer and employee whose pay range is established under Ordinance 92-25 and amendments thereto and who is not covered by a collective bargaining agreement is hereby set for the calendar year commencing January 1, 2016 as follows:

ADMINISTRATIVE EMPLOYEES:
(Formally Covered under Collective Bargaining Agreement)

- A. 2% increase on 2013 base salary for 2014, 2% Additional Increase for 2015 and 2% Additional Increase for 2016:

Clerk Typist	Head Telecommunications Operator
Secretary	Part-time Clerk and Secretaries
Deputy Court Administrator	Telecommunications Operator
Office Assistant	Accounting/Tax Clerk

BE IT FURTHER RESOLVED, that no officer or employee shall be paid at a rate which is above the maximum rate for any salary range in any of the aforementioned groups; and

BE IT FURTHER RESOLVED that unless otherwise provided for all new employees or newly promoted employees shall be paid at the minimum rate of the salary range for the position to which they are hired. However, the Borough Administrator may hire a prospective employee who possesses qualifications for the position at a rate above the minimum rate, but in no case shall a new employee be hired at a rate which is greater than that of a current employee in the same range.

RESOLUTION 2016-243

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION AUTHORIZING THE CANCELLATION OF TAX SALE LIEN

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

<u>Cert #</u>	<u>Block/Lot</u>	<u>Address</u>	<u>Lienholder</u>
15-00002	51.3/45	302 Central Ave	MTAG, Cust for Empire Tax VII

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

RESOLUTION 2016-244

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION AUTHORIZING REAPPLYING 2016 TAX OVERPAYMENT – SUBURBAN SPORTSLAND

WHEREAS, Suburban Sportsland made a duplicate tax payment on Block 130.1, Lot 47.2 for property listed as Middlesex Avenue in the amount of \$2,422.39 for quarter 3, 2016; and

WHEREAS, an overpayment of taxes exists on Block 130.1 Lot 47.2 in the amount of \$2,422.39 since the mortgage service company also paid the taxes billed for quarter 3, 2016; and

WHEREAS, Suburban Sportsland has requested that the overpayment of taxes as described above be applied to the open tax balance for taxes billed for Block 130.1, Lot 47.1 for the property listed as Middlesex Avenue in the amount of \$2,422.39.

NOW, THEREFORE, BE IT RESOLVED, that the 2016 overpayment of property taxes for Block 130.1 Lot 47.2 in the amount of \$2,422.39 be applied to the open tax balance for TaBlock 130.1, Lot 47.1 in the amount of \$2,422.39.

RESOLUTION 2016-245

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION AUTHORIZING REFUND OF PREVIOUSLY CANCELLED TAXES – 65 DIVISION STREET

WHEREAS, the following has made an overpayment of taxes that has been previously cancelled by the Borough; and

WHEREAS, proper documentation has been filed with the Collector of Taxes so that the following amount(s) can be released:

Name	Block/Lot	Address	Amount		Year
Erickson, Jason	154/34	65 Division St	1,759.83	Duplicate payment previously cancelled (Refund to previous owner)	1 st qtr 2012

NOW, THEREFORE, BE IT RESOLVED, that the above listed property owner or agent be refunded \$1,759.83 in previously cancelled taxes.

RESOLUTION 2016-246

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION AUTHORIZING REFUND OF 2012 TAXES – 21 CLIFFWOOD PLACE

WHEREAS, the following has made an overpayment of taxes,

Name	Block/Lot	Address	Amount		Year
Elliot Noma	143.2/15	21 Cliffwood Place	4,570.84	Duplicate payment	2 nd qtr 2012

NOW, THEREFORE, BE IT RESOLVED, that the above listed property owner or agent be refunded property taxes as described in the amount of \$4,570.84.

RESOLUTION 2016-247

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION AUTHORIZING REFUND OF 2016 TAXES – 17 CREST DRIVE

WHEREAS, the following has made an overpayment of taxes,

Name	Block/Lot	Address	Amount		Year
Shi, Sheng & Yufei, Sophia	98/64	17 Crest Drive	7,502.10	Duplicate payment	3 rd qtr 2016

NOW, THEREFORE, BE IT RESOLVED, that the above listed property owner or agent be refunded property taxes as described in the amount of \$7,502.10.

RESOLUTION 2016-248

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION AUTHORIZING REFUND OF 2015 TAXES – 57 JONESDALE AVENUE

WHEREAS, the following has made an overpayment of taxes,

Name	Block/Lot	Address	Amount		Year
Milind & Mitali Wagh	168/12	57 Jonesdale Ave	2,390.76	Duplicate payment-refinance	4 th qtr 2015

NOW, THEREFORE, BE IT RESOLVED, that the above listed property owner or agent be refunded property taxes as described in the amount of \$2,390.76.

RESOLUTION 2016-249

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION TO REDUCE AND REFUND 2015 TAXES – 38 MULBERRY LANE

WHEREAS, a successful State Tax Court Appeal judgment was awarded to Block 44, Lot 1.05, 38 Mulberry Lane for 2015,

WHEREAS, the assessed value for this parcel changed for 2015 by a reduction in the assessed value of \$5,800.00,

WHEREAS, the reduction in taxes for the above referenced Block and Lot for 2015 is \$327.24,

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 2015 taxes on Block 44, Lot 1.05 in the amount of \$327.24 due to the successful State Tax Court Appeal for the year 2015, including amendments, and refund the resulting tax overpayment in the amount of \$327.24.

RESOLUTION 2016-250

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION AUTHORIZING REFUND OF ESCROW BALANCE

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

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

WHEREAS, the Planning Office 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,

WHEREAS, project 12-969 E for this release is an interest bearing-split escrow account,

WHEREAS, the payment for release for project 12-969 E will include interest in addition to the amount shown in the chart below,

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:

ESCROW ACCOUNT	AMOUNT	DEPOSITOR
12-969 E	1,260.18	5565 Liberty Street LLC 35,55,65 Liberty Street
13-993 E	266.33	Callicorp LLC 20 Hillside Avenue
13-1011 E	369.95	Suburban Development LLC 38 Orchard Street
16-1097 E	446.00	James Schiadaresis 41 Sheridan Avenue

RESOLUTION 2016-251

*Borough of Metuchen
County of Middlesex
State of New Jersey*

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #16-023
251 WOODBRIDGE AVENUE**

WHEREAS, George McGrath posted \$320.00 for sidewalk escrow fees for 251 Woodbridge Avenue; and

WHEREAS, the Planning Office has requested that the escrow fees be refunded to George McGrath,

NOW, THEREFORE, BE IT RESOLVED, that George McGrath be refunded \$320.00 from the Sidewalk Inspection Escrow account.

RESOLUTION 2016-252

*Borough of Metuchen
County of Middlesex
State of New Jersey*

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #16-030
8 ROSE STREET**

WHEREAS, FMF Construction Inc. posted \$320.00 for sidewalk escrow fees for 8 Rose Street;
and

WHEREAS, the Planning Office has requested that the escrow fees be refunded to FMF
Construction Inc.,

NOW, THEREFORE, BE IT RESOLVED, that FMF Construction Inc. be refunded
\$320.00 from the Sidewalk Inspection Escrow account.

RESOLUTION 2016-253

*Borough of Metuchen
County of Middlesex
State of New Jersey*

**RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT BETWEEN THE COUNTY
OF MIDDLESEX, DIVISION OF SOLID WASTE MANAGEMENT AND THE BOROUGH OF
METUCHEN FOR THE RECYCLING OF CAPTURED CFC'S**

WHEREAS, Middlesex County is proactive in addressing environmental issues such as
the depletion of the ozone layer; and

WHEREAS, chlorofluorocarbons (CFCs) are one of the manmade chemicals that are
known to cause ozone depletion; and

WHEREAS, Middlesex County is seeking to provide a financial incentive that will assist
municipalities in properly capturing CFCs from residentially discarded appliances that they collect curbside or
at their drop-off centers; and

WHEREAS, Middlesex County and the Borough of Metuchen is seeking to provide a
financial incentive that will assist municipalities in properly recycling the consumer electronics that they
collect curbside or at their drop-off centers; and

WHEREAS, Middlesex County and the Borough of Metuchen are authorized to
enter into this Agreement pursuant to N.J.S.A. 40A:11-5(2); and

WHEREAS, the term of this agreement will be commencing January 1, 2017 for a three-
year term ending December 31, 2019.

NOW, THEREFORE, BE IT RESOLVED that Middlesex County and the
Borough of Metuchen are hereby directed to enter into an agreement concerning the capturing of
CFCs from residentially discarded appliances in accordance with the attached contract.

RESOLUTION 2016-254

*Borough of Metuchen
County of Middlesex
State of New Jersey*

**RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT BETWEEN THE COUNTY
OF MIDDLESEX, DIVISION OF SOLID WASTE MANAGEMENT AND THE BOROUGH OF**

METUCHEN FOR THE RECYCLING OF USED TIRES

WHEREAS, Middlesex County will enter into an agreement with an approved tire recycler/hauler to provide containers for the collection of used tires; and

WHEREAS, Middlesex County and the Borough of Metuchen are desirous of locating a container at the following location: 44 Jersey Avenue; and

WHEREAS, the location of said container will greatly foster the implementation of the recycling programs of the County and the Municipality; and

WHEREAS, the County and Municipality are authorized to enter into this Agreement pursuant to N.J.S.A. 40A:11-5(2); and

WHEREAS, the term of this agreement will be commencing January 1, 2017 for a three-year term ending December 31, 2019.

NOW, THEREFORE, BE IT RESOLVED that Middlesex County and the Borough of Metuchen are hereby directed to enter into an agreement concerning the recycling of used tires in accordance with the attached contract.

RESOLUTION 2016-255

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION APPOINTING FIREFIGHTER – RAPHAEL DOHERTY

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

RESOLUTION 2016-256

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION AUTHORIZING THE PURCHASE OF A ELGIN PELICAN SERIES P STREET SWEEPER THROUGH OUR PARTICIPATION IN THE NATIONAL JOINT POWERS ALLIANCE (NJPA) A NATIONAL COOPERATIVE PURCHASING PROGRAM PURSUANT TO P.L.2011, C.139

WHEREAS, the Borough of Metuchen as a contracting unit, may without advertising for bids, purchase any materials, supplies or equipment entered into on behalf of National Joint Powers Alliance Cooperative, 202 12th Street NE, P. O. Box 219, Staples, MN 56479 pursuant to the provision of P.L.2011, c.139 which permits contracting units to use contracts awarded by national or regional cooperative or other states that were competitively bid. The law supplements existing law on the use of such contracts and is intended to provide additional flexibility to local government in the area of procurement; and

WHEREAS, , the Finance Officer has determined that sufficient funds will be available in the amount of \$204,545.52 and funds are available in the 2016 Capital Bond Ordinance as evidenced by the Chief Financial Officer's Certification, of which \$204,545.52 is Capital Funds; and

WHEREAS, W.E. Timmerman Co., Inc., 3554 Route 22 West, P.O. Box 71, Whitehouse, NJ 08888 has been awarded the contract for this Street Sweeper under NJPA's Category: Public Utility & Airport Equipment (022014-FSC); and

WHEREAS, the Public Works Supervisor and Borough Administrator recommend the utilization of this contract; and

WHEREAS, under NJPA Contract No. 022014-FSC, Sanitation Equipment Corp. can provide to the Borough of Metuchen a Pelican Series P Street Sweeper as per their quote in the amount of \$204,545.52.

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Metuchen that W.E. Timmerman Co., Inc. under NJPA Contract No. 022014-FSC be utilized to provide a Pelican Series P Street Sweeper as per their quote in the amount of \$204,545.52 to the Borough of Metuchen.

RESOLUTION 2016-257

*Borough of Metuchen
County of Middlesex
State of New Jersey*

**RESOLUTION AUTHORIZING THE PURCHASE OF A LABRIE ENVIROQUIP GROUP
SANITATION GARBAGE TRUCK THROUGH OUR PARTICIPATION IN THE NATIONAL
JOINT POWERS ALLIANCE (NJPA) A NATIONAL COOPERATIVE PURCHASING
PROGRAM PURSUANT TO P.L.2011, C.139**

WHEREAS, the Borough of Metuchen as a contracting unit, may without advertising for bids, purchase any materials, supplies or equipment entered into on behalf of National Joint Powers Alliance Cooperative, 202 12th Street NE, P. O. Box 219, Staples, MN 56479 pursuant to the provision of P.L.2011, c.139 which permits contracting units to use contracts awarded by national or regional cooperative or other states that were competitively bid. The law supplements existing law on the use of such contracts and is intended to provide additional flexibility to local government in the area of procurement; and

WHEREAS, , the Finance Officer has determined that sufficient funds will be available in the amount of \$273,831.70 and funds are available in the 2016 Capital Bond Ordinance as evidenced by the Chief Financial Officer's Certification, of which \$273,831.70 is Capital Funds; and

WHEREAS, Sanitation Equipment Corporation, S-122 Route 17 North, Paramus, NJ 07652 has been awarded the contract for this Labrie Enviroquip Group Sanitation Garbage Truck under NJPA's Category: Waste and Recycling (112014-LEG); and

WHEREAS, the Public Works Supervisor and Borough Administrator recommend the utilization of this contract; and

WHEREAS, under NJPA Contract No. 112014-LEG, Sanitation Equipment Corp. can provide to the Borough of Metuchen a Labrie Enviroquip Group Sanitation Garbage Truck as per their quote in the amount of \$273,831.70.

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Metuchen that Sanitation Equipment Corporation under NJPA Contract No. 112014-LEG be utilized to provide a Pelican Series P Street Sweeper as per their quote in the amount of \$273,831.70 to the Borough of Metuchen.

RESOLUTION 2016-258

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION AUTHORIZING PROCESS AND SUBMISSION OF 2016 SUSTAINABLE JERSEY GRANT

WHEREAS, the Borough of Metuchen, County of Middlesex, State of New Jersey desires to further the public interest by obtaining the following grant from the State of New Jersey;

2016 Sustainable Jersey Grant

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

The Borough of Metuchen does hereby authorize Jennifer Maier, Metuchen Borough Administrator, to prepare and submit the grant applications and if awarded, to execute all grant agreements of the following grant: 2016 Sustainable Jersey Grant.

Other New Business

Acting Council President Muldoon made a motion to approve R2016-259; authorizing the Payment of the Bill List in the amount of \$751,814.88, second by Councilwoman Rasmussen, with all in favor, motion carried, 6-0.

RESOLUTION 2016-259

*Borough of Metuchen
County of Middlesex
State of New Jersey*

RESOLUTION AUTHORIZING THE PAYMENT OF THE BILL LIST

74.1 (R-8 Overlay Residential District) and §110-76.1 (R-9 Overlay Residential District) in Article 7 (Permitted Uses) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen to Further Address Compliance with the Borough's Affordable Housing Obligations.

Acting Council President Muldoon moved Ordinance 2016-27 be passed on first reading, be published according to law and a public hearing be set down for Monday, November 7, 2016, second by Councilman Leibfried.

Acting Mayor Grayzel asked for a roll call vote.

Roll Call: Inserro, Leibfried, Muldoon, Rasmussen, Wallace and Grayzel voted yes.

Ordinance 2016-27 was passed on first reading and be published according to law, 6-0.

ORDINANCE 2016-27

*Borough of Metuchen
County of Middlesex
State of New Jersey*

AN ORDINANCE TO REPEAL SECTION 2, SECTION 3, SECTION 4 AND SECTION 5 OF ORDINANCE NO. 2016-19, ENTITLED "AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE BOROUGH OF METUCHEN TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS," TO AMEND SUBSECTION 1 OF §110-95.10 (CONTROL PERIODS FOR RESTRICTED RENTAL UNITS, AND SUBSECTION 2 OF §110-95.20 AFFIRMATIVE MARKETING REQUIREMENTS) AND TO ENACT §110-74.1 (R-8 OVERLAY RESIDENTIAL DISTRICT) AND §110-76.1 (R-9 OVERLAY RESIDENTIAL DISTRICT) IN ARTICLE 7 (PERMITTED USES) IN CHAPTER 110 (LAND DEVELOPMENT) OF THE CODE OF THE BOROUGH OF METUCHEN TO FURTHER ADDRESS COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS.

WHEREAS, in order to comply with a certain judgment of compliance and repose entered in favor of the Borough of Metuchen in an action entitled, In the Matter of the Application of the Borough of Metuchen, Docket No. MID-L-4012-15, certain changes are required to be made to the land use regulations enacted in Ordinance No. 2016-19; the Borough was required to change certain uses from conditional uses to permitted uses, and to make certain other procedural changes; and

WHEREAS, the Mayor and Council of the Borough of Metuchen, in order to comply with said certain requirements enacts this ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Metuchen:

SECTION 1. Subsection 1 of §110-95.10 (Control Periods for Restricted Ownership Units and Enforcement Mechanisms) in Article 21 (Affordable Housing) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§ 110-95.10. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Metuchen takes action to release the unit from such requirements. Prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, provided that for any development of five units or more for which an application for development was not filed as of August 18, 2016, the initial control period shall be 50 years.

SECTION 2. Subsection 1 of §110-95.15 (Control Periods for Restricted Rental Units) in Article 21 (Affordable Housing) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§ 110-95.15. Control Periods for Restricted Rental Units

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Metuchen takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, except that for any development of five units or more for which an application for development was not filed as of August 18, 2016, the initial control period shall be 50 years.

SECTION 3. Subsection 2 of §110-95.20 (Affirmative Marketing Requirements) in Article 21 (Affordable Housing) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby amended to read as follows:

§ 110-95.20 Affirmative Marketing Requirements

2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 3 and is required to be followed throughout the period of restriction. At the request of Fair Share Housing Center, the following five organizations have been added to be the Affirmative Marketing Plan: Fair Share Housing Center, New Brunswick NAACP, Plainfield NAACP, Metuchen NAACP and Latino Action Network.

SECTION 4. An Overlay Zoning District, entitled "R-8 Overlay Residential District" is hereby established within the R-2 Residential District on Block 132, Lots 10-27, 42-46, 49-51 and 52. The Zoning Map of the Borough of Metuchen established by §110-65 of the Code of the Borough of Metuchen is hereby amended to provide for the establishment of the R-8 Overlay Residential District with respect to said lots. The Borough Engineer is hereby authorized and directed to make said changes to the Zoning Map.

SECTION 5. §110-74.1. (R-8 Overlay Residential District) in Article 17 (Permitted Uses) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby enacted to read as follows:

§ 110-74.1. R-8 Overlay Residential District

Principal and accessory uses shall be permitted and regulated in the R-8 Overlay Residential District as follows, on the following lots only: Block 132, Lots 10-27, 42-46, 49-51 & 52.

- A. Permitted principal uses: Townhouses
- B. Permitted accessory uses: Any accessory use permitted in the R-2 Residential District
- C. Bulk regulations for townhouses:
 - 1. Minimum tract area shall be 20,000 square feet. For the purposes of calculating tract area, lots separated by street rights-of-way may be considered part of the same tract.
 - 2. Minimum frontage on Safety Place: two hundred fifty (250) feet.
 - 3. The design of the townhouse structures shall be oriented to front toward Safety Place and back toward the Northeast Corridor Railroad right-of-way.
 - 4. Townhouse structures shall have a minimum setback of 25 feet from any adjacent lot occupied by a single-family home.
 - 5. Parking for the townhouses may be located both on Safety Place and on portions of the tract located across Safety Place from the townhouse structures.
- D. All such uses shall comply with the affordable housing requirements of Article 21 (Affordable Housing) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen.

SECTION 6. An Overlay Zoning District, entitled “R-9 Overlay Residential District” is hereby established within the B-2 Neighborhood Business District on Block 158, Lot 2. The Zoning Map of the Borough of Metuchen established by §110-65 of the Code of the Borough of Metuchen is hereby amended to provide for the establishment of the R-9 Overlay Residential District with respect to said lot. The Borough Engineer is hereby authorized and directed to make said changes to the Zoning Map.

SECTION 7. § 110-76.1. (R-9 Overlay Residential District) in Article 17 (Permitted Uses) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby enacted to read as follows:

§ 110-76.1. R-9 Overlay Residential District

Principal and accessory uses shall be permitted and regulated in the R-9 Overlay Residential District as follows, on the following lot only: Block158, Lot 2

- A. Permitted principal uses: Courtyard Apartments
- B. Permitted accessory uses: Any accessory use permitted in the B-2 Neighborhood Business District
- C. Bulk regulations:

Courtyard Apartments shall meet the following specific conditions:

- 1. Minimum tract area shall be 20,000 square feet.
- 2. Minimum frontage: one hundred twenty five (125) feet on Main Street and frontage on any other street shall not be permitted.

3. The design of the courtyard apartment structure shall be oriented to front internally on the site and frame a courtyard space oriented away from any adjacent lot occupied by a single-family home.
4. Courtyard apartment structures shall have a minimum setback of 25 feet from any adjacent lot occupied by a single-family home.

D. All such uses shall comply with the affordable housing requirements of Article 21 (Affordable Housing) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen.

SECTION 8. Section 2, Section 3, Section 4 and Section 5 of Ordinance No. 2016-19, entitled “An ordinance amending the zoning ordinance of the Borough of Metuchen to address the requirements of the Fair Housing Act and the Uniform Housing Affordability Controls (UHAC) regarding compliance with the Borough’s affordable housing obligations,” are hereby repealed.

SECTION 9. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 10. If any portion of this ordinance shall be determined to be invalid, such determination shall not affect the validity of the remaining portions of said ordinance.

SECTION 11. This ordinance shall take effect upon final passage and publication in accordance with law and upon filing with the Middlesex County Planning Board.

Ordinance 2016-28

Acting Council President Muldoon asked that the Ordinance be read by title only.

Borough Clerk read the Ordinance by title only:

Ordinance 2016-28

An Ordinance to Repeal Article 7 (Residential Development Fees) in Chapter 87 (Fees) and to Repeal Article 14A (Development Fees for Residential Development) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen and to Enact Article 14b (Development Fees) in Chapter 110 (Land Development) of the Borough of Metuchen to Adopt a Compliant Development Fee Ordinance in Accordance with N.J.S.A. 52:27D-329.1, ET SEQ.

Acting Council President Muldoon moved Ordinance 2016-28 be passed on first reading, be published according to law and a public hearing be set down for Monday, November 7, 2016, second by Councilwoman Rasmussen.

Acting Mayor Grayzel asked for a roll call vote.

Roll Call: Inzerro, Leibfried, Muldoon, Rasmussen, Wallace and Grayzel voted yes.

Ordinance 2016-28 was passed on first reading and be published according to law, 6-0.

ORDINANCE 2016-28

Borough of Metuchen
County of Middlesex
State of New Jersey

AN ORDINANCE TO REPEAL ARTICLE 7 (RESIDENTIAL DEVELOPMENT FEES) IN CHAPTER 87 (FEES) AND TO REPEAL ARTICLE 14A (DEVELOPMENT FEES FOR RESIDENTIAL DEVELOPMENT) IN CHAPTER 110 (LAND DEVELOPMENT) OF THE CODE OF THE BOROUGH OF METUCHEN AND TO ENACT ARTICLE 14B (DEVELOPMENT FEES) IN CHAPTER 110 (LAND DEVELOPMENT) OF THE BOROUGH OF METUCHEN TO ADOPT A COMPLIANT DEVELOPMENT FEE ORDINANCE IN ACCORDANCE WITH N.J.S.A. 52:27D-329.1, ET SEQ.

BE IT ORDAINED by the Mayor and Council of the Borough of Metuchen as follows:

SECTION 1. Article 7 (Residential Development Fees) in Chapter 87 (Fees) of the Code of the Borough of Metuchen is hereby repealed.

SECTION 2. Article 14A (Development Fees for Residential Development) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby repealed.

SECTION 3. Article 14B (development fees) in Chapter 110 (Land Development) of the Code of the Borough of Metuchen is hereby enacted to read as follows:

ARTICLE 14B-DEVELOPMENT FEES

§110-55.8 - Purpose

- a) In *Holmdel Builder's Association V. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b) Pursuant to P.L.2008, c.46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or Court of competent jurisdiction and have an approved spending plan may retain fees collected from non-residential development.
- c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's prior round rules on development fees, codified at N.J.A.C. 5:93-8. and P.L.2008, c.46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7).

§110-55.9 - Basic requirements

- a) This ordinance shall not be effective until approved by the Court.
- b) The Borough of Metuchen shall not spend development fees until the Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:93-5.1(c).

§110-55.10 - Definitions

- a) “Affordable housing development” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
- b) “COAH” or the “Council” means the New Jersey Council on Affordable Housing established under the Fair Housing Act.
- c) “Development fee” means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:93-8.
- d) “Developer” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- e) “Equalized assessed value” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5 and 6 of P.L.1973, c.123 (C. 54:1-35a through C. 54:1-35c).
- f) “Green building strategies” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

§110-55.11 - Residential Development fees

- a) Imposed fees
 - i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent of the equalized assessed value for residential development provided no increased density is permitted.
 - ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of six percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.
- b) Eligible exactions, ineligible exactions and exemptions for residential development
 - i. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 - ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved or replaced structure as compared to the previous structure.

iv. Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

§110-55.12 - Non-residential Development fees

a) Imposed fees

i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

ii. Non-residential developers, except for developers of the types of development specifically exempted below, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b) Eligible exactions, ineligible exactions and exemptions for non-residential development

i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.

ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.

iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential

development fees under these circumstances may be enforceable by the Borough of Metuchen as a lien against the real property of the owner.

§110-55.13 - Collection procedures

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g) Should Metuchen fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- h) Except as provided in §110-55.12(a)(iii), above, fifty (50) percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- i) Appeal of development fees
 - 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Metuchen. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be

made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Metuchen. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§110-55.14 - Affordable Housing Trust Fund

a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer of the Borough of Metuchen for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

1. payments in lieu of on-site construction of affordable units;
2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
3. rental income from municipally operated units;
4. repayments from affordable housing program loans;
5. recapture funds;
6. proceeds from the sale of affordable units; and
7. any other funds collected in connection with Metuchen's affordable housing program.

c) Within seven days from the opening of the trust fund account, the Borough of Metuchen shall provide the State of New Jersey, Department of Community Affairs, Division of Local Government Services with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and NJDCA-LGS to permit NJDCA-LGS to direct the disbursement of the funds as provided for in N.J.A.C. 5:93-8.15, 8.18 and 8.19. This requirement shall be deemed to have been satisfied by a previously executed three-party escrow agreement with COAH, provided the bank remains the same as in the original agreement.

d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court.

§110-55.15 - Use of funds

a) The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Department to address the Borough of Metuchen's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:93-8.16 and specified in the approved spending plan.

b) Funds shall not be expended to reimburse the Borough of Metuchen for past housing activities.

- c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
- i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
- ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
- iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) The Borough of Metuchen may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance.
- e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the reporting and monitoring requirements that have been approved by the Court. Legal or other fees related to litigation opposing affordable housing sites or objecting to or appealing Court's approval of Metuchen's Housing Element and Fair Share Plan are not eligible uses of the affordable housing trust fund.

§110-55.16 – Monitoring

On an annual basis commencing with the first anniversary of the entry of the Order granting a Final Judgment of Compliance and Repose to Metuchen, the Borough of Metuchen shall report all activity in connection with its Affordable Housing Trust Fund to the New Jersey Department of Community Affairs (either the Division of Local Government Services or the Council on Affordable Housing (COAH), whichever entity is designated by the State of New Jersey), with a copy provided to Fair Share Housing Center and to the Intervenor/Defendants in In the Matter of the Application of the Borough of Metuchen, Docket No.: MID-L-4012-15, and with a posting of same on the municipal website, using forms previously developed for this purpose by COAH. The reporting shall include all sources and amounts collected/earned and the amounts and purposes for which funds have been expended.

§110-55.17 - Ongoing collection of fees

- a) The ability for the Borough of Metuchen to impose, collect and expend development fees shall expire with its Judgment of Compliance and Repose unless the Borough of Metuchen has filed an adopted Housing Element and Fair Share Plan with the Court or with COAH or its successor agency designated by the State of New Jersey, has petitioned for a Judgment of Compliance and Repose or substantive certification, and has received the Court's or COAH's approval of its development fee ordinance. If the Borough of Metuchen fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance and Repose, it may be subject to forfeiture of any or all funds remaining within its

municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C. 52:27D-320). The Borough of Metuchen shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance and Repose, nor shall the Borough of Metuchen retroactively impose a development fee on such a development. The Borough of Metuchen shall not expend development fees after the expiration of its Judgment of Compliance and Repose.

SECTION 4. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 5. If any portion of this ordinance shall be determined to be invalid, such determination shall not affect the validity of the remaining portions of said ordinance.

SECTION 6. This ordinance shall take effect upon final passage and publication in accordance with law and upon filing with the Middlesex County Planning Board.

Appointment

Acting Mayor Grayzel made a recommendation to appoint Gail Zellely to the Accessibility Committee for an unexpired term to 12/31/2018. Acting Council President Muldoon made a motion to appoint Gail Zellely, second by Councilman Leibfried, motion passed, 6-0.

Public Session

Acting Mayor Grayzel opened Public Session to anyone wishing to speak on new items only.

Daniel Lebar, 581 Middlesex Avenue, Metuchen spoke about a new program on Styrofoam containers and understands that there is an issue with the roll-off container and collecting of the material. They are now substituting oversized cardboard bins. He asked what happened with this issue. Ms. Maier addressed this stating that the oversized bins keep the Styrofoam cleaner for recycling purposes. He asked about the ADA issue regarding unnavigable rutted segments of pavements on local streets and whether there were any recommendations on how to correct the problem. Ms. Maier asked Mr. Lebar to either stay after the meeting or come to her office so that she can get more information in order to respond to his concerns.

Seeing no one else wishing to speak, Acting Mayor Grayzel closed the Public Session.

Adjournment

Acting Council President Muldoon made a motion to adjourn the meeting, second by Councilwoman Rasmussen, with all in favor; the meeting was adjourned at 8:48 pm, 6-0.

Respectfully Submitted,

Susan D. Jackson, RMC
Metuchen Borough Clerk