

BOROUGH OF METUCHEN COUNCIL MINUTES
FEBRUARY 1, 2016
7:30 PM

The Regular Meeting of the Borough Council was held in the Council Chambers of Borough Hall on Tuesday, February 1, 2016.

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

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 Council President Grayzel and followed by the Pledge of Allegiance.

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

Agenda Session

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

Councilwoman Inserro reported on the meeting that took place last Tuesday, January 26th. The Stakeholder team that has been researching the underpinnings of a downtown management organization and Business Improvement District for Metuchen presented their findings at Borough Hall. This meeting came a week after the Metuchen Area Chamber of Commerce presentations and a series of smaller meetings of focus groups held with Business Owners since November. The Stakeholders team talked about the "why, what and how" regarding the thought process that is going into the proposed Metuchen Downtown Alliance as well as where the proposed boundaries would be. The presentation should be on www.metuchendowntown.org, a new website maintained by the Stakeholders. The Stakeholders are planning on coming before the Borough Council sometime next month to present their findings.

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

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

Council President Grayzel introduced Kate Massey, who gave a presentation of the Family Arts of Metuchen Winter programs.

Kate Massey, 93 Highland Avenue, Metuchen – gave an update of what Family Arts has been doing for the past year and what is coming up for this year. This is the third year of Family Arts of Metuchen. The mission is to foster programming specifically for children and families in Metuchen. It is meant to compliment the efforts of other Arts organization in Metuchen. There are two series that run during the year, the Snowflake Series that runs in the winter and Sunflower Series that runs in the summer.

Different artists are brought in to perform and the concerts are held at the Old Franklin School House. Ms. Massey thanked the local organizations that continue to help support Family Arts of Metuchen. The Snowflake Series started on December 20th with a holiday concert. There are still two more performances in the series. The dates are February 14th and March 8th. All concerts are held on Sundays at 4:00 pm. The concerts last for approximately one hour and tickets are \$5.00 per person at the door. The summer series will kick-off the week that school ends for the summer. There are three different ways that people can get involved with Family Arts of Metuchen. One is to come to the concerts, two is to donate and/or sponsor the programs or become a member the organization. To find out more information can be found on their Facebook page and also at www.familyartsofmetuchen.org. They also have an email address: atinfo@familyartsofmetuchen.org.

Mayor Cammarano opened up the discussion for Junebug date change.

Jennifer Daro, 89 Hollywood Avenue, Metuchen, Junebug Chair handed out the proposal to the Council members and spoke on the changes the Junebug Committee is requesting. Junebug Committee is comprised of individuals from the Metuchen Arts Council, Chamber of Commerce, Library, and Old Franklin School House. The Committee has been talking about ways to increase the event to make it bigger, better and more impactful. They have tried different options the past few years to increase the event but each option has been met with many obstacles. They are thinking about moving Junebug to Saturday evenings from 6 to 10 pm. This would allow people to enjoy an evening out after a day spent doing the usual summer activities. The hope is by moving Junebug to Saturday more people will come out than Friday night. They may also be able to get more artists to participate on a Saturday night. They are looking to close Main Street on the third Saturday to allow for more activities and to centrally locate music and the award presentation. They also would like to have Business owners participate more. They believe that moving the event to Saturday would be safer for people who attend due to no commuter traffic and less auto traffic.

Council President Grayzel asked Mayor Cammarano for direction as to how the Council could proceed with making a decision.

Mayor Cammarano stated that the Council could move forward and make a motion to approve the dates tonight or have a resolution and have a vote at the next meeting.

There was further discussion on the different options for Junebug.

Council President made to move and propose a motion to adopt the recommendations of the Junebug Committee to hold the Junebug Art Fest on the Saturdays in June between 6 and 10 PM and any administration action be taken to implement the request to close Main Street on the third Junebug Saturday for year 2016, second by Councilman Leibfried, with all in favor, the motion carried, 6-0.

Council Minute Approval

Council President Grayzel made a motion to approve the Regular Borough Council minutes of January 19, 2016, Councilwoman Rasmussen second the motion, with all in favor, motion carried, 6-0.

Public Comment

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

Seeing no one wishing to speak, Mayor Cammarano closed the Public Comment.

- (1) Between the hours of 6:00 a.m. and 6:00 p.m. (weekdays) \$75.00 per hour
(4-hour minimum)
- (2) Between the hours of 6:00 p.m. and 6:00 a.m. or Saturday and Sunday (all day) \$85.00 per hour
(4-hour minimum)
- (3) Security or indoor work \$45.00 per hour
(3-hour minimum)

B. Minimum hours of compensation:

- (1) No Change
- (2) No Change
- (3) If the Borough is notified less than 16 hours before the contract is to begin, an emergency rate of \$10 per hour will be added to the normal rate.
- (4) No Change
- (5) No Change

Section 2. Section 37-102 of Chapter 37, Police Department, of the Code of the Borough of Metuchen, is hereby amended to add the following:

Contractor shall pay the Borough of Metuchen the sum of twelve-dollars (\$12.00) per hour for each vehicle required for off duty use.

BE IT FURTHER ORDAINED by the Council of the Borough of Metuchen that this ordinance and requirement thereof shall take effect after passage and publication as required by law

Ordinance 2016-02

Council President Grayzel asked for the presentation of Affidavit of Publication for Ordinance 2016-02.

Borough Clerk presented the affidavit of publication stating that said Ordinance 2016-02 has been published one time in the Home News Tribune according to Law on January 23, 2016.

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

Council President Grayzel asked Borough Clerk to read Ordinance 2016-02 by title.

Borough Clerk read Ordinance 2016-02 by title only

Ordinance 2016-02

An Ordinance Amending and Supplementing Ordinance No. 92-25 Establishing Salary Ranges

Mayor Cammarano opened the Public Hearing on Ordinance 2016-02.

Daniel Lebar, 581 Middlesex Avenue, Metuchen, asked if this ordinance adjusts the Prosecutor's salary.

Mr. Murphy responded that this ordinance only sets the salary ranges and also removes the Municipal Prosecutor from the Salary Ordinance and adjusts the Municipal Prosecutor portion of the Borough Codes to allow the Municipal Prosecutor to be paid as a professional service. There will be a resolution on the next meeting agenda to reflect the Prosecutor's hire.

Seeing no one else wishing to speak, Mayor Cammarano closed the Public Hearing session.

Council President Grayzel made a motion to pass Ordinance 2016-02 on second reading and be published according to law, second by Councilwoman Rasmussen.

Mayor Cammarano asked for a roll call vote.

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

Ordinance 2016-02 was adopted, 6-0

ORDINANCE 2016-02

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

**AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE NO. 92-25
ESTABLISHING SALARY RANGES AND REMOVING THE POSITION OF MUNICIPAL
PROSECUTOR FROM THE SALARY ORDINANCE OF THE BOROUGH OF METUCHEN
EFFECTIVE JANUARY 1, 2016.**

**[STATEMENT OF PURPOSE: TO AMEND THE MINIMUM AND MAXIMUM WAGE
RANGES FOR CERTAIN BOROUGH EMPLOYEES AND TO REMOVE THE POSITION OF
MUNICIPAL PROSECUTOR FROM THE SALARY ORDINANCE]**

BE IT ORDAINED, by the Mayor and Council of the Borough of Metuchen that Ordinance No. 92-25 as amended and supplemented be further amended as follows:

1. **SECTION I, GROUP II**, the minimum and maximum ranges for the Municipal Court Judge, Municipal Prosecutor and Municipal Public Defender are hereby amended as follows:

Position	Minimum	Maximum	Per
Municipal Court Judge	\$15,000	\$30,000	Yearly
Municipal Prosecutor	\$13,000	\$25,000	Yearly
Municipal Public Defender	\$ 7,500	\$17,500	Yearly

Ms. Maier responded that this is one of the few items in municipal budgeting that can be spread out over a five year cycle by law. The Borough is taking advantage of that law as it is the best way to finance this project in terms of the overall budget. The process is the tax maps need to be digitized first and then a number of different condos and about 100 subdivisions need to be entered. This will be done through the AutoCAD system by Maser Consulting for a supplemental fee to their original professional contract. Ms. Maier stated that the construction fees are governed by the State and the fees go into the general budget fund.

Seeing no one else wishing to speak, Mayor Cammarano closed the Public Hearing session.

Council President Grayzel made a motion to pass Ordinance 2016-03 on second reading and be published according to law, second by Councilman Leibfried.

Mayor Cammarano asked for a roll call vote.

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

Ordinance 2016-03 was adopted, 6-0

ORDINANCE 2016-03

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

AN ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION IN THE AMOUNT OF \$49,500 FOR THE PREPARATION OF AN APPROVED TAX MAP FOR THE BOROUGH OF METUCHEN PURSUANT TO N.J.S.A. 40A:4-53

BE IT ORDAINED by the Borough of Metuchen Council of the Borough of Metuchen, County of Middlesex, State of New Jersey, as follows:

Section 1. Pursuant to the Local Budget Law of New Jersey, and in particular N.J.S.A. 40A:4-53, a special emergency appropriation in the amount of \$49,500 is hereby authorized and made for the purpose of the preparation of an approved tax map for the Borough of Metuchen, in the County of Middlesex, New Jersey (the "Borough").

Section 2. The Borough is hereby authorized to finance such appropriation from surplus funds available or by issuing special emergency notes from time to time in accordance with the provisions of N.J.S.A. 40A:4-55, all as shall be determined by and pursuant to a resolution or resolutions of the Borough to be hereafter adopted. The authorization to finance the appropriation shall be provided for in succeeding annual budgets by the inclusion of at least 1/5 of the amount authorized pursuant to N.J.S.A. 40A:4-55.

Section 3. In accordance with the requirements of N.J.S.A. 40A:4-53, a copy of this ordinance as finally adopted shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey.

Section 4. This ordinance shall take effect after publication after final adoption, as provided by law.

Ordinance 2016-04

Council President Grayzel asked for the presentation of Affidavit of Publication for Ordinance 2016-04.

Borough Clerk presented the affidavit of publication stating that said Ordinance 2016-04 has been published one time in the Home News Tribune according to Law on January 23, 2016.

Council President Grayzel moved that the affidavit of publication be received and filed, second by Councilwoman Rasmussen, with all favor, the affidavit of publication has been accepted, 6-0.

Council President Grayzel asked Borough Clerk to read Ordinance 2016-04 by title.

Borough Clerk read Ordinance 2016-04 by title only

Ordinance 2016-04	An Ordinance Amending Chapter 37 of the Code of the Borough of Metuchen Entitled "Police Department" to Designate the Mayor of the Borough of Metuchen as the "Appropriate Authority" Pursuant to N.J.S.A. 40A:14-118
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Mayor Cammarano opened the Public Hearing on Ordinance 2016-04.

Seeing no one wishing to speak, Mayor Cammarano closed the Public Hearing session.

Council President Grayzel made a motion to pass Ordinance 2016-04 on second reading and be published according to law, second by Councilman Leibfried.

Mayor Cammarano asked for a roll call vote.

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

Ordinance 2016-04 was adopted, 6-0

ORDINANCE 2016-04

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

ORDINANCE AMENDING CHAPTER 37 OF THE CODE OF THE BOROUGH OF METUCHEN ENTITLED "POLICE DEPARTMENT" TO DESIGNATE THE MAYOR OF THE BOROUGH OF METUCHEN AS THE "APPROPRIATE AUTHORITY" PURSUANT TO N.J.S.A. 40A:14-118

WHEREAS, the Borough of Metuchen has established a Police Department pursuant to N.J.S.A 40A:14-118 as is set forth in Chapter 37 of the Code of the Borough of Metuchen;

WHEREAS, pursuant to *N.J.S.A. 40A:14-118* a municipality shall provide for a line of authority relating to the police function and for the adoption and promulgation by the appropriate authority of rules and regulations for the government of the force and for the discipline of its members;

WHEREAS, the Code of the Borough of Metuchen currently designates the Borough Administrator to serve as the “Appropriate Authority” of the Police Department;

WHEREAS, pursuant to *N.J.S.A. 40A:14-118* a municipality may elect to have the Mayor of the Borough of Metuchen serve as the Appropriate Authority;

WHEREAS, the Council of the Borough of Metuchen believes that the designation of the Mayor of the Borough of Metuchen as the Appropriate Authority will allow the Borough to achieve greater efficiencies and will improve the communications and oversight of the Police Department with the governing body;

WHEREAS, the Council of the Borough of Metuchen deems it in the best interest of the residents to amend Chapter 37 of the Code of the Borough of Metuchen, entitled, “Police Department” to designate the Mayor of the Borough of Metuchen as the Appropriate Authority, pursuant to *N.J.S.A. 40A:14-118*.

NOW THEREFORE BE IT ORDAINED by the Council of the Borough of Metuchen that it hereby amends Chapter 37 the Code of the Borough of Metuchen entitled, “Police Department” designating the Mayor of the Borough of Metuchen as the “Appropriate Authority” of the Police Department pursuant to *N.J.S.A. 40A:14-118*; and

BE IT FURTHER ORDAINED by the Council of the Borough of Metuchen that it hereby specifically amends § 37-5 entitled “Responsibilities” and § 37-88 entitled, “Disciplinary actions” to read as follows:

§ 37-5 Responsibilities

A. The Chief of the Police Department shall be the executive head of the police force, and he or she shall be directly responsible to the appropriate authority for the efficiency and routine day-to-day operations thereof, and he or she shall, pursuant to policies established by the appropriate authority, and in accordance with the statutory mandate of *N.J.S.A. 40A:14-118*:

(1) Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the force and its officers and personnel.

(2) Have, exercise and discharge the functions, powers and duties of the force.

(3) Prescribe the duties and assignments of all subordinates and other personnel.

(4) Delegate such of his or her authority as he or she may deem necessary for the efficient operation of the force to be exercised under his or her direction and supervision.

B. Report at least monthly to the appropriate authority in such form as shall be prescribed by such authority on the operation of the force during the preceding month and make such other reports as may be requested by such authority. The Mayor of the Borough of Metuchen is designated as the appropriate authority for all matters relating to the police function. The Mayor of the Borough of Metuchen shall, from time to time, adopt, revise and amend the rules and regulations for the government of the Police Department and for the discipline of its members.

[Amended 8-16-2010 by Ord. No. 2010-15]

C. Nothing herein contained shall prevent the appointment by the governing body of such committees or commissions as shall be necessary to conduct investigations of the operation of the police

force, which committees or commissions shall have such powers of inquiry as the governing body deems necessary to conduct any such hearing or investigation as authorized by law. [Added 8-16-2010 by Ord. No. 2010-15]

§ 37-88 Disciplinary actions.

Any member of the Police Department may be suspended, removed, fined or reduced from his or her office or employment therein for just cause only after written charges of the cause of complaint shall have been preferred against such employee of the Police Department, signed by the person making such charges, filed in the office of the Chief of Police, and served upon the member charged. The member charged may request a hearing on the charges and will receive an opportunity to make his or her defense, if any he or she has, or chooses to make, as provided by law; provided, however, that for any dereliction of duty by a member of the Police Department for which a penalty less than suspension, removal, fine, or reduction from office or employment, as may be appropriate, the Chief of Police may impose such appropriate penalty. The Mayor of the Borough of Metuchen, or his or her designee, shall sit as Hearing Officer for the Borough on any complaint against a permanent member of the Police Department charging a violation of N.J.S.A. 40A:14-147 or violation of the internal rules and regulations of the Police Department and on which is sought a suspension, removal, fine or demotion. In the event the Mayor does not act as Hearing Officer, the individual so designated to hear the disciplinary matter shall, at the conclusion of the hearing, forward his/her findings and recommendations to the Mayor who shall make the final determination. The Mayor's decision shall be reviewable only as provided by N.J.S.A. 40A:14-150, as amended from time to time. In the event an individual not employed by the Borough is considered by the Mayor to act as the Hearing Officer, the alternate Hearing Officer shall be appointed by the Borough Council.

BE IT FURTHER ORDAINED by the Borough Council of the Borough of Metuchen that all Borough officials, employees and agents shall take all necessary actions to in order to effectuate the within Ordinance.

BE IT FURTHER ORDAINED by the Council of the Borough of Metuchen that should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

BE IT FURTHER ORDAINED by the Council of the Borough of Metuchen that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

BE IT FURTHER ORDAINED by the Council of the Borough of Metuchen that this ordinance shall take effect after passage and publication as required by law.

Ordinance 2016-05

Council President Grayzel asked for the presentation of Affidavit of Publication for Ordinance 2016-05.

Borough Clerk presented the affidavit of publication stating that said Ordinance 2016-05 has been published one time in the Home News Tribune according to Law on January 23, 2016.

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

Council President Grayzel made a motion to move Communication Consent Agenda, Item A-B, Councilwoman Rasmussen second the motion, with all in favor, motion carried, 6-0

- A. Receive and Accept Traffic & Transportation Meeting Minutes of November 11, 2015 and December 9, 2015
- B. Receive and Accept Arts Council Meeting Minutes of November 23, 2015

Reports of Councilmembers

Mayor Cammarano opened Reports of Councilmembers.

Council President Grayzel –

- This Sunday, February 7th at 3:00 PM at Metuchen High School the Arts Council will present the New Jersey Symphony Orchestra Brass Quintet performing a children's performance called "All Around the World". Tickets are \$10 for Adults and children under 12 are free. For reservations call Nancy Goldberg at (732) 632-8502

Councilwoman Inzerro –

- The program that is funded and put on by Metuchen Municipal Alliance through grant funds for the "Family Night Out" program will be on February 23, March 1, March 8, March 15, March 27 and April 5 and April 12, 2016. The program will be held at Edgar School. The information is up on the Borough website and the schools also have the information. The school Guidance Counselor at Edgar School is also available to answer questions.
- There was a fund raiser yesterday at of Sakula Yoga Studio at 2:00 PM. It helps raise money for the Alliance and Project Graduation.
- The Board of Health met last week and went over various health inspection reports.
- The Rabies Clinic is set for Saturday in May. More information will be forthcoming.

Councilman Leibfried –

- The Pool Commission will be meeting next Monday, February 8th at 7:30 PM at Borough Hall to continue discussions on possible projects for the upcoming summer months. Projects for consideration are to redo the Baby Pool deck and a potential playground. The Commission is working very hard researching all possibilities to make the improvements.
- The Library Board of Trustees will be meeting next Tuesday, February 9th at 7:00 PM at Metuchen Library. The Library is seeking to replace two part-time employees. The Library is offering wireless printing. Please visit the website to see all upcoming events at the Library.

Councilman Muldoon – Has no report at this time.

Councilwoman Rasmussen – Has no report at this time.

Councilman Wallace – Has no report at this time.

Reports of Officers

Denis Murphy, Esq. – No report at this time.

Jennifer Maier, Administrator –

- The heating system at the Senior Center has stopped working last week and needs to be replaced. A new unit has been purchased and Ms. Maier is trying to expedite the delivery date. Temporary heaters have been set up at the Senior Center
- She thanked the residents who did get out and shoveled their walks making it safe for people to walk. She also thanked those people at Victory Court and at Jefferson Park that moved their vehicles to the designated parking lots. Those that moved their cars made it much easier for DPW to get in and remove the snow. She strongly encourages those residents that didn't move their cars to please move their cars in the event of another major snow storm.
- The Fire Apparatus Maintenance Resolution is on the agenda tonight for approval. Fire and Safety Services was the sole bidder and is the same company that was approved in last year. They are familiar with the fire apparatus.
- The AFSCME contract is being reviewed. Ms. Maier has spoken with the Union Representatives and will continue discussions with AFSCME as the budget is being worked on.
- The purchase of E-ticket for the Police is ready to move forward. Ms. Maier is checking with Local Finance Board on a contractual issue first.
- District II and III were approved on January 21st by the Planning Board.
- Ms. Maier submitted a letter of interest on the Bike and Pedestrian Grant for \$10,000 to look at the bike lane on Grove Avenue. She will be talking to the Mayor on other grants that are coming up.
- The Metuchen Pool Maintenance Bid Spec will be put out shortly.
- The bid spec for the Senior Bus is being prepared.

Report of Mayor

Mayor Cammarano thanked all the Public Works employees for their efforts during the snow storm. DPW did a phenomenal job making every effort to stay ahead of the storm and continued cleaning up after the storm was over. The Fire Department and EMS were all on alert to respond in the event there was an emergency and the OEM Director was in contact at all times communicating with all those involved.

Council President Grayzel stated that there are specific streets in town that are almost impossible to clear with parked cars during a snow storm. Would it be worthwhile to give the Mayor and/or the Office of Emergency Management emergency powers to order cars removed from those streets under certain storm conditions to alternative parking lots to allow DPW to clear the streets.

Mayor Cammarano agrees that something does need to be done because DPW did struggle to get down some of the streets during this storm because of parked cars. There was further discussion with the Council.

New Business – Resolutions 2016-49 through 2016-53

Council President Grayzel moved New Business Consent Agenda – Resolutions 2016-49 through 2016-53 for approval, seconded by Councilwoman Rasmussen, with all in favor, motion carried, 6-0

RESOLUTION 2016-49

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

RESOLUTION AMENDING R2016-47 AUTHORIZING RELEASE OF PERFORMANCE BOND

GUARANTEE (PG14-1032) – ST. JOSEPH HIGH SCHOOL – BLOCK 2, LOT 1

WHEREAS, St. Joseph High School, has requested a refund of the performance bond for site improvements on Block 2, Lot 1 located at 145 Plainfield Avenue, Metuchen; and

WHEREAS, the Borough Engineer in a letter dated October 23, 2015 and December 30, 2015 and Borough Zoning Official in a letter dated October 23, 2015 has reported that the contract has been completed in an acceptable manner; and

WHEREAS, DW Smith Associates, LLC recommends the full release of the Performance Guarantee in the amount of \$27,000.00 plus interest (Cash Bond – PG14-1032) posted on May 19, 2015; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Metuchen that the Chief Financial Officer and Borough Clerk are hereby authorized and directed to release said Performance Bond in the amount of \$27,000.00 plus interest (Cash Bond – PG14-1032) as recommended and directed by the Borough Engineer and Borough Zoning Officer to St. Joseph High School, 145 Plainfield Avenue, Metuchen, NJ 08840 upon final approval of the Borough Administrator and Legal Counsel.

RESOLUTION 2016-50

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

RESOLUTION AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION IN THE AMOUNT OF \$49,500 FOR THE PREPARATION OF AN APPROVED TAX MAP FOR THE BOROUGH OF METUCHEN PURSUANT TO N.J.S.A. 40A:4-53

WHEREAS, it has been found necessary to make an emergency appropriation to meet certain extraordinary expenses to be incurred by the preparation of an approved tax map for the Borough of Metuchen; and

WHEREAS, Ordinance 2016-3 has been adopted creating a special emergency appropriation of \$49,500.00 to meet certain extraordinary expense to be incurred for the purpose of the preparation of an approved tax map and no adequate provision was made in the 2016 budget for the aforesaid purpose, and N.J.S.A. 40A:4-53 provides for the purpose above mentioned, and

WHEREAS, N.J.S.A. 40A:4-53 provides that it shall be lawful to make such appropriation, which appropriation and/or the “special emergency notes” issued to finance the same shall be provided for in succeeding annual budgets by the inclusion of an appropriation of at least one-fifth of the amount authorized pursuant to this act.

NOW, THEREFORE, BE IT RESOLVED, (by not less than two-thirds of all governing body members affirmatively concurring) by the Borough Council of the Borough of Metuchen in the County of Middlesex, New Jersey, in accordance with the provisions of N.J.S.A. 40A:4-55 that:

1. An emergency appropriation is hereby made for the preparation of approved tax maps in the total amount of \$49,500.00.

2. That the emergency appropriation shall be provided for in the budgets of the next succeeding years by the inclusion of not less than \$9,900.00.
3. That two (2) certified copies of this resolution will be filed with the Director of the Division of Local Government Services; however, no approval is required from the Division.

RESOLUTION 2016-51

*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:

GROUP I - LIBRARY PERSONNEL-Salary adjustment and increase per Library Board

GROUP II - PART TIME OFFICERS AND EMPLOYEES

A.	Councilmembers	\$ 1,200/yr.
	Mayor	\$ 2,000/yr.
	Library Personnel	Per Library Board
	Municipal Judge	\$25,000/yr
	Public Defender	\$15,000/yr
	Registrar	\$10,000/yr
	Deputy Registrar	\$ 4,000/yr
	Municipal Alliance Coordinator	\$ 5,000/yr.
	C-3 Sanitary Sewer Collection System Operator	\$ 6,000/yr
	Office of Emergency Management Coordinator	\$ 6,000/yr

B. 2.0% increase on 2014 base salary:

Video Coordinator	Fire Subcode Official
Asst. Video Coordinator	Fire Inspectors
Bus Drivers	Building Subcode Official
Part-Time Clerk and Secretaries	Building Inspector
Construction Official	Alternate Subcode Official
Plumbing Subcode Official	Alternate Inspectors
Plumbing Inspector	Janitors, Firehouse
Electrical Subcode Official	School Crossing Guards
Electrical Inspector	Zoning Officer
Fire Department/Fire Prevention Secretary	Fire Official

GROUP III - RECREATIONAL SEASONAL EMPLOYEES

Starting rate at \$6.60 plus \$0.25 per hour increase for all returning hourly employees that are not at the maximum for the range plus \$25.00 per week increase for weekly returning employees that are not

at the maximum for the range except as follows:

Cooking Program Director	\$ 40.00/hr
Tennis Director	\$ 75.00/hr
Tennis Instructor	\$ 10.00/hr
Drama Director	\$ 50.00/hr
Art Director	\$ 50.00/hr
Soccer Camp Director	\$750.00/week
Soccer Counselor (1 ST Year)	\$150.00/week
Soccer Trainer (1st Year)	\$350.00/week
Track Camp Director	\$750.00/week
Track Advisor	\$500.00/week
Track Specialist	\$300.00/week
Basketball Director	\$600.00/week
Recreation Assistant	\$ 8.00/hr
Recreation Specialist	\$ 10.00/hr
Field Hockey Director	\$ 30.00/hr
Field Hockey Coach	\$ 20.00/hr
Field Hockey Referees	\$ 10.00/hr

GROUP IV - SEASONAL EMPLOYEES/POOL

Pool Manager	\$9,700.00
Assistant Managers (experienced)	\$8,000.00/season
Assistant Manager	\$7,100.00/season
Aquatics Director	\$3,000.00 to 3,500.00/season
Head Swim Team Coach*	\$2,200.00/season
Assistant Swim Team Coach	\$1,000.00/season
Swim Team Assistant	\$ 750.00/season
Lifeguard (1st year)	\$ 7.25/hr.
Lifeguard (2nd & 3 rd year)	\$ 8.00/hr.
Lifeguard (4th & 5 th year)	\$ 8.75/hr.
Senior Lifeguard	\$ 9.25/hr.
Head Lifeguard (1 st & 2 nd year)	\$ 10.25/hr
Head Lifeguard (3 rd year and up)	\$ 10.75/hr.
Head Diving Coach	\$1,500.00/season
Assistant Diving Coach	\$1,100.00/season
Activities Director	\$1,500.00/season
Swim Instructor (first year)	\$ 6.75/hr
Swim Instructor (2 nd & 3 rd year)	\$ 7.00/hr
Swim Instructor (4 th year & up)	\$ 7.50/hr
Head Maintenance	\$ 9.00/hr
Maintenance, Laborer (first year)	\$ 6.25/hr
Maintenance, Laborer (2 nd & 3 rd)	\$ 6.50/hr
Maintenance, Laborer (4 years & up)	\$ 7.00/hr
Gate Attendants (1 st year)	\$ 6.00/hr.
Gate Attendants (2 nd and 3 rd years)	\$ 6.25 /hr
Gate Attendants (4 th year & up)	\$ 7.00 /hr
Head Gate Attendant (1 st and 2 nd year)	\$ 8.00/hr.
Head Gate Attendant (3 rd year and up)	\$ 8.25/hr.

*position not filled when Aquatics Director position is filled and acts as Head Coach

GROUP V – FULL TIME OFFICERS AND EMPLOYEES

2.0% increase on 2014 base salary:

Administrative Secretary
Administrative Officer
Borough Clerk, Court Administrator
Recreation Director, Tax Assessor, Senior Citizens Director
DPW Superintendent
Chief Financial Officer/Tax Collector, Public Works Director
Borough Administrator
2015 Retired Police Chief

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 2016-52

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

RESOLUTION AUTHORIZING BID AWARD FOR FIRE APPARATUS SERVICE AND REPAIR

WHEREAS, bids were received by the Borough Administrator on January 20, 2016 for the Fire Apparatus Service And Repair for the Borough of Metuchen; and

WHEREAS, the Finance Officer has determined that sufficient funds will be available in the amount of \$24,500 as evidenced by the Finance Officer's certification,

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Metuchen, County of Middlesex, State of New Jersey that the contract for Fire Apparatus Service and Repair be and the same is hereby awarded to Fire and Safety Services, 200 Ryan Street, South Plainfield, NJ 07080.

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

RESOLUTION 2016-53

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

RESOLUTION FOR APPROVING ENTERING INTO AGREEMENT WITH ECONSULT INDIVIDUALLY

WHEREAS, the Borough of Metuchen Council of the Metuchen Borough of the Borough of Metuchen entered into the Municipal Shared Services Defense Agreement (“MSSDA”) for the purpose as set forth therein, which included retaining a common expert in the Declaratory Judgment action (“Litigation”) that was filed in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Decision”); and

WHEREAS, the MSSDA identified Dr. Robert Burchell, a distinguished professor at Rutgers University, as the expert to be retained to prepare an expert report (the “Burchell Report”); and

WHEREAS, the Borough of Metuchen contributed \$2,000 to become a member of a consortium of municipalities (hereinafter “Municipal Group”) so that the Municipal Group could enter into an agreement with Rutgers University (hereinafter “Research Agreement”) for the purpose of having Dr. Burchell prepare a fair share report (hereinafter “Burchell Report”); and

WHEREAS, Dr. Burchell became ill and was unable to complete the obligations under the Research Agreement as set forth in the MSSDA; and

WHEREAS, as a result, Rutgers University exercised its right to terminate the Research Agreement as permitted under its terms; and

WHEREAS, the MSSDA required a modification to allow the Municipal Group to retain one or more alternative experts, consultants and/or other professionals for the Litigation; and

WHEREAS, an Amendment to the MSSDA (“Amendment”) was prepared to effectuate the modification, and said Amendment was entered into by the Borough of Metuchen; and

WHEREAS, the Amendment authorized the execution of an agreement with Econsult Solutions, Inc. (“ESI”) to replace Dr. Burchell and Rutgers, and to prepared its own revised report; and

WHEREAS, ESI prepared a revised report entitled “New Jersey Affordable Housing Need and Obligations”, dated December 30, 2015 (the “Solutions Report”), for the Municipal Group; and

WHEREAS, the MSSDA as amended, entitled Members of the Municipal Group to retain ESI to testify about the Solutions Report and for related issues; and

WHEREAS, any Member of the Municipal Group could retain ESI (i) individually, (ii) as part of a local consortium consisting of other municipalities under the vicinage of any particular judge presiding over Mount Laurel matters or (iii) both individually and as part of a local consortium; and

WHEREAS, the purpose of this resolution is to retain ESI individually; and

WHEREAS, the proposed individual agreement, attached hereto, envisions that ESI will split its work if it prepares a report that benefits multiple municipalities; and

WHEREAS, the maximum amount of the contract is \$15,000.00 and funds will be available in the 2016 Budget as evidenced by the Chief Financial Officer's Certification.

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

1. The Borough of Metuchen hereby authorizes its attorney to sign the agreement, attached hereto, on its behalf.
2. This Resolution shall take effect immediately.

Other New Business

Council President Grayzel made a motion to approve R2016-54; authorizing the Payment of the Bill List in the amount of \$50,583.56, second by Councilwoman Rasmussen, with all in favor, motion carried, 6-0.

RESOLUTION 2016-54

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

RESOLUTION AUTHORIZING THE PAYMENT OF THE BILL LIST

BE IT RESOLVED by the Mayor and Council of the Borough of Metuchen that the proper warrants be drawn and all bills be paid totaling **\$50,583.56**

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

Appointment

Mayor Cammarano made the recommendation to appoint Carol Pepe to the Metuchen Municipal Alliance with a term until December 31, 2020. Councilwoman Inserro made a motion to appoint Carol Pepe to Metuchen Municipal Alliance, second by Councilman Leibfried, with all in favor, motion carried, 6-0

Ordinance – Introduction

Ordinance 2016-06

Council President Grayzel moved Ordinance 2016-06 to be introduced and be taken up on first reading, second by Councilwoman Rasmussen, with all in favor, motion carries, 6-0.

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

Borough Clerk read the Ordinance by title only

Ordinance 2016-06

Ordinance Amending and Replacing Chapter 222 of the Code of the Borough of Metuchen, Entitled, “Noise”

Council President Grayzel moved Ordinance 2016-06 be passed on first reading, be published according to law and a public hearing be set down for Tuesday, February 16, 2016, second by Councilwoman Rasmussen.

Mayor Cammarano asked for a roll call vote.

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

Ordinance 2016-06 was passed on first reading and be published according to law, 6-0.

ORDINANCE 2016-06

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

**ORDINANCE AMENDING AND REPLACING CHAPTER 222 OF THE CODE OF THE
BOROUGH OF METUCHEN, ENTITLED, “NOISE”**

WHEREAS, the Council of the Borough of Metuchen deems it in the best interest of the Borough of Metuchen to amend and replace Chapter 222 of the Code of the Borough of Metuchen, entitled “Noise” with the New Jersey Department of Environmental Protection’s Model Noise Control Ordinance.

NOW THEREFORE BE IT ORDAINED by the Council of the Borough of Metuchen that Chapter 222 of the Code of the Borough of Metuchen is hereby amended and replaced with the following:

**BOROUGH OF METUCHEN
NOISE ORDINANCE**

I. Declaration of Findings and Policy

WHEREAS excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and, WHEREAS a substantial body of science and technology exists by which excessive sound may be substantially abated; and, WHEREAS the people have a right to, and should be ensured of, an environment free from excessive sound,

Now THEREFORE, it is the policy of **the Borough of Metuchen** to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

This ordinance shall apply to the control of sound originating from sources within the **Borough of Metuchen**.

II. Definitions

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this ordinance have the same meaning as those defined in N.J.A.C. 7:29.

“Construction” means any site preparation, assembly, erection, repair, alteration or similar action of buildings or structures.

“dBC” means the sound level as measured using the “C” weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The “C” weighting network is more sensitive to low frequencies than is the “A” weighting network.

“Demolition” means any dismantling, destruction or removal of buildings, structures, or roadways.

“Department” means the New Jersey Department of Environmental Protection.

“Emergency work” means any work or action necessary at the site of an emergency to restore or deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions or a state of emergency declared by a governing agency.

“Impulsive sound” means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

“Minor Violation” means a violation that is not the result of the purposeful, reckless or criminally negligent conduct of the alleged violator; and/or the activity or condition constituting the violation has not been the subject of an enforcement action by any authorized local, county or state enforcement agency against the violator within the immediately preceding 12 months for the same or substantially similar violation.

“Motor vehicle” means any vehicle that is propelled other than by human or animal power on land.

“Muffler” means a properly functioning sound dissipative device or system for abating the sound on engines or equipment where such device is part of the normal configuration of the equipment.

“Multi-dwelling unit building” means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

“Multi-use property” means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
2. A building, which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

“Noise Control Officer” (NCO) means an employee of a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities or an employee of a municipality with a Department-approved model noise control ordinance. All NCOs must receive noise enforcement training as specified by the Department in N.J.A.C. 7:29 and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

“Noise Control Investigator” (NCI) means an employee of a municipality, county or regional health commission that has a Department-approved model noise control ordinance and the employee has not received noise enforcement training as specified by the Department in N.J.A.C. 7:29. However, they are knowledgeable about their model noise ordinance and enforcement procedures. A Noise Control Investigator may only enforce sections of the ordinance that do not require the use of a sound level meter. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

“Plainly audible” means any sound that can be detected by a NCO or an NCI using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The NCO or NCI need not determine the title, specific words, or the artist performing the song.

“Private right-of-way” means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

“Public right-of-way” means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

“Public space” means any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

“Real property line” means either (a) the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit). Note- this definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

“Sound production device” means any device whose primary function is the production of sound, including, but not limited to any, musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

“Sound reduction device” means any device, such as a muffler, baffle, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

“Weekday” means any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

“Weekends” means beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

III. Applicability

- (A) This noise ordinance applies to sound from the following property categories:
1. Industrial facilities;
 2. Commercial facilities;
 3. Public service facilities;
 4. Community service facilities;
 5. Residential properties;
 6. Multi-use properties;
 7. Public and private right-of-ways;
 8. Public spaces; and
 9. Multi-dwelling unit buildings.
- (B) This noise ordinance applies to sound received at the following property categories:
1. Commercial facilities;
 2. Public service facilities;
 3. Community service facilities (i.e. non-profits and/or religious facilities)
 4. Residential properties;
 5. Multi-use properties;
 6. Multi-dwelling unit buildings.
- (C) Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.4, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

IV. Exemptions

- (A) Except as provided in IX. and X. below, the provisions of this ordinance shall not apply to the exceptions listed at N.J.A.C. 7:29-1.5.
- (B) Sound production devices required or sanctioned under the Americans with Disabilities Act (ADA), FEMA or other government agencies to the extent that they comply with the noise requirement of the enabling legislation or regulation. Devices which are exempted under N.J.A.C. 7:29-1.5 shall continue to be exempted.
- (C) Construction and demolition activities are exempt from the sound level limits set forth in tables I and II and III except as provided for in IX. below.

V. Enforcement Officers

- (A) Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance and pursue enforcement activities.

- (B) Noise Control Investigators shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance that do not require the use of a sound level meter (i.e., plainly audible, times of day and/or distance determinations) and pursue enforcement activities.
- (C) Noise Control Officers and Investigators may cooperate with NCOs and NCIs of an adjacent municipality in enforcing one another’s municipal noise ordinances.

VI. Measurement Protocols

- (A) Sound measurements made by a Noise Control Officer shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound level measurements shall also conform with the procedures set forth in VIB of this ordinance and with the definition of “real property line” as contained herein.
- (B) When conducting indoor sound level measurements across a real property line the measurements shall be taken at least three feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. The neighborhood residual sound level shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound level, the configuration of the windows and doors shall be the same and all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

VII. Maximum Permissible Sound Levels

- (A) No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in III.(A) above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I, II or III when measured at or within the real property line of any of the receiving properties listed in Tables I, II or III except as specified in VI(B).
- (B) Impulsive Sound

Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as continuous sound and shall meet the requirements as shown in Tables I and II.

**TABLE I
 MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
 WHEN MEASURED OUTDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property	Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility

TIME	7 a.m.-10 p.m.	10 p.m. – 7 a.m.	24 Hours
Maximum A-Weighted Sound level standard, dB	65	50	65

**TABLE II
MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
WHEN MEASURED OUTDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property	Commercial facility or non-residential portion of a multi-use property	
TIME	7 a.m.-10 p.m.	10 p.m. – 7 a.m.	24 Hours
Maximum A-Weighted Sound Level standard, dB	55	40	55

Note: Table II shall only apply when the source and the receptor are separated by a real property line and they also share a common or abutting wall, floor or ceiling, or are on the same parcel of property.

**TABLE III
MAXIMUM PERMISSIBLE OCTAVE BAND
SOUND PRESSURE LEVELS IN DECIBELS**

Receiving Property Category	Residential property, or residential portion of a multi-use property	Residential property, or residential portion of a multi-use property	Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility	Commercial facility or non-residential portion of a multi-use property
	OUTDOORS	INDOORS	OUTDOORS	INDOORS

Octave Band Center Frequency, Hz.	Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB
	7 a.m.-10 p.m.	10 p.m.-7 a.m.	7 a.m. – 10 p.m.	10 p.m. – 7 a.m.	24 Hours	24 Hours
31.5	96	86	86	76	96	86
63	82	71	72	61	82	72
125	74	61	64	51	74	64
250	67	53	57	43	67	57
500	63	48	53	38	63	53
1,000	60	45	50	35	60	50
2,000	57	42	47	32	57	47
4,000	55	40	45	30	55	45
8,000	53	38	43	28	53	43

Note: When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus 2 dB in the bands containing the principal source frequencies, discontinue the measurement.

VIII. Sound Production Devices

No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Table IV when measured within the residence of a complainant according to the measurement protocol in VI(B) of this ordinance. These sound level measurements shall be conducted with the sound level meter set for “C” weighting, “fast” response.

**TABLE IV
MAXIMUM PERMISSIBLE INCREASE IN TOTAL SOUND LEVELS
WITHIN A RESIDENTIAL PROPERTY**

Week nights 10:00 p.m. – 7:00 a.m. Weekend nights 11:00 p.m. and 9:00 a.m.	All other times
3 dB(C)	6 dB(C)

IX. Restricted Uses and Activities

The following standards shall apply to the activities or sources of sound set forth below:

- A. Excluding emergency work, power tools, home maintenance tools, landscaping and/or yard maintenance equipment used by a residential property owner or tenant shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.
- B. Excluding emergency work, power tools, landscaping and/or yard maintenance equipment used by nonresidential operators (e.g. commercial operators, public employees) shall not be operated on a residential, commercial, industrial or public (e.g. golf course, parks, athletic fields) property between the hours of 6:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.
- C. All construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device.
- D. Motorized snow removal equipment shall be operated with a muffler and/or a sound reduction device when being used for snow removal. At all other times the limits set forth in Tables I, II or III do not apply.
- E. All interior and exterior burglar alarms of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne sound and fifteen (15) minutes for intermittent sound after it has been activated. At all other times the limits set forth in Tables I, II or III do not apply.
- F.. Self-contained, portable, non-vehicular music or sound production devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound, operated on a public space or public right-of-way, from such equipment shall not be plainly audible at a distance of 25 feet in any direction from the operator;
- G. It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a Noise Control Officer or Noise Control Investigator. Prima facie evidence of a violation of this section shall include but not be limited to:
 - (1) Vocalizing (howling, yelping, barking, squawking etc.) for five (5) minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or,

- (2) Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

X. Motor Vehicles

Violations of each paragraph of this section shall be considered purposeful and therefore non-minor violations.

- (A) No person shall remove or render inoperative, or cause to be removed or rendered inoperative or less effective than originally equipped, other than for the purposes of maintenance, repair, or replacement, of any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so modified. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated stationary or in motion in any public space or public right-of-way.
- (B) No motorcycle shall be operated stationary or in motion unless it has a muffler that complies with and is labeled in accordance with the Federal Noise Regulations under 40 CFR Part 205.
- (C) Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at distance of 25 feet in any direction from the operator between the hours of 10:00 p.m. and 8:00 a.m.
- (D) Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.

XI. Enforcement

- (A) Violation of any provision of this ordinance shall be cause for a Notice of Violation (NOV) or a Notice of Penalty Assessment (NOPA) document to be issued to the violator by the Noise Control Officer or Noise Control Investigator.
- (B) Any person who violates any provision of this ordinance shall be subject to a civil penalty for each offense of not more than the maximum penalty pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.
- (C) Upon identification of a violation of this Ordinance the Noise Control Officer or Noise Control Investigator shall issue an enforcement document to the violator. The enforcement document shall identify the condition or activity that constitutes the violation and the specific provision of this Ordinance that has been violated. It shall also indicate whether the violator has a period of time to correct the violation before a penalty is sought.

- (D) If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a minor violation (as defined in Section II of this ordinance) a NOV shall be issued to the violator.
1. The document shall indicate that the purpose of the NOV is intended to serve as a notice to warn the responsible party/violator of the violation conditions in order to provide them with an opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation.
 2. The NOV shall identify the time period (up to 90 days), pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq. where the responsible party's/violator's voluntary action can prevent a formal enforcement action with penalties issued by the Health Department. It shall be noted that the NOV does not constitute a formal enforcement action, a final agency action or a final legal determination that a violation has occurred. Therefore, the NOV may not be appealed or contested.
- (E) If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a non-minor violation, the violator shall be notified that if the violation is not immediately corrected, a NOPA with a civil penalty of not more than the maximum penalty allowed pursuant to N.J.S.A.40:49-5, which is \$2,000 as of December 2014, will be issued. If a non-minor violation is immediately corrected, a NOV without a civil penalty shall still be issued to document the violation. If the violation occurs again (within 12 months of the initial violation) a NOPA shall be issued regardless of whether the violation is immediately corrected or not.
- (F) The violator may request from the Noise Control Officer or Noise Control Investigator, an extension of the compliance deadline in the enforcement action. The Noise Control Officer or Noise Control Investigator shall have the option to approve any reasonable request for an extension (not to exceed 180 days) if the violator can demonstrate that a good faith effort has been made to achieve compliance. If an extension is not granted and the violation continues to exist after the grace period ends, a NOPA shall be issued.
- (G) The recipient of a NOPA shall be entitled to a hearing in a municipal court having jurisdiction to contest such action.
- (H) The Noise Control Officer or Noise Control Investigator may seek injunctive relief if the responsible party does not remediate the violation within the period of time specified in the NOPA issued.
- (I) Any claim for a civil penalty may be compromised and settled based on the following factors:
1. Mitigating or any other extenuating circumstances;
 2. The timely implementation by the violator of measures which lead to compliance;
 3. The conduct of the violator; and
 4. The compliance history of the violator.

XII. Consistency, Severability and Repealer

- (A) If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.
- (B) All ordinances or parts of ordinances, which are inconsistent with any provisions of this ordinance, are hereby repealed as to the extent of such inconsistencies.
- (C) No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.

Public Session

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

Daniel Lebar, 581 Middlesex Avenue, Metuchen, asked about the signal at Penn Avenue that was knocked down during the snow storm. He asked if it is being turned into the insurance or being rolled into the other five new crossing signals to be installed. He asked if there was any way to protect the pole from future accidents.

Ms. Maier responded that it has been turned into the insurance and the pole is currently being examined to determine if there is any reusable parts before replacing the whole pole.

Mayor Cammarano responded that this was a fluke accident during the storm and this isn't normally an issue.

There was further discussion about how to handle the current situation with crossing until the pole is replaced.

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

Adjournment

Council President Grayzel made a motion to adjourn the meeting, seconded by Councilwoman Rasmussen, with all in favor; the meeting was adjourned at 8:27 PM.

Respectfully Submitted,

Susan D. Jackson, RMC
Metuchen Borough Clerk