

**BOROUGH OF METUCHEN COUNCIL MINUTES
FEBRUARY 16, 2016
7:30 PM**

The Regular Meeting of the Borough Council was held in the Council Chambers of Borough Hall on Tuesday, February 16, 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 Councilwoman Inserro and followed by the Pledge of Allegiance.

Present were Councilmembers Inserro, Muldoon, Rasmussen, Wallace, Council President Grayzel and Mayor Cammarano. Councilman Leibfried was absent. 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 Councilwoman Rasmussen, with all in favor, motion carried, 5-0.

Council President Grayzel made a motion to amend the agenda to add Resolution 2016-61, Resolution Authorizing an Executive Session for the Purpose of Discussing Litigation and go into Closed Session after the first Public Comment period, second by Councilwoman Inserro, with all in favor, motion carried, 5-0

RESOLUTION 2016-61

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

**RESOLUTION AUTHORIZING AN EXECUTIVE SESSION FOR THE PURPOSE OF
DISCUSSING LITIGATION**

WHEREAS, it is necessary for the Mayor and Council of the Borough of Metuchen to conduct an executive session closed to the public in order to discuss the following: Matters subject to Attorney/Client Privilege and pending litigation.

NOW THEREFORE BE IT RESOLVED that the Council of the Borough of Metuchen hereby moves to go into executive session in accordance with the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-6 et. seq., for the purpose of discussing the following: Matters subject to Attorney/Client Privilege and pending litigation.

BE IT FURTHER RESOLVED that the matter discussed in and minutes of the closed session shall be disclosed to the public when the reason for confidentiality no longer exists.

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 Councilwoman Rasmussen, with all in favor, motion carried, 5-0.

Regular Meeting

Mayor Cammarano introduced the Traffic & Transportation Chairperson Jay Galeota.

Jay Galeota spoke about the Street Smarts Pedestrian Safety Initiative program that Traffic & Transportation Commission has been working on. Metuchen Borough was one of twelve towns selected for the Phase 2 Pilot program that the State is sponsoring. This program is unique as it is centered on changing behavior both of pedestrians and motorists by a three prong approach that includes high visibility law enforcement, grass route public outreach and media messaging.

Mr. Galeota introduced Jeffrey Perlman, P.P., AICP, LEED-AP, Manager, Environmental Planning and Mobility Programs, Representative of NJTPA.

Mr. Perlman explained that NJTPA function is a federally mandated metropolitan planning organization for northern New Jersey. They are an agency that programs federal transportation dollars. One of Mr. Perlman's functions is to manage this State-wide Pedestrian Safety Education Campaign. The campaign is called "Street Smarts NJ" and it is a public education awareness and behavioral change campaign. This campaign was developed in 2013. The goals are to change pedestrians and motorists behavior with the results of decreasing the number of incidents of pedestrian injury and death. March is the kick-off month. Throughout the last few months NJTPA met with the Traffic & Transportation Commission to orient them on the program. Five different safety messages have been developed: two for pedestrians; two for motorists and one for distracted driving/walking.

The campaign will kick-off on March 7th and is a four week campaign. There are a number of components to the campaign. First is the message-education component. A variety of different media will be utilized to get the message out. The second is an outreach team who will be walking around the Borough to hand out tip cards & literature to pedestrians. Third is an evaluation is a filming to measure pedestrians and motorists movements – once in February and once in April. Fourth is teaming up with law enforcement. Fifth is to write a report with all the data collected.

Councilwoman Rasmussen suggested that in order to spread the word more is to get the information out to the corporate businesses in the area.

Councilman Muldoon suggested that the commuter shuttle bus be wrapped with information and tip cards should be given out by the attendants at the temporary parking lots to hand out to the motorists.

Councilwoman Inserro asked if there is a hashtag being used. She asked for the time and place for the kick-off in Metuchen.

Mr. Perlman stated that there is a regional campaign kick-off on March 8th in Elizabeth at 10 AM. They will be sending out more information on the event.

Mr. Galeota stated that they have many community based groups providing support in this campaign like JFK and the YMCA among other community groups. Mr. Galeota introduced Jason Delia who is the head of the subcommittee on this initiative and also our new communication head for the committee.

Mr. Delia stated that when the Traffic & Transportation Committee hosted a meeting on the Street Smarts NJ Initiative with many community members coming to the meeting, including JFK, YMCA, Metuchen School District personnel and many other groups. The regional kick-off event is March 7th and Metuchen will be having their kick-off event on Friday, March 4th at 5:00pm. The plan is to start in the Council Chambers with MeTV filming the kick-off and other local media present, and have many other members of the community present.

Mr. Galeota introduced Cpl. Ken Bauer, Police Department liaison to the committee, has been working with the committee on the law enforcement element.

Mayor Cammarano thanked Cpl. Bauer for his efforts and for bringing the program to the attention the commission and spearheading it.

Cpl. Bauer thanked Jason, Jay and Jeff for all their hard work on getting this program off the ground. He spoke about how the Police will be involved in the program not only through enforcement but with the education for motorists and pedestrians. The message board will be utilized at different points within the Borough during March to remind motorists and pedestrians. The Police Department also received a \$4,000 State grant for about 80 additional hours for enforcement that will be utilized on pedestrian safety.

Mayor Cammarano stated that he likes the balanced approach between the pedestrian and motorist education.

Councilman Muldoon stated that behavior change that is made up of all the little parts that has been and is being done throughout the Borough.

Mayor Cammarano opened up a public comment period for this matter only.

Sheera Stern, 47 Newman Street, asked what this program is costing the taxpayers. Mayor Cammarano responded that the Traffic & Transportation Committee are all volunteers and that this program is being sponsored by outside resources therefore there is no cost to the Metuchen taxpayers.

Mayor Cammarano thanked everyone that came out tonight for the Street Smarts program and all their hard work to the program.

Council Minute Approval

Council President Grayzel made a motion to approve the Regular Borough Council minutes of February 1, 2016, Councilwoman Inserro second the motion, with all in favor, motion carried, 5-0.

Public Comment

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

Peter Fairclough, 3 Goodwill Place, Metuchen, Vice-president of the Metuchen First Aid Squad and Crew Chief on Thursday night. He spoke of the number of calls that the squad has responded to. He wants the Borough to know that the squad is still here. He asked who the Council liaison? Mayor Cammarano stated that they would provide a liaison.

Councilwoman Inzerro stated that she is aware of the squad and wanted to let them know that she truly appreciates their service to the community.

Mr. Fairclough stated that there are four cadets on the crew now and informed the Council on the status of each cadet and how they are furthering their careers in medical field.

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

Council President Grayzel made a motion to close the Public meeting and go into Closed Session for the purpose of on-going litigation at 8:08 pm, second by Councilwoman Rasmussen, with all in favor, motion carried, 5-0.

Council President Grayzel made a motion to reconvene to the Public meeting at 8:25pm, second by Councilwoman Rasmussen, with all in favor, motion carried, 5-0.

Ordinances – Public Hearing

Ordinance 2016-06

Council President asked for the presentation of Affidavit of Publication for Ordinance 2016-06.

Borough Clerk presented the affidavit of publication stating that said Ordinance 2016-06 has been published one time in the Home News Tribune according to Law on February 4, 2016.

Council President Grayzel moved that the affidavit of publication be received and filed, second by Councilwoman Rasmussen, with all favor, the motion carried, 5-0.

Council President Grayzel asked Borough Clerk to read Ordinance 2016-06 by title.

Borough Clerk read Ordinance 2016-06 by title only

Ordinance 2016-06	Ordinance Amending and Replacing Chapter 222 of the Code of the Borough of Metuchen, Entitled, "Noise"
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Mayor Cammarano opened the Public Hearing on Ordinance 2016-06.

Sheera Stern, 47 Newman Street, Metuchen, complained about the noise level of landscapers during the day while she works from home. She asked if this noise ordinance will put limits on the landscapers when using their equipment during the day.

Mr. Murphy explained the intent of this State model ordinance.

Councilwoman Inzerro stated that one of the reasons that this ordinance needs to be passed is so the County will come out and measure the noise level.

Mayor Cammarano said that during the day, residents will need to contact the Health Officer and during the night the Metuchen Police Department will still be the contact in the event of extreme noise.

Bill Allen, Kentner Street, Metuchen addressed the issue of the freight railroad noise that is happening at all hours of the night as trains are being pulled out of the yard. It sounds like they are connecting the trains correctly and that the engines are doing the breaking and not the breaks on the cars. He suggested instituting a quiet zone during the night hours.

Mayor Cammarano stated that this ordinance won't cover the railroad noise but that the Borough Council will entertain creating a quiet zone or doing whatever needs to be done to get the railroad to cooperate particularly on that spur.

A discussion ensued on the noise issues.

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

Council President Grayzel made a motion to pass Ordinance 2016-06 on second reading and be published according to law, second by Councilwoman Rasmussen.

Mayor Cammarano asked for a roll call vote.

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

Ordinance 2016-06 was adopted, 5-0

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
Time	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.

Communications Consent Agenda – Items A-B

Council President Grayzel made a motion to move Communication Consent Agenda, Items A-B, Councilwoman Rasmussen second the motion, with all in favor, motion carried, 5-0

- A. Receive and Accept TV & Technology Committee Minutes of December 2, 2015
- B. Receive and Accept Environmental Commission Minutes of November 18, 2015

Reports of Councilmembers

Mayor Cammarano opened Reports of Councilmembers.

Council President Grayzel –

- Metuchen Recreation Commission is hosting the 30th Annual Daddy Daughter Dance on March 18th, 6:30 PM at Pine Manor, Edison. Deadline to register is March 9th. Call Nancy Goldberg at 732-632-8502 to make reservations.
- The Schoolhouse Songwriter Series is Saturday, February 27th, 8PM at the Old Franklin Schoolhouse. Tickets are \$10.00 at the door.
- The Mud Making Magic sponsored by the Arts Council is picking up again for Phase 3 of the public art project. Starting in March, for three weekends in a row, Saturdays from 10:00 am to 12:00 pm and Sundays from 2:00 pm to 4:00 pm. Each tile ordered is \$25.00. Call Nancy Goldberg at 732-632-8502 for reservations.

Councilwoman Inzerro – has no report at this time

Councilman Muldoon – has no report at this time.

Councilwoman Rasmussen –

- Shade Tree Commission met and is discussing the locations for the spring plantings and is mainly filling homeowners' requests.
- They have also been discussing the trees on Main Street since some are looking bad. With the new Main Street initiative happening, the Shade Tree Commission is holding off to see what will happen with a Downtown Business Alliance and any potential grants.
- Development Commission continues to support the Downtown Business Alliance Initiative by working with the Blaustein School to develop an appropriate survey to see what businesses would be supported residents.
- Chamber of Commerce is making a great effort on recruiting new members. The Borough-wide spring garage sale is April 16th from 9 am to 4 pm. The cost is \$20.00. The annual golf outing is May 2 from 8 am to 3 pm. Cruise Night starts May 4th and continues on every first Wednesday of the month through September. The Spring Street Fair is May 22nd from 11 am to 5 pm. The Halloween Parade is Oct. 23rd, Winter Festival Parade is Nov. 27th and the Tree Lighting Festival is Dec. 2nd. With so many great Chamber events, it is worth taking a family membership for \$75.00 and each new membership receives a \$20.00 Chamber gift certificate and participation in the garage sale free.
- Environmental Commission meets Wednesday night – 2/17.
- Green Team meets Monday night – 2/22.

Councilman Wallace –

- Traffic & Transportation Commission is working on the Street Smart Program.

Reports of Officers

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

Jennifer Maier, Administrator –

- She had a meeting with RBA. They have been brought in by NJDOT because of the grant received for implementation of Complete Street program. RBA submitted their proposal to NJDOT who will be paying them for helping Metuchen with technical assistance with the grant. The Complete Streets grant is to make sure that the sidewalks are accessible and safe to the residents and students.
- The awarded grant for \$25,000 for Food Waste Recycling will bring many benefits to Metuchen with recycling. It will reduce the gases released from the landfill and extend the life of a landfill. She is asking the residents to contact her directly with what they would like to see happen with this grant.

Report of Mayor

- Thanked the Chief of Police and Administrator for resolving the police car parking. The police cars are now parked in the lot with angled parking and this will free up the parking spaces in front of the building for residents to utilize to do business in Borough Hall.
- The Fire Department assisted with the Hillsborough Fire. They were there for 9.5 hours and had to go back to retrieve their hose which froze to the ground.

- The Girls Swim Team won the Central Jersey sectional competition. Unfortunately they lost in the State finals to Mountain Lakes. They had a great season and it is a great accomplishment to get as far as they did. Congratulations to the Girls.

New Business – Resolutions 2016-55 through 2016-59

Council President Grayzel moved New Business Consent Agenda – Resolutions 2016-55 through 2016-59 for approval, second by Councilwoman Rasmussen, with all in favor, motion carried, 5-0

RESOLUTION 2016-55

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

RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR MUNICIPAL PROSECUTOR SERVICES TO DONOVAN BEZER

WHEREAS, there existed a need for the services of a Municipal Prosecutor to be performed for the Borough of Metuchen in the County of Middlesex for 2016; and

WHEREAS, said services are of the nature of a professional service pursuant to N.J.S.A. 40A:11-5(1)(a)(i), and, therefore, a contract for the services may be negotiated and awarded by the Borough without public advertising for bids and bidding therefore; and

WHEREAS, said services are of the type contemplated by the New Jersey Local Unit Pay-To-Play Law (N.J.S.A. 19:44A-20.4, et. seq.), and, therefore, a contract for the services may be awarded pursuant to a “fair and open” or “non-fair and open” process, both of which are defined in the law; and

WHEREAS, the Borough determined that it was in its best interests to proceed in a fair and open manner to obtain said services through the public advertising of a Request for Qualifications (the "RFQ"); and

WHEREAS, a RFQ was published and the Borough received a response from Donovan Bezer on or about December 16, 2015; and

WHEREAS, the Borough Administrator, the Mayor and Council reviewed the qualifications and proposal submitted by Donovan Bezer in response to the RFQ and determined that Donovan Bezer was qualified to serve as the Municipal Prosecutor for the Borough of Metuchen for 2016 at an annual cost not to exceed \$20,000.00; and

WHEREAS, by way of Resolution 2016-32, the Mayor and Council of the Borough of Metuchen appointed Donovan Bezer as Municipal Prosecutor for the Borough of Metuchen for 2016; and

WHEREAS, Donovan Bezer has requested that the Borough enter into a professional services agreement in lieu of payment as an employee under the Borough’s Salary Ordinance; and

WHEREAS, by way of Ordinance No. 2016-2, the Mayor and Borough Council removed the position of Municipal Prosecutor from the Borough’s Salary Ordinance; and

WHEREAS, funds will be made available for this purpose in the 2016 Budget and in the meantime have been made available by temporary appropriation resolution as provided for by N.J.S.A. 40A:4-19.

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

1. Donovan Bezer, an Attorney-at-Law of the State of New Jersey (a person authorized by law to practice a recognized profession), having his law offices at 7 Park Street, Suite 203, Montclair, NJ 07042 is hereby awarded a professional services contract to serve as Municipal Prosecutor for the Borough of Metuchen for 2016 and to perform such duties and services as may be required of a Municipal Prosecutor at an annual cost not to exceed \$20,000.00.
2. The Mayor and Borough Clerk are hereby authorized and directed to execute an agreement with Donovan Bezer, 7 Park Street, Suite 203, Montclair, NJ 07042 to render the services of Municipal Prosecutor for the Borough of Metuchen for 2016 at an annual cost not to exceed \$20,000.00.
3. This contract is awarded as a fair and open "Professional Service" in accordance with *N.J.S.A. 19:44A-20.4*.
4. A notice of this action shall be printed once in The Home News Tribune.

RESOLUTION-56

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

**RESOLUTION REFUNDING SIDEWALK ESCROW FEE #15-042
1 HIGHLAND AVENUE**

WHEREAS, Highland Main Acquisition LLC posted \$550.00 for sidewalk escrow fees at 1 Highland Avenue; and

WHEREAS, the Planning Board Secretary has requested that the escrow fees be refunded to Highland Main Acquisition LLC,

NOW, THEREFORE, BE IT RESOLVED, that Highland Main Acquisition LLC be refunded \$550.00 from the Sidewalk Inspection Escrow account.

RESOLUTION 2016-57

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

**RESOLUTION AUTHORIZING REAPPLYING 2012 TAX OVERPAYMENT –
BLOCK 170 LOT 12**

WHEREAS, a successful county tax board appeal was granted in 2012 reducing the assessment on Block 170 Lot 12 in the amount of \$19,600, and

WHEREAS, an overpayment of taxes exists on the Block 170 Lot 12 in the amount of \$1,028.02 since the mortgage service company paid the original amount of taxes billed for quarter 4, 2012 in the amount of \$2,286.33,

WHEREAS, the overpayment of 2012 taxes will be applied to the open tax balance for quarter 4, 2015 in the amount of \$1,082.02,

NOW, THEREFORE, BE IT RESOLVED, that the 2012 overpayment of property taxes for Block 170 Lot 12 in the amount of \$1,082.02 be applied to the open tax balance for quarter 4, 2015 for the same parcel

RESOLUTION 2016-58

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

**RESOLUTION AUTHORIZING TO REAPPLY 2015 TAX OVERPAYMENT –
BLOCK 179 LOT 49**

WHEREAS, a veteran's deduction of \$250.00 was granted in 2015 reducing the 2015 taxes on Block 179 Lot 49, and,

WHEREAS, an overpayment of taxes exists on the Block 179 Lot 49 in the amount of \$250.00,

NOW, THEREFORE, BE IT RESOLVED, that the 2015 overpayment of property taxes for Block 179 Lot 49 in the amount of \$250.00 be applied to the open tax balance for quarter 2, 2016.

RESOLUTION 2016-59

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

**RESOLUTION AUTHORIZING TO REAPPLY 2015 TAX OVERPAYMENT –
BLOCK 154.1 LOT 56**

WHEREAS, a veteran's deduction of \$250.00 was granted in 2015 reducing the 2015 taxes on Block 154.1 Lot 56, and,

WHEREAS, an overpayment of taxes exists on the Block 154.1 Lot 56 in the amount of \$250.00,

NOW, THEREFORE, BE IT RESOLVED, that the 2015 overpayment of property taxes for Block 154.1 Lot 56 in the amount of \$250.00 be applied to the open tax balance for quarter 2, 2016.

Other New Business

Council President Grayzel made a motion to approve R2016-60; authorizing the Payment of the Bill List in the amount of \$5,217,688.31, second by Councilwoman Rasmussen, with all in favor, motion carried, 5-0.

RESOLUTION 2016-60

*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 **\$5,217,688.31**

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 appointed Lynn Nowak to the Planning Board as Alternate II with a term expiring on December 31, 2016.

Public Session

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

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

Adjournment

Council President Grayzel made a motion to adjourn the meeting, second by Councilwoman Rasmussen, with all in favor; the meeting was adjourned at 8:27 PM, 5-0.

Respectfully Submitted,

Susan D. Jackson, RMC
Metuchen Borough Clerk