

Minutes of the Regular Meeting of the Mayor and Council held on Monday, May 5, 2014 at 8:00 p.m. at the Upper Saddle River Borough Hall.

Moment of Silence and Pledge of Allegiance was led by Mayor Minichetti.

Pursuant to the Open Sunshine Act P.L. 1975, Chapter 231, proper notice of this meeting has been provided by submitting appropriate notice to The Ridgewood News and The Record by fax, mail and publication on April 17, 2014 in which the time, place and purpose of the meeting was set forth.

Mayor Minichetti read the following Proclamation:

WHEREAS, on March 9, 2005 the Borough of Upper Saddle River engaged the legal services of Burke, Miele & Golden, LLP to address concerns regarding a project proposed for the Hillside Avenue area; and

WHEREAS, on March 6, 2006, a Notice of Intent to sue Rockland County Sewer District No. 1 for illegal and unpermitted discharges into the Saddle River in violation of the Clean Water Act was filed by Burke, Miele & Golden, LLP; and

WHEREAS, Councilman Roger DeBerardine a knowledgeable attorney and community leader, had first recommended the firm of Burke, Miele & Golden based on his professional knowledge; and

WHEREAS, Councilman DeBerardine voluntarily reviewed volumes of Court proceedings and testimony and was invaluable in keeping the Governing Body apprised of all legal proceedings; and

WHEREAS, when the costs of the ongoing litigation became worrisome, in April, 2013, Councilman DeBerardine individually successfully negotiated with Burke, Miele & Golden to reduce their legal fees by 50% which resulted in lessening the financial burden on Upper Saddle River; and

WHEREAS, after seven long years of litigation, a Summary Judgment decision found Rockland County Sewer District No.1 liable for the sanitary sewer overflows into the Saddle River and allowed for civil penalties for each spill;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council hereby acknowledges that Councilman DeBerardine's perseverance and fervent role was instrumental in allowing the public to be a significant part of this vital and major issue; and

BE IT FURTHER RESOLVED, that on behalf of the Governing Body and the residents of Upper Saddle River, we extend our sincere appreciation to Councilman Roger DeBerardine for his energy and determination in order to protect our community, environment and quality of life.

RULE 1. Roll Call:

Mayor	Joanne L. Minichetti	Present
Councilman	Roger DeBerardine	Present
Councilman	Steven DiMartino	Present
Councilman	Jonathan Ditkoff	Present
Councilman	Vincent M. Durante	Present
Councilwoman	Joanne Florio	Present
Councilman	Thomas Hafner	Present

RULE 2. Minutes of Executive, Closed and Regular Meetings of April 3, 2014 were delivered to all members of the governing body and posted on the bulletin board and were unanimously approved following a motion by Councilman Durante, seconded by Councilman DiMartino.

RULE 3. Borough Clerk's Report:

The Borough Clerk's office received the following fees for the month of April, 2014 and deposited them with the Collector/Treasurer:

Landscape permits	\$130.00
Copies	10.50
Peddlers License	10.00
Garage Sales	<u>10.00</u>
Total	\$160.50

The Borough Clerk's office issued 31 dog licenses for the month of April. \$37.20 was forwarded to the NJ Department of Health for the Pilot Clinic and Animal Control Fund.

Proofs of publication were received for the following:

- 1) Introduction of Ord. #1-14 - Prohibited Acts.
- 2) Introduction of Ord. #2-14 - Parks & Playgrounds.

Police: Report for the month of April was received and filed.

DPW: Report for the month of April was received and filed.

Fire Dept: Report for the month of April was received and filed.

Library: Report for the month of April was received and filed.

Historic Preservation Commission: Minutes of April 14, 2014 were received and filed.

Borough Official's Report:

Construction Code Official: Report for the month of April was received and filed.

Other Boards & Commissions:

Municipal Court: Report for the months of March and April were received and filed.

RULE 4. Communications, Petitions & Bills:

Letter from Saddle River Valley Lions Club thanking Mayor and Council for issuing the proclamation recognizing their charitable donations.

2014-1025 Municipal Percentage Shares for Northern Highlands High School. Public hearing notice from NWBCUA re connection fee for 2014 and Minutes of March 18, 2014.

Public hearing notice from Rockland Electric Co. regarding rate increase.

Public hearing notice from PSE&G regarding rate adjustment.

Ord. #14-07 and #14-08 from Borough of Allendale re zoning districts.

Resolutions from Hillsdale, Lyndhurst, and Saddle Brook.

A motion by Councilman DeBerardine, seconded by Councilman DiMartino to pay bills in the amount of \$5,097,720.69 was unanimously approved by all Council members present. Mayor Minichetti declared bills approved for payment and ordered checks drawn.

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None. Motion approved.

RULE 5. Unfinished Business:

Councilman Durante read for the second time (Ord. #3-14)

"AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A.40A:4-45)".

Mayor Minichetti opened the public hearing; there being no comments, hearing was closed.

Resolution by Councilman Durante, seconded by Councilman DeBerardine:

"AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A.40A:4-45)" was introduced at a Regular meeting of the Mayor and Council on April 3, 2014 and passed its first reading. After public hearing held on May 5, 2014, it passed its second and final reading and was duly adopted by the Council and approved by the Mayor and shall take effect when published according to law.

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None. Resolution approved.

Councilman DeBerardine read for the second time (Ord. #4-14)

"AN ORDINANCE TO VACATE AND EXTINGUISH THE PUBLIC RIGHT IN AND TO A PORTION OF THOSE LANDS COMPRISING WHAT IS KNOWN AS "DEER HORN TRAIL" AS THE SAME ARE MORE PARTICULARLY DESCRIBED HEREIN".

Mayor Minichetti opened the public hearing; there being no comments, hearing was closed.

Resolution by Councilman DeBerardine, seconded by Councilwoman Florio:

"AN ORDINANCE TO VACATE AND EXTINGUISH THE PUBLIC RIGHT IN AND TO A PORTION OF THOSE LANDS COMPRISING WHAT IS KNOWN AS "DEER HORN TRAIL" AS THE SAME ARE MORE PARTICULARLY DESCRIBED HEREIN" was introduced at a Regular meeting of the Mayor and Council on April 3, 2014 and passed its first reading. After public hearing held on May 5, 2014, it passed its second and final reading and was duly adopted by the Council and approved by the Mayor and shall take effect when published according to law.

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None. Resolution approved.

Councilman DiMartino read for the second time (Res. #49-14)

"MUNICIPAL BUDGET OF THE BOROUGH OF UPPER SADDLE RIVER, COUNTY OF BERGEN, NEW JERSEY FOR THE FISCAL YEAR 2014".

Mayor Minichetti opened the public hearing.

In response to questions by Mr. Dieter Neuber, 169 Lake Street, CFO Gene Leporiere explained that the line item for Uncompensated Absences is a liability item and not an amount that is included in the annual budget. He noted it is an estimated amount for when a retirement occurs. In regard to the school budget, Mr. Neuber was informed that the Board of Education is solely responsible for their budget.

Mr. John Giudice, 22 Ripplewood Drive, questioned the \$40,000 listed for Capital Improvements. Mr. Leporiere explained the \$40,000 is the required 5% down payment on Capital Improvements. Mr. Leporiere noted the road resurfacing program is budgeted at \$420,000, \$117,000 is for police department equipment, \$100,000 is for fire department equipment, the Finance Department is budgeted at \$13,000 and \$50,000 is to update the police communication system; resulting in a total amount of \$700,000 for capital improvement. Mr. Leporiere explained a payment of \$1,200,000 reduced the Borough's debt by half.

In response to Mr. Giudice's question regarding fire hydrants, Councilman Durante said we are waiting for the Engineer to submit an estimate of costs and how to faze in the possibility of installing fire hydrants.

Resolution by Councilman DiMartino, seconded by Councilman Durante:

BE IT RESOLVED that the following statements of revenues and appropriations constitutes the Municipal Budget of the Borough of Upper Saddle River for the year 2014;

BE IT FURTHER RESOLVED that said budget was published in the April 21, 2014 issue of The Record.

The Governing body of the Borough of Upper Saddle River does hereby approve the Municipal Budget for the year 2014 in the amount of \$12,169,495.40.

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None. Resolution approved.

RULE 6. New Business:

CONSENT AGENDA: All items listed with an asterisk (*) are considered to be routine and non-controversial by the Council and shall be so approved. There will be no separate discussion of these items unless a Council member or citizen so requests, in which case the item will be considered in its normal sequence.

A motion to approve Consent Agenda by Councilman Hafner, seconded by Councilman Ditkoff was unanimously approved by all Council members present.

Roll Call: Ayes: Council members DeBerardine, DiMartino, Ditkoff, Durante, Florio, Hafner. Nays: None. Resolution approved.

*Resolution #50-14

WHEREAS, on February 6, 2014, the Borough of Upper Saddle River entered into a contract with Ascape Landscape & Construction Corp., 634 Route 303, Blauvelt, New York 10913, for construction of a Gabion Wall at Possum Trail in the amount of \$57,800.00; and

WHEREAS, on February 19, 2014, a Performance Bond in the amount of \$57,800.00 was submitted to the Borough of Upper Saddle River; and

WHEREAS, Engineer Christopher Statile has recommended the release of the above-mentioned Performance Bond, subject to the posting of a 2 year Maintenance Bond in the amount of \$55,300.00;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Upper Saddle River hereby approves the release of the above-mentioned Performance Bond, subject to the posting of a two (2) year Maintenance Bond in the amount of \$55,300.00, as per Engineer's recommendation.

*Resolution #51-14

WHEREAS, the Borough of Upper Saddle River requires public health services for the year 2014; and

WHEREAS, it is contemplated that the 2014 budget will contain the necessary appropriations estimated to be reasonable required for such services; and

WHEREAS, the Borough of Upper Saddle River requires the resolution authorizing the award of contract for "Professional Services" without competitive bids must be publicly advertised;

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Upper Saddle River as follows:

1) The Mayor and Council do hereby engage the services of:

Northwest Bergen Regional Health Commission
20 West Prospect Street
Waldwick, New Jersey 07463

All to serve at the pleasure of the Council at a cost of \$30,291.59, effective January 1, 2014 to August 15, 2014.

2) The engagement of such services is made without competitive bidding under the provisions of N.J.S.A.40A:11-51 which excepts from competitive bidding "Professional Services" rendered by persons authorized by law to practice a recognized profession.

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk be and are hereby authorized to execute a contract for such services.

*Resolution #52-14

WHEREAS, the Borough of Upper Saddle River has previously entered into a contract with Ascape Landscape & Construction Corp., 634 Route 303, Blaauvelt, New York 10913, in connection with the Possum Trail, Gabion Wall project; and

WHEREAS, Change Order #1 has been submitted which indicate a decrease in supplemental construction; and

WHEREAS, Change Order #1 has been filed with the Governing Body detailing the aforementioned facts and indicating that the proposed Change Order may be permitted pursuant to applicable rules.

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

1. The Governing Body does hereby determine that this Change Order is necessary and that it is in compliance with the provisions set forth in N.J.A.C. 5:34-4.4.
2. The foregoing Change Order constitutes a modification to effect economics and will decrease the contract by \$2,300.00 and is in accordance with the provisions of N.J.A.C. 5:34-4.7.

BE IT FURTHER RESOLVED that the aforementioned Change Order #1 be and is hereby approved for the work described in the Change Order, decreasing the contract price with Ascape Landscape & Construction Corp. by \$2,300.00.

*Resolution #53-14

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled. "Min Lin v. Borough of Upper Saddle River", Docket Nos.004823-2012, 002194-2013 and 001138-2014, which matters involve

appeals of the assessment on certain premises known as Block 601, Lot 13.01 and being more commonly known as 2 Sandstone Lane, for the 2012, 2013 and 2014 tax years; and

WHEREAS, the parcel is assess for the 2012, 2013 and 2014 tax years at \$1,626,800; and

WHEREAS, said appeals were filed to contest the assessment on the property for the 2012, 2013 and 2014 tax years.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that it does hereby authorize settlement of the above-captioned appeals based upon the following terms and conditions:

1. The Stipulation of Settlement shall provide that the appeal filed for the 2012 tax year shall be withdrawn.

2. The Stipulation of Settlement shall provide that the assessment for the 2013 and 2014 tax years on said parcel shall be established at \$1,500,000.

3. Plaintiff agrees to waive interest due on the refund in connection with this settlement. In addition, any refund due the property owner shall be payable in the form of a cash refund or credit against future taxes due for the first quarter following the entry of judgment, at the option of the Borough.

BE IT FURTHER RESOLVED that the Borough attorney, Robert T, Regan, Esq. be and is hereby authorized and directed to execute any and all documents necessary to effectuate the terms of the within settlement.

*Resolution #54-14

WHEREAS, the Borough of Upper Saddle River advertised that sealed proposals would be received on April 29, 2014 for the 2014 Turf Program for Lions Park, Hess Court Park and Liberty Park; and

WHEREAS, in response to said advertisement for proposals, a bid was submitted by Perennial Services LLC, P.O. Box 463, Wyckoff, NJ 07482 in the amount of \$28,980; and

WHEREAS, the submission has been reviewed and found to be in conformance with the specifications;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that it does hereby award a contract to Perennial Services LLC, P.O. Box 463, Wyckoff, NJ 07482 for the 2014 Turf Program for Lions Park, Hess Court Park and Liberty Park in the amount of \$28,980;

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk be and are hereby authorized to execute a contract for the aforesaid service after same has been prepared by the Borough Attorney.

*Resolution #55-14

WHEREAS, Bergen Highlands United Methodist Church, 318 West Saddle River Road, Upper Saddle River, New Jersey, has approved tenancy for The Coptic Orthodox Church to occupy the Chapel on the Hill, 305 West Saddle River Road, Upper Saddle River, New Jersey; and

WHEREAS, Bergen Highlands United Methodist Church has requested a waiver of the \$100 change of tenancy inspection fee; and

WHEREAS, Bergen Highlands United Methodist Church and The Coptic Orthodox Church are non-profit religious organizations;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Upper Saddle River does hereby approve waiving the \$100 change of tenancy fee.

RULE 7. Public Comments:

Mr. Greg Erstling, 31 Lake Road, said a drainage problem has existed for many years due to the incorrect flow of water into a drainage pipe. He submitted photos and described the flow of water coming from Hampshire Hill to Lake Road which then overflows the storm drain. Mr. Erstling feels the drainage problem could be alleviated by replacing the existing double pipe with a 15" wide single pipe. Mayor Minichetti pointed out that a number of site inspections have been made by the Engineer and DPW and that DEP approval is required prior to any work being done. She said we will follow up with our current Engineer.

Mr. Jeff Adams, 43 Lilline Lane, thanked the Council for their diligence and congratulated them on the favorable decision in the Clean Water Act litigation.

Mr. Seth Klein, 23 Mettowee Farms Road, said the Engineer advised that a Hold Harmless Agreement is required due to a fence that was installed over an easement on his property. Mr. Regan said the site plan does not depict the drainage easement and suggested Mr. Klein obtain a copy of the Title report which may have addressed the easement.

RULE 8. Adjournment:

A motion to adjourn by Councilman Durante, seconded by Councilman DeBerardine was unanimously approved by all Council members present.
(Meeting adjourned at 8:40 p.m.)

Respectfully submitted,

Rose Vido, RMC
Borough Clerk

