

Minutes of the Regular Meeting of the Mayor and Council held on Monday, April 7, 2016 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 on December 18, 2015 in which the time, place and purpose of the meeting was set forth.

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	Absent

RULE 2. Minutes of Executive, Closed and Regular Meetings of March 7, 2016 were delivered to all members of the governing body and posted on the bulletin board and were unanimously approved following a motion by Councilwoman Florio, seconded by Councilman Durante.

RULE 3. Borough Clerk's Report:

The Borough Clerk's office received the following fees for the months of March, 2016 and deposited them with the Collector/Treasurer:

Landscape Permit	\$ 185.00
Garage Sale	2.00
Copies	<u>1.32</u>
Total	\$ 188.32

The Borough Clerk's office issued 20 licenses for the month of March. \$30.00 was forwarded to the NJ Department of Health for the Pilot Clinic and Animal Control Fund.

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

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

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

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

Borough Official's Report:

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

Other Boards & Commissions:

Municipal Court: Report for the month of March was received and filed.

RULE 4. Communications, Petitions & Bills:

Public hearing notice from BCUA re Amendment to Bergen County District Solid Waste Management Plan, Minutes of February 16, 2016.

Resolutions from Ho-Ho-Kus, North Arlington, Franklin Lakes, Maywood, Hasbrouck Heights, Norwood, Midland Park, Little Ferry, New Milford, Hackensack, Oradell, Montvale, Bd. Of Chosen Freeholders.

Councilman DeBerardine presented bills in the amount of \$4,753,267.03:

A motion by Councilman DeBerardine, seconded by Councilman DiMartino to pay bills in the amount of \$4,753,267.03 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. Nays: None.

RULE 5. Unfinished Business: None.

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 Ditkoff, seconded by Councilman DiMartino was unanimously approved by all Council members present.

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

*(Ord. #2-16)"AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (NJSA 40A:4-45.14) FOR THE CALENDAR YEAR 2016" was introduced at a Mayor and Council meeting on April 7, 2016 and passed its first reading and will be considered for final passage at a meeting of the said Mayor and Council to be held on May 5, 2016 at 8:00 PM at the Borough Hall, Upper Saddle River, NJ, at which time and place all persons interested will be given an opportunity to be heard concerning same.

*(Ord. #3-16)BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY, NEW COMMUNICATION AND SIGNAL SYSTEMS EQUIPMENT AND NEW AUTOMOTIVE VEHICLES AND A NEW FIRE ENGINE, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE BOROUGH OF UPPER SADDLE RIVER, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$3,695,887 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF

SUCH BONDS" was introduced at a Mayor and Council meeting on April 7, 2016 and passed its first reading and will be considered for final passage at a meeting of the said Mayor and Council to be held on May 5, 2016 at 8:00 PM at the Borough Hall, Upper Saddle River, NJ, at which time and place all persons interested will be given an opportunity to be heard concerning same.

*Resolution #54-16

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination, and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997, and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 thru 7.5 the Borough of Upper Saddle River has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the Borough meets the necessary conditions to participate in the program for the 2016 budget year, so now therefore;

BE IT RESOLVED, by the Borough Council of the Borough of Upper Saddle River that in accordance with N.J.A.C. 5:30-7.6a & b and based upon the Chief Financial Officer's certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items
 - f. Any inclusions of amounts required for school purposes
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A.40A:4-45.3 et seq. are fully met (Complies with the "CAP" law.)
3. That the budget is in such form, arrangement, and content as required by Local Budget Law and N.J.A.C.5:30-4 and N.J.A.C.5:30-5.
4. That pursuant to the Local Budget Law:
 - a. All estimates of revenue are reasonable, accurate, and correctly stated.
 - b. Items of appropriation are properly set forth.
 - c. In itemization, form, arrangement, and content the budget will permit the exercise of the comptroller function within the municipality.

5. The budget and associated amendments have been introduced, publicly advertised, and in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-45.3 et.seq. shall not prevent such certification.

6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED, THAT A COPY OF THIS RESOLUTION BE FORWARDED TO THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES.

Certification of Approved Budget:

It is hereby certified that the Approved Budget complies with the requirements of law and approval is given pursuant to N.J.S.A. 40A:4-78(b) and N.J.A.C. 5:30-7.

It is further certified that the municipality has met the eligibility requirements of N.J.A.C. 5:30-7.4 and 7.5, and that I, as Chief Financial Officer, have completed the local examination in compliance with N.J.A.C. 5:30-7.6.

Dated: April 7 , 2016 By: Gene Leporiere, Chief Financial Officer

This certification form and resolution of the governing body executing such certification should be annexed to the adopted budget (N.J.A.C. 5:30 7.6(e))

*Resolution #56-16

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, "Dorothy Altman, Trustee v. Borough of Upper Saddle River", Docket Nos. 003378-2014, 004342-2015 and 001256-2016, which matters involve appeals of the assessment on certain premises known as Block 810, Lot 11.04 and being more commonly known as 10 Strawberry Lane, for the 2014, 2015 and 2016 tax years; and

WHEREAS, the parcel is assessed for the 2014, 2015 and 2016 tax years at \$1,120,200.00; and

WHEREAS, said appeals were filed to contest the assessment on the property for the 2014, 2015 and 2016 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 assessment for the 2014 tax year on said parcel shall remain at \$1,120,200.00.

2. The Stipulation of Settlement shall provide that the assessment for the 2015 tax year on said parcel shall be established at \$850,000.00.

3. The Stipulation of Settlement shall provide that the assessment for the 2016 tax year on said parcel shall be established at \$825,000.00.

4. Plaintiffs agree to waive interest due on the refund in connection with this settlement. In addition, any refund due the property owners 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 #57-16

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, "Parminder and Thaper, Manpreet S. Kaur v. Borough of Upper Saddle River", Docket Nos. 007150-2015 and 001258-2016, which matters involve appeals of the assessment on certain premises known as Block 704, Lot 1.02 and being more commonly known as 5 Emerald Woods Court, for the 2015 and 2016 tax years; and

WHEREAS, the parcel is assessed for the 2015 tax year at \$1,191,400.00 and for the 2016 tax year at \$1,221,400.00; and

WHEREAS, said appeals were filed to contest the assessment on the property for the 2015 and 2016 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 assessment for the 2015 tax year on said parcel shall remain at \$1,191,400.00.

2. The Stipulation of Settlement shall provide that the assessment for the 2016 tax year on said parcel shall be established at \$1,100,000.00.

3. Plaintiffs agree to waive interest due on the refund in connection with this settlement. In addition, any refund due the property owners 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 #58-16

WHEREAS, the Borough of Upper Saddle River is the owner of a certain piece of surplus property which is no longer needed for public use; and

WHEREAS, the Mayor and Council are desirous of selling said property in an "as is" condition without express or implied warranties;

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

1. The sale of the property shall be conducted by GovDeals pursuant to New Jersey State Contract A-709667/T2581 in accordance with the terms and conditions of the State Contract. The terms and conditions of the agreement entered into with GovDeals is available online at govdeals.com and the State of New Jersey.
2. The sale will be conducted online and the address of the auction site is govdeals.com.
3. The sale is being conducted pursuant to Local Finance Notice 2008-9.
4. A list of the property to be sold is attached hereto.
5. The property as identified shall be sold in "as is" condition without express or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said property.
6. The Borough of Upper Saddle River reserves the right to accept or reject any bid submitted.

*Resolution #59-16

WHEREAS, the Borough of Upper Saddle River advertised that sealed proposals would be received on March 31, 2016 for the 2016 Road Improvement/Sparrowbush Road Improvement project; and

WHEREAS, in response to said advertisement for proposals, a bid submitted by D&L Paving Contractors, Inc., 681 Franklin Avenue, Nutley, New Jersey 07110, was the lowest responsible bidder in the amount of \$1,100,741.69; 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 D&L Paving Contractors, Inc., 681 Franklin Avenue, Nutley, New Jersey 07110, for the 2016 Road Improvement/Sparrowbush Road Improvement project in the amount of \$1,100,741.69;

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 #60-16

BE IT RESOLVED, the Mayor and Council of the Borough of Upper Saddle River, County of Bergen, State of New Jersey, hereby appoints Steven Forbes to serve as Deputy Zoning/ Code Enforcement Officer, and

BE IT FURTHER RESOLVED the Deputy Zoning/Code Enforcement Officer shall serve from February 1, 2016 to December 31, 2016.

*Resolution #61-16

BE IT RESOLVED, the Mayor and Council of the Borough of Upper Saddle River, County of Bergen, State of New Jersey, hereby appoints the firm of Boswell Engineering, 330 Phillips Avenue, South Hackensack, NJ to serve as Zoning Code Official; and

BE IT FURTHER RESOLVED the Zoning Code Official shall serve from January 1, 2016 to December 31, 2016.

*Resolution #63-16

WHEREAS, N.J.S.A.40A:4-19 provides that, where any contract, commitments or payments are to be made prior to the final adoption of the 2016 budget, temporary appropriations should be made for the purpose and the amounts required in the manner and time therein provided; and

WHEREAS, the total appropriation in the 2015 budget, exclusive of any appropriations made for interest and debt redemption charges, capital improvements fund and public assistance in said budget, is the sum of \$10,824,831.15; and

WHEREAS. One quarter of the appropriations in the 2015 budget, exclusive of any appropriations made for interest and debt redemption charges, capital improvements fund and public assistance in said budget, is the sum \$2,706,207.79.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Upper Saddle River in the County of Bergen and State of New Jersey that the following appropriations be made and that a certified copy of this resolution be transmitted to the Chief Financial Officer for his records.

TEMPORARY APPROPRIATIONS 2016

Inside Cap Appropriations

Department

A&W, S&W	70,000	Ambulance, S&W	24,000
A&W,OE	12,000	Fire Prev., S&W	5,000
General	5,000	Shade Tree, S&W	1,000
Finance, S&W	15,000	Roads, S&W	140,000
Finance, OE	15,000	Roads, OE	80,000
Tax Collector, OE	500	Recycling, OE	15,000
Tax Assessor,S&W	20,000	Blood Borne Path.	800
Tax Assessor, OE	1,200	Sr. Citizens Cont.	800
Legal, S&W	8,000	Recreation, S&W	12,000
Legal, OE	15,000	Recreation, OE	6,000
Engineering, OE	5,000	Utility	60,000
Planning, S&W	3,000	Solid Waste Coll.	25,000
Zoning Bd., S&W	1,000	Court, S&W	25,000
Bldg. Dept. S&W	50,000	Social Security	45,000

Police, S&W	500,000	DARE	2,500
Police, OE	20,000	Bond/Interest	46,000
Fire, OE	8,000		

Resolution #62-16 read by Borough Attorney Regan:

WHEREAS, there is presently pending in the Superior Court of New Jersey a matter entitled "Mack-Cali Realty, L.P. (hereinafter "plaintiff") v. Borough of Upper Saddle River, et al, Docket No. BER-L-9132-14"; and

WHEREAS, plaintiff has intervened in litigation in the Superior Court of New Jersey entitled, "In the Matter of the Application of the Borough of Upper Saddle River, Docket No. BER-L-6121-15"; and

WHEREAS, THERE IS PRESENTLY PENDING IN THE United States District Court For the District of New Jersey a matter entitled, "Mack-Cali Realty, L.P., et als v. Borough of Upper Saddle River, Bergen County, New Jersey and Mayor and Borough Council of the Borough of Upper Saddle River, Docket No. 2:15-cv-08347; and

WHEREAS, the aforesaid cases are collectively referred to herein a "the litigation", and

WHEREAS, a Settlement Agreement has been negotiated between the Borough and plaintiff; and

WHEREAS, the Borough has been represented in the negotiation proceedings by retired Superior Court Judge John S. Conte, Borough Attorney Robert T. Regan, Borough Engineer Kevin Boswell, Borough Planner Joseph Burgis and Borough Administrator Theodore Preusch (hereinafter "the Borough Representatives"; and

WHEREAS, the Settlement Agreement establishes a process for a potential Master Plan Amendment, a potential rezoning of plaintiff's property known as Block 601, Lot 1 (hereinafter "the property", and the possible development of 38.65 acres of the property for a residential development and the conveyance to the Borough of nine (9) acres for municipal purposes; and

WHEREAS, the Borough Representatives have recommended the within Settlement Agreement to the Mayor and Council; and

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council does hereby approve the Settlement Agreement; an

BE IT FURTHER RESOLVED that the President of the Borough Council, or other official designated by the Borough Council, together with Borough Clerk Rose Vido be and are hereby authorized to execute the Settlement Agreement.

Motion to approve Resolution #62-16 by Councilman Durante, seconded by Councilman Ditkoff:

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

RULE 7. Public Comments:

Ms. Rose DeBerardine, 49 Clover Lane, said the Pearson Education property once covered in trees, went from residential to commercial property. She expressed concern regarding the fact that most of the town gets their water from wells and asked that the public be kept informed. Mr. Regan pointed out that the public will have ample opportunity to be heard as there will be multiple public hearings, at least 12, when the application is before the Planning Board. He explained that all of the units, even the affordable housing units will be for sale and not rentals and that the number of affordable housing units would more substantial if the decision is left up to the courts. Ms. DeBerardine noted that when Pinnacle was built it was to contain at least 14 affordable housing units but that didn't happen.

RULE 8. Adjournment:

A motion by Councilman DiMartino, seconded by Councilman Ditkoff to return to the Executive Session was unanimously approved by all Council members present. (Meeting adjourned at 8:25 p.m.)

Respectfully submitted,

Rose Vido, RMC
Borough Clerk

