

Minutes of the Regular Meeting of the Mayor and Council held on Thursday, August 3, 2017 at 8:00 p.m. at the Edith A. Bogert School, 391 W. Saddle River Road, Upper Saddle River, NJ.

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

Pursuant to the Open Sunshine Act P.L. 1975, c. 231, proper notice of this meeting has been provided by submitting appropriate notice to The Ridgewood News and The Record on December 15, 2016 by Fax and mail 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	Present

RULE 2. Minutes of Executive, Closed and Regular Meetings of July 6, 2017 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.

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

RULE 3. Borough Clerk's Report:

The Borough Clerk's office received the following fees for the month of July, 2017 and deposited them with the Collector/Treasurer:

Landscape Permits	\$ 40.00
Peddler's License	10.00
Garage Sales	10.00
Copies	1.15
Total	\$ 61.15

The Borough Clerk's office issued 3 licenses for the month of July. \$3.60 was forwarded to the NJ Department of Health for the Pilot Clinic and Animal Control Fund.

Proof of Publications were received from The Bergen Record for:

(1) Introduction of Ord. #10-17 Employee Compensation

Police: Report for the month July was received and filed.

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

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

RULE 4. Communications, Petitions & Bills:

Ramsey Planning Board notice of hearing re Porcelanosa site.

NJS League of Municipalities annual financial activities 7/1/16-6/30/17.

NWBUA Minutes of June 20, 2017.

Resolutions from New Milford, Moonachie.

Councilman DeBerardine presented bills in the amount of \$3,532,243.25.

A motion by Councilman DeBerardine, seconded by DiMartino to pay bills in the amount of \$3,532,243.25 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.

RULE 5. Unfinished Business:

Councilman Durante read for the second time: (Ord. #10-17)

"AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED 'AN ORDINANCE RELATING TO THE COMPENSATION OF CERTAIN OFFICERS AND EMPLOYEES OF THE BOROUGH OF UPPER SADDLE RIVER, COUNTY OF BERGEN, STATE OF NEW JERSEY, adopted August 4, 2016".

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

Resolution by Councilman Durante, seconded by Councilman Ditkoff:

"AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED 'AN ORDINANCE RELATING TO THE COMPENSATION OF CERTAIN OFFICERS AND EMPLOYEES OF THE BOROUGH OF UPPER SADDLE RIVER, COUNTY OF BERGEN, STATE OF NEW JERSEY, adopted August 4, 2016" was introduced at a Regular meeting of the Mayor and Council on July 6, 2017 and passed its first reading. After public hearing held on August 3, 2017 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.

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 Councilwoman Florio was unanimously approved by all Council members present.

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

\*Motion to hire Jeff Smyrychynski, Finance Dept. as of 7/3/17.

\*Resolution #80-17

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF UPPER SADDLE RIVER, IN THE COUNTY OF BERGEN, NEW JERSEY, DESIGNATING A \$945,250 BOND ANTICIPATION NOTE, DATED JULY 14, 2017, PAYABLE FEBRUARY 16, 2018, AS A "QUALIFIED TAX-EXEMPT OBLIGATION" PURSUANT TO SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

WHEREAS, the Borough of Upper Saddle River, in the County of Bergen, New Jersey (the "Borough") desires to designate a \$945,250 Bond Anticipation Note, dated July 14, 2017, payable February 16, 2018 (the "Note"), as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code");

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Upper Saddle River, in the County of Bergen, New Jersey, as follows:

SECTION 1. The Note is hereby designated as a "qualified tax-exempt obligation" for the purpose of Section 265(b)(3) of the Code.

SECTION 2. It is hereby determined and stated that (1) said Note is not a "private activity bond" as defined in the Code and (2) the Borough and its subordinate entities, if any, do not reasonably anticipate issuing in excess of \$10 million of new money tax-exempt obligations (other than private activity bonds) during the calendar year 2017.

SECTION 3. It is further determined and stated that the Borough has, as of the date hereof, issued the following tax-exempt obligations (other than the Note) during the calendar year 2017:

<u>AMOUNT</u>	<u>DATED - DUE</u>
\$7,643,953 BAN	2/17/17 - 2/16/18

SECTION 4. The Borough will, to the best of its ability, attempt to comply with respect to the limitations on issuance of tax-exempt obligations pursuant to Section 265(b)(3) of the Code; however, said Borough does not covenant to do so, and hereby expressly states that a covenant is not made hereby.

SECTION 5. The issuing officers of the Borough are hereby authorized to deliver a certified copy of this resolution to the original purchaser of the Note and to further provide such original purchaser with

a certificate of obligations issued during the calendar year 2017 dated as of the date of delivery of the Note.

SECTION 6. This resolution shall take effect immediately upon its adoption.

\*Motion to appoint Nicholas Dispoto, David Mende and Jacob Schreck part-time Police Dept. dispatchers as of 7/28/17.

Councilman Ditkoff read for the first time: (Ord. #11-17)

"AN ORDINANCE TO AMEND CHAPTER 92 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED NOISE".

Resolution by Councilman Ditkoff, seconded by Councilman Durante:

"AN ORDINANCE TO AMEND CHAPTER 92 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED NOISE" was introduced at a Mayor and Council meeting on August 3, 2017 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 September 7, 2017 at 8:00 PM at the Borough Hall, 376 W. Saddle River Road, Upper Saddle River, NJ, at which time and place all persons interested will be given an opportunity to be heard concerning same.

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

A motion by Councilman Durante, seconded by Councilman Ditkoff to retain the services of Marci Hamilton, Esq., as consultant in connection with the eruv litigation.

Roll Call: Ayes: Council members DiMartino, Ditkoff, Durante, Florio. Nays: Council members DeBerardine and Hafner.

Mayor Minichetti read the following statement:

In 2015, Rockland Electric entered into a License Agreement with an organization to allow facilities related to an eruv to be installed on the utility's poles in Bergen County, with the utility profiting from this agreement. It has been reported that the project plans to attach wires to 113 poles in Mahwah, 40 in USR and 27 in Montvale.

The Mayor and Council never approved the installation of the eruv. Rockland Electric did not notify the Borough of the agreement or the pending installation despite the fact that the Borough has an ordinance in place, (#16-15) which prohibits the placement of items on utility poles, of which Rockland Electric was aware.

Borough attorney Robert Regan instructed Orange and Rockland to remove the eruv on Monday, July 18.

On Wednesday, July 26 and Thursday, July 27, portions of the newly installed eruv in Mahwah and Upper Saddle River were vandalized. A police investigation is underway and one arrest has been made.

On Friday, July 28, two Airmont, NY residents filed suit against the Borough in Federal District Court in Newark, seeking to prevent the Borough from removing the eruv installed on Orange and Rockland's poles in our town.

The Borough agreed to allow the repair of the vandalized portions of the eruv, in return for the cessation of additional installation. The Borough also agreed to delay removing existing eruv at this time.

At a special meeting held on Monday, July 31, the Governing Body retained Special Counsel, Bruce Rosen, of the McCusker Law Firm, an experienced litigator in Federal courts, who has handled cases involving eruv installations.

Special Counsel is exploring all options available to the Borough. The Governing Body will aggressively fight to enforce our ordinance.

The eruv issue is a matter of excessive entanglement with religion and violation of municipal ordinances and State Statutes. It is not directed at any particular religious group. The Governing Body will not tolerate or countenance any anti-Semitic or otherwise discriminatory comments at our public meetings and urge residents to avoid any such statements on social media or elsewhere. Such statements will not be helpful to the Borough's position and are totally inappropriate.

In any case, on the advice of legal counsel, the Governing Body will not be making any further statements at this time but will keep residents informed as the case progresses.

#### RULE 7. Public Comments:

Mayor Minichetti asked that comments be limited to 3 minutes to allow sufficient time for everyone to have an opportunity to speak and that we have a 10:00 P.M. deadline with the school. She asked that Upper Saddle River residents be allowed to speak first.

The following residents spoke at the meeting:

Mr. Thomas Salerno, 21 Lake Road (statement attached); Mr. Erik Friis, 4 Sparrowbush Road; Mr. Steven Young, 16 Blue Spruce Road; Mr. Thomas Brophy, 8 Albert Drive; Mr. Andy Kosovich, 11 Kroner Farm Court; Ms. Karen Johnson, 19 Parker Place; Mr. Ramin Missaghieh, 3 Rustic Road; Mr. Michael Ehrman, 40 Hampshire Hill; Mr. Fred Wien, 54 Partridge Hill; Ms. Carol Giordano, 3 Knights Court; Ms. Karen Rosenthal, 37 Knights Court; Mr. Joe Cassese, 41 Cottontail Trail; Ms. Maryann Cosgrove, 28 Cider Hill; Ms. Sheryl Romano, 421 W. Saddle River Road; Mr. Michael Passaro, 6 Rising Ridge; Mr. Greg Miller, 21 Winding Way; Mr. Joe Andino, 444 W. Saddle River Road; Mr. Larry Gorga, 11 Riverview Terrace; Ms. Ann Guadango, 326 Fern Dell; Ms. Karyn Calarco, 59 Dimmig Road; Mr. Michelle Frankel, 17

Grist Mill Lane (and three others whose name and address was indiscernible).

The following non-residents spoke at the meeting: Mr. Steigman, Manhattan, NY; Mr. Berman, Mamaroneck, NY; Mr. Michael Cohen, Englewood, NJ.; and a resident of Teaneck, NJ (indiscernible).

Comments from residents included: installation of the eruv violates our local ordinance and should be removed; dangerous lieches across existing wires; inaccurate news reporting; religion should be kept separate; defacing property; lack of oversight to enforcing our ordinance; a New York State issue; should not impose beliefs on our community; asked that public be kept informed; lack of residents who would benefit from eruv; no synagogues or schools in our town; no one allowed to post anything on poles; ordinance should be enforced; remove overhead power lines; all Mayors affected should meet; table issue until there is a need; more than 40 eruvs installed, total number is 93; should have been advised prior to installation; no reason for an accommodation, file suit against organization for violating our ordinance; USR eruvs linked to Rockland County eruvs; boundary being created; create subcommittee for communication purposes; value of real estate a concern; permits should be required; consider underground utilities; eruvs should be removed.

Comments from non-residents included: unobtrusive; eruv is not a sign; promote understanding and tolerance; walking is dangerous due to lack of sidewalks; not a religious symbol; promotes human rights.

Mr. Rosen and Mr. Regan responded to some of the comments:

Mr. Rosen said he handled the case in Tenafly and won in District Court but lost in the Appellate Court. He cautioned residents against making discriminatory or anti-semitic remarks since they only hurt our case. He pointed out the poles in Tenafly have different uses than those in Upper Saddle River which are for utility purposes only. Mr. Rosen said the issue is complex with Courts considering First Amendment rights and that he will file an answer to the suit within 35 days. He explained the legal process includes a motion, discovery, summary judgment and trial which could take 1-2 years.

In response to questions as to further installation of the eruv, Mr. Regan explained that an agreement has been reached whereby the organization would not file for a temporary injunction and that no further installations will take place on the condition that we would allow the damaged eruvs to be repaired. He said that when suit was filed, the matter remains status quo until further Court proceedings.

RULE 8. Adjournment:

A motion to adjourn by Councilman Durante, seconded by Councilman DiMartino was unanimously approved by all Council members present.  
(Meeting adjourned 9:45 P.M.)

Respectfully submitted,

Rose Vido, RMC  
Borough Clerk