

Minutes of the Regular Meeting of the Mayor and Council held on Thursday, November 6, 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.

Mayor Minichetti presented a Proclamation to Ms. Eileen Meighan thanking her and her family for their continuous support and participation in the annual Dick Meighan Run for the past 15 years.

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 20, 2013 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	Absent
Councilman	Vincent M. Durante	Present
Councilwoman	Joanne Florio	Present
Councilman	Thomas Hafner	Present

RULE 2. Minutes of Executive, Closed and Regular Meetings of October 2, 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 Councilwoman Florio.

RULE 3. Borough Clerk's Report:

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

Garage Sales	\$	22.00
Copies		3.95
Landscape Permits		<u>5.00</u>
Total	\$	30.95

The Borough Clerk's office issued 4 dog licenses for the month of October. \$4.80 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. #9-14 - Parks & Playgrounds
2. Notice to Bidders - Lions Park Improvements
3. Notice to Bidders - Snowplowing Services

Bids were received on October 9, 2014 for 2014-2015 Snowplowing services from:

- 1) Groesbeck & Groesbeck, Ramsey, NJ, \$120 - \$150 per hr.

Bids were received on September 23, 2014 for the Lions Park Improvements from:

1. Downes Tree Service	\$64,008.50	\$20,000.00
2. Tec-Con Contractors	66,850.00	10,000.00
3. D&L Paving	72,850.00	21,000.00
4. Grabowski Construction	74,130.00	110,130.00
5. SCS Contracting	85,100.00	28,000.00
6. Greenscape Landscaping	98,950.00	24,700.00
7. Merton Paving	117,800.00	24,000.00
8. Rotonde Builders	395,000.00	23,000.00

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

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

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

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

Youth Guidance Council: Minutes of September 12, were received and filed.

Borough Official's Report:

Borough Engineer: Report for the month of October was received and filed.

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

Other Boards & Commissions:

Municipal Court: Report for the months of September and October were received and filed.

RULE 4. Communications, Petitions & Bills:

Northwest Bergen Utilities Authority Minutes of September 16 and copy of 2015 Preliminary Budget.

Resolution from Borough of Westwood.

Councilman DeBerardine presented bills in the amount of \$5,537,155.31:

A motion by Councilman DeBerardine, seconded by Councilman DiMartino to pay bills in the amount of \$5,537,155.31 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, Durante, Florio, Hafner. Nays: None. Motion approved.

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 Hafner, seconded by Councilman Durante was unanimously approved by all Council members present.

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

*Resolution #92-14

WHEREAS, N.J.S.A. 49:4-58 permits the transfer of appropriations during the last two months of the fiscal year from accounts showing unexpended balances to accounts in which commitments may exceed the original budget appropriations;

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 Treasurer is hereby authorized to effect the following transfers:

FROM	TO	
Legal, General \$25,000	Garbage Dumping Fees	\$25,000
Legal, General 1,000	Shade Tree S&W	1,000
Legal, General 1,000	Unemployment Comp.	1,000
Legal, General 25,000	Other Ins. Premiums	25,000
S&W OT 1,000	Water	1,000
S&W OT 4,000	Natural Gas	4,000
Roads, S&W 25,000	Borough Planner	25,000
S&W OT 5,000>	Reg. Engineering	25,000
S&W Rental 4,000>		
Shop Exp. 6,000>		
S&W Contingency 10,000>		
S&W Contingency 3,300>	A&E Office Supplies	1,500
	A&E Office Supplies	1,000
	A&E Legal Notices	800
S&W OT 8,000	Assess S&W FT	8,000

*Resolution #93-14

WHEREAS, the Borough of Upper Saddle River advertised that sealed proposals would be received on October 9, 2014 to provide Snowplowing Services for the 2014-2015 season; and

WHEREAS, in response to said advertisement for proposals, a bid submitted by Groesbeck & Groesbeck, 155 Darlington Avenue, Ramsey, NJ 07446 was the

lowest responsible bidder in an amount of \$120.00 to \$140.00 per hour as the base bid and \$120.00 to \$150.00 per hour as the alternate bid; 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 Groesbeck & Groesbeck, 155 Darlington Avenue, Ramsey, NJ 07446, to provide 2013-2014 Snowplowing Services in the amount of \$120.00 to \$140.00 per hour for the base bid and \$120.00 to \$150.00 for the alternate bid;

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 #94-14

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

WHEREAS, the Governing Body determines that it is in the best interests of the Borough to retain the services of Special Counsel to represent the Borough and Mayor and Council in this matter; and

WHEREAS, the retaining of legal services constitutes an exception of the public bidding process pursuant to *N.J.S.A. 40A:11-5(1)(a)(i)*.

NOW THEREFORE BE IT RESOLVED that the Mayor and Council hereby retains the services of Edward J. Buzak, Esq. of the Buzak Law Group, LLC, 150 River Road, Suite N-4, Montville, New Jersey 07045 as counsel for the Borough and Governing Body in this litigation; and

BE IT FURTHER RESOLVED that legal counsel hired herein shall be compensated in accordance with the terms and conditions of a Professional Service Agreement on file in the Office of the Borough Clerk; and

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk be and are hereby authorized to execute the aforesaid Professional Service Agreement; and

BE IT FURTHER RESOLVED that a Notice of the adoption of this resolution shall be published in the official newspaper of the Borough.

*Resolution #95-14

WHEREAS, the Borough of Upper Saddle River received bids for a project entitled, "Proposal and Specifications For Lions Memorial Park Improvements"; and

WHEREAS, in response to the advertisement For Proposals, Grabowski Construction Inc. of West Orange, New Jersey submitted the lowest possible bid, but that such bid contained a mathematical computation error; and

WHEREAS, the Local Public Contracts Law permits the withdrawal of such a bid; and

WHEREAS, said bid has been withdrawn.

NOW THEREFORE BE IT RESOLVED that the Mayor and Council determines that Downes Tree Service of Hawthorne, New Jersey be and is hereby determined to be the lowest responsible bidder; and

BE IT FURTHER RESOLVED that the Mayor and Council awarded the Contract for the above-captioned project to Downes Tree Service; and

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk be and are hereby authorized to execute a Contract for the aforesaid project.

*Resolution #96-14

WHEREAS, Borough Engineer Eileen Boland has recommended that owners, Todd and Maria Berry, 22 Oak Drive, Block 1210, Lot 4 be allowed to install a new Type B inlet, a new manhole in Oak Drive and install 315 feet of 15 inch HDPE pipe; and

WHEREAS, all required fees have been deposited with the Borough;

NOW, THEREFORE, BE IT RESOLVED that this request be and is hereby approved subject to the requirement that an agreement be prepared whereby the property owners and its successors in interest and assigns will indemnify and hold harmless the Borough in connection with the maintenance and operation of the proposed connection; and

BE IT FURTHER RESOLVED that Mayor Joanne L. Minichetti and Borough Clerk Rose Vido be and are hereby authorized to execute the aforementioned Maintenance and Hold Harmless Agreement after same has been prepared by the Borough Attorney.

*Resolution #97-14

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, "Lawrence and Maureen Sullivan v. Borough of Upper Saddle River", Docket Nos. 019702-2012, 017934-2013, and 2014 (Docket No. not yet assigned) which matters involve an appeal of the assessment on certain premises known as Block 1112, Lot 6 and being more commonly known as 25 Hillcrest Drive, for the 2012, 2013 and 2014 tax years; and

WHEREAS, the parcel is assessed for the 2012, 2013 and 2014 tax years at \$825,800.00; 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 appeal based upon the following terms and conditions:

1. The Stipulation of Settlement shall provide that the appeals filed for the 2012 and 2013 tax years shall be withdrawn.

2. The Stipulation of Settlement shall provide that the assessment for the 2014 tax year on said parcel shall be established at \$775,000.00.

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 #98-14

WHEREAS, the Mayor and Council desire to have performed a valuation pertaining to real property known as Block 401, Lots 2 and 4 as depicted on the Borough tax assessment map; and

WHEREAS, the Borough is in receipt of a proposal from Louis Izenberg, MAI (hereinafter "the appraiser") of Izenberg Appraisals, to form an appraisal evaluation of said property; and

WHEREAS, the retaining of legal services constitutes an exception to the public bidding process pursuant to *N.J.S.A. 40A:11-5(1)(a)(i)*.

NOW THEREFORE BE IT RESOLVED that the Mayor and Council hereby authorizes entering into a Professional Service Agreement with the appraiser in the amount of \$3,500.00; and

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk be and are hereby authorized to execute the aforesaid Professional Service Agreement, a copy of which is on file in the Office of the Borough Clerk; and

BE IT FURTHER RESOLVED that a Notice of the adoption of this resolution shall be published in the official newspaper of the Borough.

*Resolution #99-14

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, "Philip and Rosario Bai v. Borough of Upper Saddle River", Docket No. 006752-2012 which matter involves an appeal 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 2012 tax year; and

WHEREAS, the parcel is assessed for the 2012 tax year at \$1,191,400.00; and

WHEREAS, said appeal was filed to contest the assessment on the property for the 2012 tax year.

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 appeal based upon the following terms and conditions:

1. The Stipulation of Settlement shall provide that the assessment for the 2012 tax year on said parcel shall be established at \$1,100,000.00.

2. The provisions of the Freeze Act, *N.J.S.A. 54:51A-8* shall not apply, and the reduction shall be limited to the 2012 tax year.

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 made payable to Robert E. Spiotti, Esq., Attorney for Philip and Rosario Bai, following the entry of judgment.

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 #100-14

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

WHEREAS, the Mayor and Council are desirous of selling said surplus 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 surplus 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 govedeals.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 surplus property to be sold is noted below.
5. The surplus 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 surplus property.

6. The Borough of Upper Saddle River reserves the right to accept or reject any bid submitted.

- 2004 FORD CROWN VICTORIA VIN.#2FAFP 71W84 X1060 33
- 2011 FORD CROWN VICTORIA VIN.#2FABF 7BVOB X1580 94

*Resolution #102-14

Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Sparrowbush Road Improvements project.

NOW, THEREFORE BE IT RESOLVED, that the Council of Upper Saddle River formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2015-Sparrowbush Road Improvements - 00514 to the New Jersey Department of Transportation on behalf of Borough of Upper Saddle River.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of Borough of Upper Saddle River, and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

*Approve license to Church of the Presentation to conduct a raffle on December 21, 2014

*Approve license to USR Historical Society to conduct a raffle on December 14, 2014.

Mr. Regan read Resolution #101-14:

Motion by Councilman DeBerardine, seconded by Councilman DiMartino:

WHEREAS, the Planning Board is in receipt of an application filed by Apple Ridge USR, LLC (hereinafter referred to "the applicant") relating to premises designated as Block 401, Lots 2 and 4 (hereinafter collectively referred to as "the property") as depicted on the Borough tax map; and

WHEREAS, the property is located in the R-1 Residential District and, pursuant to §150-10.5, is also located in a SR Scarce Resource Overlay District; and

WHEREAS, the Borough is in receipt of a Memorandum from Borough planner, Joseph H. Burgis, PP, AICP, which requires a response pertaining to affordable housing issues.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that the following conclusions are made and determined:

1. Section 150-10.5 provides that a Mount Laurel or affordable housing obligation attached to a property in the SR Scarce Resource District may be met, on a site-by-site basis, through means other than on-site set aside as determined by the Mayor and Council.

2. Paragraph A provides that "any Mount Laurel implementation technique other than the standard set aside shall be at the discretion of the Mayor and Council, subject to the approval of the court-appointed Master".

3. The permitted uses in the SR Scarce Resource District are those in which the District in which the scarce resource site is located. The property is located in the R-1 Residential District. In addition, townhouses and townhomes are permitted, provided however that pursuant to §150-10.5C(2) "if the Mayor and Council decide to satisfy the Mount Laurel obligation by means other than on-site set aside, the permitted uses of the specific sites are limited to those enumerated in Subsection C(1)" of §150-10.5, which would be single-family detached homes on a minimum lot size of 37,500 square feet and certain other uses.

4. The Governing Body notes that §150-10.5F(2) requires submission of a conceptual development plan. The applicant's submission includes a full site plan which is contrary to the Ordinance. Notwithstanding this omission, the Mayor and Council deem the site plan a "conceptual development plan" for the purpose of making a determination as to the method to be utilized in satisfying the affordable housing obligation for the site.

5. The Governing Body is in receipt of a Memorandum from Mr. Burgis dated October 23, 2014 advising that the Mayor and Council may invoke its option to satisfy the Mount Laurel or affordable housing obligation on the property by means other than on-site set aside, subject to the approval of the court-appointed Master.

6. For more than two (2) decades, Borough officials have been aware of the possibility of an affordable housing component being attached to the property should a development proposal ever be submitted. As a result, over this period of time the Borough has acquired certain lands, with the intention of satisfying the affordable component attached to the property on these parcels. More particularly, the Borough has acquired title to Block 1002, Lot 4.02 and Block 1016, Lots 2, 3, 4, and 6. In the aggregate, these parcels comprise a land area in excess of ten (10) acres.

7. The Governing Body hereby states its intention to locate up to seventy-one (71) affordable units as proposed by the applicant for the property on these municipally-owned properties, and additionally states its intention to be fully responsible for the construction of these affordable units. Such construction may be done by the Borough directly,

by a non-profit (to be formed or secured by the Borough), or by such other developer that the Borough selects; and

BE IT FURTHER RESOLVED that a copy of this resolution shall be forwarded to Borough Planner Joseph Burgis, the Upper Saddle River Planning Board and to counsel for the applicant and to the court-appointed Master and to the Council On Affordable Housing ("COAH").

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

A motion by Councilman Hafner, seconded by Councilman DiMartino to appoint Eric Halpern and Amy Fisherman to serve on the USR board of Health to fill unexpired terms to 12/31/16.

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

RULE 7. Public Comments: None.

RULE 8. Adjournment:

A motion by Councilman Durante, seconded by Councilwoman Florio to return to Closed Session.

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

Respectfully submitted,

Rose Vido, RMC
Borough Clerk