

Minutes of the Regular Meeting of the Mayor and Council held on Thursday, May 7, 2015 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 Congratulatory Citation to Police Officers Michael Spina and Kenneth Rodriguez.

Mayor Minichetti acknowledged May 15, 2015 as Peace Officers Memorial Day.

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 19, 2014 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 April 9, 2015 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 April, 2015 and deposited them with the Collector/Treasurer:

Copies	\$ 73.25
Peddlers Permit	10.00
Garage Sales	16.00
Landscape Permits	<u>105.00</u>
Total	\$ <u>204.25</u>

The Borough Clerk's office issued 18 dog licenses for the month of April. \$30.60 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. #3-15 - Property Maintenance
- 2) Introduction of Ord. #4-15 - Exceed CAP

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 & Minutes of March 8 were received and filed.

Youth Guidance Council: Minutes of April 10, 2015 were received and filed.

Other Boards & Commissions:

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

RULE 4. Communications, Petitions & Bills:

DOT letter informing of \$149,000 grant for Sparrowbush Road resurfacing.

NWBCUA Minutes of March 17, 2015.

Public hearing notice of Planning Bd. Re 72 Skyline Drive.

Mahwah adoption of Highlands Environmental Resource Inventory

Bd. Of Chosen Freeholders public hearing notice re Bond Ordinance.

Resolutions from Franklin, Englewood, Old Tappan, Wyckoff.

Councilman DeBerardine presented bills in the amount of \$5,643,784.67:

A motion by Councilman DeBerardine, seconded by Councilman DiMartino to pay bills in the amount of \$5,643,784.67 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. #5-15)

"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, 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 \$745,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS".

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

Resolution by Councilman Durante, seconded by Councilman DeBerardine:

"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, 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 \$745,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS" was introduced at a Regular meeting of the Mayor and Council on April 9, 2015 and passed its first reading. After public hearing held on May 7, 2015 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 Ditkoff read for the second time: (Ord. #6-15)

"AN ORDINANCE TO AMEND CHAPTER 122 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED, "STREETS AND SIDEWALKS".

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

Resolution by Councilman Ditkoff, seconded by Councilman Durante:

"AN ORDINANCE TO AMEND CHAPTER 122 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED, "STREETS AND SIDEWALKS" was introduced at a Regular meeting of the Mayor and Council on April 9, 2015 and passed its first reading. After public hearing held on May 7, 2015 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.

Resolution #47-15 by Councilman DiMartino, seconded by Councilman DeBerardine:

MUNICIPAL BUDGET OF THE BOROUGH OF UPPER SADDLE RIVER, COUNTY OF BERGEN, NEW JERSEY FOR THE FISCAL YEAR 2015:

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 2015;

BE IT FURTHER RESOLVED that said budget was published in the April 16, 2015 issue of The Record.

The Governing body of the Borough of Upper Saddle River does hereby approve the Municipal Budget for the year 2015 in the amount of \$12,358,326.67.

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 Councilwoman Florio was unanimously approved by all Council members present.

*Resolution #46-15

RESOLUTION AUTHORIZING THE FILING OF A DECLARATORY JUDGMENT ACTION IN THE SUPERIOR COURT OF NEW JERSEY, LAW DIVISION AND A MOTION SEEKING TEMPORARY IMMUNITY FROM THIRD PARTY LAWSUITS WHILE PURSUING THE DECLARATORY JUDGMENT ACTION AND TAKING ALL ANCILLARY ACTIONS ASSOCIATED THEREWITH TO ACCOMPLISH THAT OBJECTIVE

WHEREAS, in 1975 the Supreme Court of New Jersey in South Burlington County N.A.A.C.P. v. Township of Mount Laurel, 67 N.J. 151 (1975), ruled that the developing municipalities in the State of New Jersey exercising their zoning power, in general, had a constitutional obligation to provide a realistic opportunity for the construction of their fair share of the region's low and moderate income housing needs; and

WHEREAS, in 1983, the Supreme Court refined that constitutional obligation in South Burlington County N.A.A.C.P. v. Township of Mount Laurel, 92 N.J. 158 (1983), to apply to those municipalities having any portion of their boundaries within the growth area as shown on the State Development Guide Plan; and

WHEREAS, in 1985, the New Jersey Legislature adopted, and the Governor signed the Fair Housing Act ("FHA") which transformed the judicial doctrine which became known as the "Mount Laurel obligation" into a statutory one and provided an alternative administrative process in which municipalities could elect to participate in order to establish a Housing Element & Fair Share Plan ("HE&FSP") that would satisfy its constitutional obligation by creating an administrative agency known as the Council on Affordable Housing ("COAH") to develop regulations to define the obligation and implement it; and

WHEREAS, COAH proceeded to adopt regulations for the first round obligations applicable from 1987 to 1993 and second round obligations that created a cumulative obligation from 1987 to 1999; and

WHEREAS, prior to the expiration of the second round regulations, COAH embarked upon a process to develop third round regulations utilizing

a different methodology for the calculation of a municipality's affordable housing obligation that became known as the growth share methodology; and

WHEREAS, COAH adopted the first iteration of growth share regulations in 2004 which were invalidated by the Appellate Division in 2007; and

WHEREAS, COAH adopted a second and third iteration of the third round regulations in an attempt to accommodate the Appellate Division's decision in 2008; and

WHEREAS, the Borough filed its October 31, 2008 Third Round Housing Element & Fair Share Plan with COAH and petitioned for Substantive Certification on December 30, 2008, in accordance with the third iteration of the third round regulations; and

WHEREAS, the third iteration of the third round regulations were invalidated by the Appellate Division in 2010, which determined, among other things, that the growth share methodology was invalid and that COAH should adopt regulations utilizing methodologies similar to the ones utilized in the first and second rounds, i.e. 1987-1999; and

WHEREAS, on September 26, 2013, the Supreme Court of New Jersey affirmed the Appellate Division's invalidation of the third iteration of the third round regulations, sustained their determination that the growth share methodology was invalid, and directed COAH to adopt new regulations based upon the methodology utilized in the first and second rounds; and

WHEREAS, COAH proceeded to propose such regulations in accordance with the schedule established by the Supreme Court; and

WHEREAS, on October 20, 2014, COAH deadlocked on the adoption of the revised regulations; and

WHEREAS, Fair Share Housing Center ("FSHC"), an interested party and housing advocacy group filed a motion with the Supreme Court to enforce litigant's rights in light of COAH's deadlock and subsequent inaction; and

WHEREAS, on March 10, 2015 the Supreme Court issued its decision on FSHC's motion to enforce litigant's rights and in doing so established a procedure for municipalities to utilize to transition their applications pending before COAH to the judicial system in order to achieve similar protections that the municipality would have received had the COAH process proceeded; and

WHEREAS, the procedure established by the Supreme Court requires that by July 8, 2015 a participating municipality (of which the Borough is one), bring a Declaratory Judgment action in the Law Division of the Superior Court before the designated Mount Laurel judge on notice and an opportunity to be heard to a variety of entities, to declare the municipality's HE&FSP as being constitutionally compliant; and

WHEREAS, the Supreme Court gave the Borough the right to seek temporary immunity from third party lawsuits while it pursues its Declaratory Judgment action; and

WHEREAS, on April 9, 2015 the Appellate Division issue its decision in the case entitled In re Failure of the Council on Affordable Housing to Adopt Trust Fund Commitment Regulations, Docket No. A-5257-11T4 and Docket No. A-0122-13T3 wherein they divested COAH of jurisdiction to effect a forfeiture of Affordable Housing Trust Funds not spent or committed to be spent within four years of their receipt and transferred jurisdiction over any such actions to the 15 Mount Laurel designated judges who would also be hearing the Declaratory Judgment actions abovementioned; and

WHEREAS, there remains pending before COAH unapproved Spending Plans potentially preventing municipalities from utilizing their Affordable Housing Trust Funds in an appropriate manner; and

WHEREAS, in light of the transition of jurisdiction to effect a forfeiture of Affordable Housing Trust Funds to the Court, it is appropriate to seek approval for any unapproved Spending Plan by the Court as part of the Declaratory Judgment action, if circumstances warrant; and

WHEREAS, the Borough desires to authorize the initiation of a Declaratory Judgment action in order for the Borough to proceed to validate a HE&FSP to be prepared by the Borough Planner; to seek temporary immunity while it pursues the Declaratory Judgment action; and to take all ancillary actions associated therewith to accomplish that objective.

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

1. The Buzak Law Group, LLC is hereby authorized and directed to initiate a Declaratory Judgment action in the Superior Court of New Jersey, Law Division, Morris County, to seek a declaration that the Borough's HE&FSP, to be prepared by the Borough Planner, is constitutionally compliant and satisfies the Borough's affordable housing obligation for the period ending in Year 2025, or such other time period as may be determined by subsequent proceedings and to seek approval of its Spending Plan, if appropriate.

2. Said Declaratory Judgment action shall be filed no later than July 8, 2015, the deadline set forth in the Supreme Court decision above referenced, for the filing of such an action.

3. Simultaneous with the filing of the Declaratory Judgment action, The Buzak Law Group, LLC is hereby authorized and directed to seek and obtain temporary immunity from any third party lawsuits associated with the Borough's affordable housing obligation, for a minimum period of five months or such other time as the Court may direct, in order to allow the Borough and its Planner to complete a revised HE&FSP to reflect and accommodate the Borough's affordable

housing obligation through Year 2025, or such other time period as may be determined by subsequent proceedings.

4. The governing body requests the Planning Board to authorize the Borough Planner to prepare a revised HE&FSP as part of the Master Plan of the Borough which, among other things, will establish the affordable housing obligation of the Borough through year 2025, or such other time period as may be determined by subsequent proceedings, and further establish a mechanism to satisfy that obligation.

5. The Borough requests that the governing body representatives participate in the review of the HE&FSP prior to its public hearing and disposition by the Planning Board inasmuch as the Borough will be required to endorse the same as part of its proceedings to obtain the protections to be afforded to it through the Declaratory Judgment action abovementioned.

6. The Buzak Law Group, LLC and Burgis Associates, Inc. and all other appropriate Borough professionals, employees, elected, and appointed officials are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution.

7. This Resolution shall take effect immediately.

*Resolution #48-15

WHEREAS, the Saddle River Valley Lions Club annually conducts a Carnival providing charitable assistance to sight-related charities and local volunteer organizations; and

WHEREAS, the Mayor and Council granted a permit for said Carnival to take place at Lions Memorial Park, Block 801, Lot 3, from May 26, 2015 through May 30, 2015; and

WHEREAS, Upper Saddle River Municipal Code 98-6.1B permits the Governing Body to temporarily suspend the parking regulations within said park for certain public events;

NOW, THEREFORE, BE IT RESOLVED, the Mayor and Council of the Borough of Upper Saddle River does hereby suspend the parking regulations which requires a permit sticker and or placard during the period May 26, 2015 through May 30, 2015.

*Resolution #49-15

WHEREAS, on May 9, 2015, the Upper Saddle River Recreation Commission will sponsor a Town Wide Clean Up Day at Lions Memorial Park; and

WHEREAS, Upper Saddle River Municipal Code 98-6.1B permits the Governing Body to temporarily suspend the parking regulations within said park for certain public events;

NOW, THEREFORE, BE IT RESOLVED, the Mayor and Council of the Borough of Upper Saddle River does hereby suspend the parking regulations which requires a permit sticker and or placard on May 9, 2015.

Councilman Ditkoff read for the first time: (Ord. #7-15)

"AN ORDINANCE TO AMEND CHAPTER 98 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED, "PARKS AND PLAYGROUNDS".

Resolution by Councilman Ditkoff, seconded by Councilman DiMartino:

"AN ORDINANCE TO AMEND CHAPTER 98 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED, "PARKS AND PLAYGROUNDS" was introduced at a Mayor and Council meeting on May 7, 2015 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 June 4, 2015 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.

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

Councilman Durante read for the first time: (Ord. #8-15)

"AN ORDINANCE TO AMEND CHAPTER 51 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED, FIRE PREVENTION".

Resolution by Councilman Durante, seconded by Councilman Ditkoff:

"AN ORDINANCE TO AMEND CHAPTER 51 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED, FIRE PREVENTION" was introduced at a Mayor and Council meeting on May 7, 2015 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 June 4, 2015 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.

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

Borough Administrator Preusch read Resolution #50-15:

Motion by Councilman Durante, seconded by Councilman DiMartino:

WHEREAS the Borough of USR finds it is in the public's safety to accept the application of the Upper Saddle River Board Of Education requesting

motor vehicle statutes as specified in NJ Statute Title 39:5A-1 be applicable to their property;

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

1. That the application herein attached from the Board Of Education of Upper Saddle River be accepted to have motor vehicle laws made applicable to their property and laws created by the Mayor and Council of the Borough of Upper Saddle River in accordance with the provisions as follows:

2. Traffic Regulations shall be promulgated by the Mayor and Council of the Borough of Upper Saddle River, in accordance with the provisions of the Manual on Uniform Traffic Control Devices for Streets and Highways.

3. That all signs, posts, bolts, or other necessary material be installed and approved by the Upper Saddle River Police Department.

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

Borough Administrator Preusch read Resolution #51-15:

Motion by Councilman Durante, seconded by Councilman DiMartino:

WHEREAS, upon the recommendation of the Chief of Police, Borough Administrator and Superintendent of Schools certain measures to further enhance the safety and security of the Board of Education be enacted; and

WHEREAS, the Mayor and Council of the Borough of Upper Saddle River hereby authorizes the Police Department to enforce certain provisions of New Jersey Statutes Annotated Title 39:1-1 et seq; and

WHEREAS, New Jersey Statutes Annotated Title 40A:2.6 confers upon the Borough of Upper Saddle River the right to establish certain regulations in order to preserve and safeguard he public health, safety and welfare; and

WHEREAS, the following area shall be designated as no parking or standing during school hours and no parking or standing if not attending a sanctioned event by the Borough of Upper Saddle River or Board of Education of Upper Saddle River and/or recreational activities as deemed appropriate by the Chief of Police or in the case of a state of emergency by the Coordinator of Emergency Management; and

WHEREAS, the following areas shall be so marked by signs in conformance with the current manual under Uniform Traffic Control Devices, Streets and Highways

- a) Upper Saddle River Board of Education property Block 801, Lot 5;

NOW, THEREFORE, BE IT RESOLVED that upon request of the Upper Saddle River Board of Education, the Mayor and Council hereby authorizes the Upper Saddle River Police Department to enforce certain regulations on the aforementioned property.

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

RULE 7. Public Comments:

Ambulance Corps Capt. Steve Pink said the contract for the purchase of a new ambulance has been signed and thanked the Council for their support and efforts to raise funds for the purchase. Mayor Minichetti acknowledged the generous donation from Columbia Bank and the many volunteers and community efforts in conducting the many fund raisers to support the Ambulance Corps.

Mr. John Giudice, 22 Ripplewood Drive, thanked the Council for their negotiation with Apple Ridge developers which resulted in the construction of 44 single family homes as opposed to a multi-family development of 353 units. He asked about the possibility of having some acreage set aside for open space thereby reducing the number of homes. Mr. Regan said that is not an option and pointed out that an incredible effort was made to have the developer agree to single family homes as opposed to multi-family dwellings. Mayor Minichetti noted that the application is now before the Planning Board.

Mr. Prakash Chonkar, 12 Harvey Lane, asked if there is any oversight after the resurfacing of a road citing the deteriorating condition of Drake Lane that was resurfaced last year. It was pointed out that State standards are followed for road construction and the Borough Engineer oversees the projects. DPW will be asked to inspect the roadway and fill any potholes.

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 8:35 p.m.)

Respectfully submitted,

Rose Vido, RMC
Borough Clerk