

Minutes of the Regular Meeting of the Mayor and Council held on Thursday, December 7, 2017 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, 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 November 2, 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 DeBerardine.

RULE 3. Borough Clerk's Report:

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

Landscaper Permit	\$	20.00
Garage Sales		8.00
Copies		<u>32.70</u>
Total	\$	60.70

The Borough Clerk's office issued 4 licenses for the month of November. \$4.20 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) Notice to Bidders- Carlough Road, Section 5
- (2) Resolution #78-17 - Professional Services, R. Galantucci
- (3) Resolution #81-17 - Professional Services, B. Rosen
- (4) Resolution #82-17 - Professional Services, M. Hamilton
- (5) Resolution #94-17 - Professional Services, J. Kurtzberg

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

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

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

Library: Report for the month of November and Minutes of 11/15/17 were received and filed.

Youth Guidance Council: Minutes of 11/3/17 & 12/1/17 were received and filed.

Borough Official's Report:

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

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

RULE 4. Communications, Petitions & Bills:

BCMJIF 2018 adopted budget

BCUA public hearing re proposed rates.

Resolutions from Allendale, Montvale, Township of Washington, Lodi, Mahwah, Saddle River.

Councilman DeBerardine presented bills in the amount of \$5,542,261.29.

A motion by Councilman DeBerardine, seconded by DiMartino to pay bills in the amount of \$5,542,261.29 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: 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 Ditkoff was unanimously approved by all Council members present.

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

*Resolution #106-17

Resolution Urging the State Legislature to Extend the 2%
Cap on Police and Fire Arbitration Contract Awards

WHEREAS, local municipalities require specific tools to address the rising cost of municipal government; and

WHEREAS, in July 2010 the Governor and New Jersey State Legislature enacted a permanent 2% cap on municipal and school board tax levies with limited exceptions that did not include police and fire arbitration contract awards; and

WHEREAS, salary costs, to a great extent, drive property tax increases; and

WHEREAS, in December 2010 the Legislature unanimously approved and the Governor enacted a temporary 2% cap on police and fire arbitration contract awards in an effort to control increasing salary costs and provide a solution to assist local governments in keeping property taxes down and cost under control; and

WHEREAS, the December 2010 legislation included an April 1, 2014 sunset on the 2% arbitration cap while the 2% property tax levy remained permanent for municipalities and school boards; and

WHEREAS, in June 2014 the Legislature unanimously approved and the Governor enacted an extension to December 31, 2017 for the 2% arbitration cap, however, the 2% property tax levy cap continues to remain permanent, without an exemption for police and fire arbitration contract awards; and

WHEREAS, municipalities continue efforts to contain costs and provide vital services to residents within the 2% property tax levy while the New Jersey economy remains sluggish and taxpayers struggle to keep their homes and pay their taxes; and

WHEREAS, we recognize that this change in arbitration reform needs a longer time to mature in order to see the benefits of the legislation and its actual impact on the cost of local government budgets and the impact on taxpayers; and

WHEREAS, the final report and recommendations of the Police and Fire Public Interest Arbitration Impact Task Force, which was established in the December 2010 legislation, is not due until the same day as the expiration of the cap on interest arbitration awards, December 31, 2017; and

WHEREAS, we recognize it is now time for our taxpayers to benefit directly from these cost saving measures as many police and fire contracts will come due for negotiation after the sunset date; and

WHEREAS, if the cap on interest arbitration expires while the 2% levy cap remains in effect, municipalities will be forced to reduce or eliminate municipal services in order to fund interest arbitration awards;

NOW, THEREFORE, BE IT RESOLVED, that the governing body of the Borough of Upper Saddle River urges the State Legislature to extend the 2% cap on Police and Fire Arbitration Contract Awards for 5 more years at which time the Legislature will have hard data to examine and then make a final decision as to whether this law should be made permanent; and

BE IT FURTHER RESOLVED, that a copy of this Resolution is forwarded to Assemblyman Kevin J. Rooney, Assemblyman David C. Russo, Senator Kevin J. O'Toole, the Commissioner of the Department of Labor, the Lieutenant Governor and the Governor of State of New Jersey

WHEREAS, N.J.S.A.40a:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, the Borough of Upper Saddle River has received a Division of Motor Vehicles DDEF Grant of \$2,500.00 and wishes to amend its 2017 budget to include this amount as revenue;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Upper Saddle River hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2017 in the sum of \$2,500.00 which is now available as:

Miscellaneous Revenue from:

Special Items of General Revenue Anticipated with Prior Written Consent of the Director Of the Division of Local Government Services;

State & Federal Revenues Off-Set with
Appropriations;
DMV-DDEF Grant

BE IT RESOLVED that the sum of \$2,500.00 is hereby appropriated under the caption of:

General Appropriations
Operations excluded from the CAP
State and Federal Programs Receivable-
Off-Set by Revenues:
DMV-DDEF Grant

BE IT FURTHER RESOLVED, that the Borough Clerk shall forward one copy of this resolution to the Director of the Division of Local Government Services.

*Resolution #108-17

Resolution Expressing Opposition to Legislative Proposals Regarding the Open Public Meetings Act and Open Public Records Act.

WHEREAS, the New Jersey Senate Budget and Appropriations Committee took action on Senate Bill Nos. 1045 and 1046, which amend the Open Public Meetings and Open Public Records Act, respectively, on June 29, 2017; and

WHEREAS, the Committee released the bills to the full Senate without recommendation because the bills are unnecessary, unpopular with the public, and would result in significant financial and administrative burdens on municipalities; and

WHEREAS, the bills fail to adequately protect taxpayers, municipalities and especially municipal clerks from abusive, harassing and purposefully confrontational individuals who submit voluminous requests for no legitimate reason; and

WHEREAS, the litigation would expand the Open Public Meeting Act to create impractical and burdensome requirements with respect to subcommittees and working groups established by the entire governing body, which would effectively limit the ability of small groups of local officials discussing issues of public concern for the purposes of informing the governing body; and

WHEREAS, under the bills, the responsibilities of municipal clerks, who the Legislature has already loaded with responsibilities beyond the scope of their office, would be stretched even further than current law requires without a single dollar of additional resources provided to, or authorized to be collected by municipalities; and

WHEREAS, the bills would impose a financial burden on municipalities that would not be offset by revenue source other than property tax,

making the fills unfunded mandates prohibited by the New Jersey Constitution; and

WHEREAS, some municipalities are more equipped than others to meet the burdens that would be imposed by Senate Bill Nos. 1045 and 1046, however, without assistance of any kind from the States or the courts, every municipality would be on its own to meet the myriad new requirements of the law.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Upper Saddle River, Bergen County, New Jersey that the Legislature is strongly urged to reject Senate Bill Nos. 1046 and 1046 and draft new legislation to modernize OPRA and OPMA while providing municipalities and clerks with the resources to effectuate these changes for the benefit of the public.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be filed with the legislative sponsors of Senate Bill. Nos. 1046 and 1046 and Assembly Bill Nos. 2697 and 2699, the Speaker of the General Assembly, the President of the Senate and the governor, and all -parties are urged to listen to the concerns of local officials and prevent Senate Bill Nos. 1045 and 1046 from becoming law.

*Resolution #109-17

WHEREAS, the following equipment is no longer needed by the Upper Saddle River Department of Public Works; 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 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 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.

- Army-Lincoln arc welder
- 2001 DooLittle trailer 12'X6'5"
- 4- Stihl weed whackers & 1 Stihl hand blower
- Army-Kaman torque wrench
- Husqvarna roto tiller
- Ariens snow blower
- 1986 Mueller cement mixer trailer
- Stihl HS 80 hedge trimmer

*Resolution #110-17

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, "Parkash Corp. c/o PJ Sandhee v. Borough of Upper Saddle River", Docket Nos. 007040-2015, 003508-16, and 001756-2017, which matter involves appeals of the assessment on certain premises known as Block 1302, Lot 2 and being more commonly known as 254 Route 17, for the 2015, 2016 and 2017 tax years; and

WHEREAS, the parcel is assessed for the 2015, 2016 and 2017 tax years at \$1,200,500.00; and

WHEREAS, said appeals were filed to contest the assessment on the property for the 2015, 2016 and 2017 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 the appeals filed for the 2015 and 2016 tax years shall be withdrawn.

2. The Stipulation of Settlement shall provide that the assessment for the 2017 tax year on said parcel shall be established at \$1,100,500.00.

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 #111-17

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, "Young H. and Sharon Oh Pak v. Borough of Upper Saddle River", Docket No. 002433-2017, which matter involves an appeal of the assessment on certain premises known as Block 513, Lot 12 and being more commonly known as 131 Fawn Hill Road, for the 2017 tax year; and

WHEREAS, the parcel is assessed for the 2017 tax year at \$1,327,600.00; and

WHEREAS, said appeal was filed to contest the assessment on the property for the 2017 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 2017 tax year on said parcel shall be established at \$1,300,000.00.

2. The Stipulation of Settlement shall provide that the assessment for the 2018 tax year on said parcel shall be established at \$1,200,000.00.

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 #112-17

WHEREAS, an emergency has arisen with respect to Legal Services for recently developed litigation and no adequate provision was made in the 2017 budget for the aforesaid purpose, and NJS 40A:4-46 provides for the creation on an emergency appropriation for the purpose mentioned above, and

WHEREAS, the total amount of the emergency appropriation created, including the appropriation to be created by this resolution is \$600,000 and three (3) percent of the total operating appropriations in the budget for 2016 is \$288,136; and

WHEREAS, the foregoing appropriation together with prior appropriations exceeds three (3) percent of the total operating appropriations (including utility operation appropriations) in the budget for 2016;

NOW, THEREFORE, BE IT RESOLVED, (by not less than 2/3 of all governing body members affirmative concurring_ that in accordance with NJS 40A:4-49, petition be made to the Director of the Division of Local Government services for permission to exceed the statutory limitation of 3 percent for the creation of an appropriation for the purpose set forth in the preamble in accordance with the following:

1. An emergency appropriation is hereby made for Legal Expenses in the amount of \$200,000.
2. That said emergency appropriation shall be provided for in full in the 2018 budget. \$0 is requested to be excluded from "CAPS" and \$200,000 within "CAPS" pursuant to NJS 40A:4-45 3c(1).
3. That an Emergency Note not in excess of the above amount be authorized pursuant to NJS 40A:4-51.
4. That such note shall be executed by the Chief Financial Officer and the Mayor and attested to and seal affixed thereto by the Borough Clerk.
5. That such note shall be dated prior to December 31, 2017, may be renewed from time to time and such note and any renewals shall be payable on or before December 31, 2018. The Chief Financial Officer is hereby authorized to sell said note and any renewals thereof from time to time.
6. That the statement required by the Local Finance Board has been filed with the Clerk and a copy transmitted to the Director of the Division of Local Government Services.
7. That two (2) certified copies of this resolution be filed with the Director of the Division of Local Government Services.

*Resolution #113-17

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:

<u>FROM</u>		<u>TO</u>
Fire Dept O/E	5,000	
Fire Prev. S&W	15,000	
Bldg & Grnds O/E	15,000	
Social Sec.	20,000	
Streets&Roads S&W	15,000	
Streets&Roads O/E	21,000	
Legal	20,000	

	Gen Admin.O/E	\$ 1,000
	Finance, S&W	8,000
	Finance, O/E	5,000
	Tax Assessor S&W	1,000
	Engineering	5,000
	Zoning S&W	1,000
	Building S&W	3,000
	Plumbing S&W	2,000
	Prosecutor S&W	3,000
	Public Def. S&W	2,000
	Bd. of Health O/E	6,000
	Utilities	16,000
	Solid Waste	58,000
Recycling	42,000	Solid Waste 42,000
	Total: \$153,000	\$153,000

Councilman DeBerardine read for the first time: (Ord. #13-17)

"AN ORDINANCE TO AMEND CHAPTER 150 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED ZONING".

Resolution by Councilman DeBerardine, seconded by Councilman DiMartino:

"AN ORDINANCE TO AMEND CHAPTER 150 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED "ZONING" was introduced at a Mayor and Council meeting on December 7, 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 December 26, 2017 at 8:00 AM 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.

RULE 7. Public Comments:

Mr. Richard Medina, 295 Lake Street, inquired about the added security at the Council meeting. Mayor Minichetti explained that there has been no threats, but as a safety precaution, it was decided to add security, to Council and Planning Board meetings, similar to what is done for Municipal Court and in other towns. Mr. Medina asked the Council to consider live streaming the Council meetings in order to allow residents to watch the proceedings from home. Mayor Minichetti said resident's privacy is considered in discussing live streaming but there has been no request for such a process, but the Council will take the matter under consideration.

Mr. John Sesen, 20 Falcon Court, Mahwah, NJ said he was speaking on behalf of Erik Friis. Mr. Regan advised that unless Mr. Sesen was an attorney representing Mr. Friis, he could not speak on his behalf. In response to a

question on the eruv, Mr. Regan advised that the Council could not respond to questions regarding the eruv since it is in litigation.

Mr. Ted L'Estrange, 6 Geoffrey Court, Otisvill, NY asked the Council to pass a resolution condemning China's organ policy.

RULE 8. Adjournment:

A motion to adjourn by Councilman DeBerardine, seconded by Councilman DiMartino was unanimously approved by all Council members present.
(Meeting adjourned at 8:20 p.m.)

Respectfully submitted,

Rose Vido, RMC
Borough Clerk