

Minutes of the Regular Meeting of the Mayor and Council held on Thursday, April 5, 2018 at 8:00 p.m. at the Upper Saddle River Borough Hall.

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

Bergen County Clerk John Hogan presented a poster of Upper Saddle River historical documents. He said these documents are archived at the Clerk's office in Hackensack and is intended to promote community pride and historical awareness throughout the County by highlighting some of the earliest documents from each municipality.

Risk Manager Art Caughlan presented a plaque acknowledging the Borough of Upper Saddle River received the Platinum Award for Safety for the year 2017, together with a check in the amount of \$2500. Mr. Caughlan said this award is the highest safety award that can be achieved out of all the municipalities and congratulated the Borough employees for their constant safety training.

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 19, 2017 by Fax and mail in which the time, place and purpose of the meeting was set forth.

Mayor Minichetti read a Proclamation-2018 UDrive, UText, UPay-Distracted Driving Crackdown.

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 March 1, 2018 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.

RULE 3. Borough Clerk's Report:

The Borough Clerk's office received the following fees for the month of March, 2018 and deposited them with the Collector/Treasurer:

Landscaper Permit	\$1765.00
Garage Sales	4.00
Total	\$1769.00

The Borough Clerk's office issued 9 licenses for the month of March. \$16.80 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 2018 Municipal Budget.
- (2) Introduction of Ord. #1-18-Bond Ord., Capital Improvements
- (3) Introduction of Ord. #2-18-Acquisition of property
- (4) Introduction of Ord. #3-18-Exceed CAP-COLA
- (5) Notice to Bidders-2018 Road Improvement project

Police: Report for the month 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.

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

RULE 4. Communications, Petitions & Bills:

NWBCUA Special Meeting scheduled for April 17, Minutes of February 20 and 2018 meeting schedule.

Resolutions from Mahwah, Midland Park, Moonachie, Wyckoff.

Councilman DeBerardine presented bills in the amount of \$4,977,671.29.

A motion by Councilman DeBerardine, seconded by DiMartino to pay bills in the amount of \$4,977,671.29 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:

Councilman DiMartino read for the second time: (Ord. #1-18)

"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, NEW INFORMATION TECHNOLOGY 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 \$765,000 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 DiMartino, seconded by Councilman Durante:

"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, NEW INFORMATION TECHNOLOGY 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 \$765,000 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 March 1, 2018 and passed its first reading. After public hearing held on April 5, 2018, 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.

Councilman Durante read for the second time: (Ord. #2-18)

"AN ORDINANCE TO AUTHORIZE THE ACQUISITION BY CONDEMNATION OF CERTAIN REAL PROPERTY KNOWN AS BLOCK 810, LOT 6 AS DEPICTED ON THE TAX ASSESSMENT MAP, FOR AN ENTIRELY AFFORDABLE AGE-RESTRICTED DEVELOPMENT".

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

Resolution by Councilman Durante, seconded by Councilman Ditkoff:

"AN ORDINANCE TO AUTHORIZE THE ACQUISITION BY CONDEMNATION OF CERTAIN REAL PROPERTY KNOWN AS BLOCK 810, LOT 6 AS DEPICTED ON THE TAX ASSESSMENT MAP, FOR AN ENTIRELY AFFORDABLE AGE-RESTRICTED DEVELOPMENT" was introduced at a Regular meeting of the Mayor and Council on March 1, 2018 and passed its first reading. After public hearing held on April 5, 2018 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.

Councilman DeBerardine read for the second time: (Ord. #3-18)

"AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET COST OF LIVING ALLOWANCE AND TO ESTABLISH A CAP BANK (NJSA 40A:4-45.14) FOR THE CALENDAR YEAR 2018".

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

"AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET COST OF LIVING ALLOWANCE AND TO ESTABLISH A CAP BANK (NJSA 40A:4-45.14) FOR THE CALENDAR YEAR 2018" was introduced at a Regular meeting of the Mayor and Council on March 1, 2018 and passed its first reading. After public hearing held on April 5, 2018 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.

Councilman Durante presented Resolution #55-18:

"MUNICIPAL BUDGET OF THE BOROUGH OF UPPER SADDLE RIVER COUNTY OF BERGEN, NEW JERSEY FOR THE FISCAL YEAR 2018".

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

Resolution by Councilman DiMartino, seconded by Councilman Durante:

"MUNICIPAL BUDGET OF THE BOROUGH OF UPPER SADDLE RIVER COUNTY OF BERGEN, NEW JERSEY FOR THE FISCAL YEAR 2018".

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 2018;

BE IT FURTHER RESOLVED that said budget was published in the March 8, 2018 issue of The Record.

The Governing body of the Borough of Upper Saddle River does hereby approve the Municipal Budget for the year 2018 in the amount of \$12,346,052.

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 Councilman Ditkoff was unanimously approved by all Council members present.

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

*Resolution #56-18

WHEREAS, the Borough of Upper Saddle River wishes to enter into an User Agreement with the Borough of North Arlington for use of the North Arlington Police Department Pistol Range for the year 2018; and

WHEREAS, it is contemplated that the 2018 budget will contain the necessary appropriations estimated to be reasonably required for such services; and

WHEREAS, the Borough of North Arlington has agreed to allow the Upper Saddle River Police Department to use the pistol range for a daily fee of \$100 per day; and

WHEREAS, the Governing Body of the Borough of Upper Saddle River has agreed to enter into such an agreement.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Upper Saddle River hereby approves and authorizes the execution of an User Agreement with the Borough of North Arlington at a cost set forth in the Agreement for the year 2018.

*Resolution #58-18

WHEREAS, the Borough of Upper Saddle River requires Construction Inspection services in regard to the 2018 Road Improvement program; and

WHEREAS, it is contemplated that the 2018 budget will contain the necessary appropriations estimated to be reasonably required for such services; and

WHEREAS, the Local Public Contracts Law (NJSA 40:A11-1 et. seq.) requires that the resolution authorizing the award of contract for "Professional Services" without competitive bids must be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Upper Saddle River as follows:

1. The Mayor and Council do hereby engage the services of:

Boswell Engineering
330 Phillips Avenue
South Hackensack, NJ 07606

All to serve at the pleasure of the Council at such just and fair compensation as may be mutually agreeable to the parties for actual services rendered.

2. The engagement of such services is made without competitive bidding under the provisions of N.J.S.A 40A:11-5 which excepts from competitive bidding "Professional Services" rendered by persons authorized by law to practice a recognized profession and whose practice is required by law.

3. A copy of this resolution shall be published in The Record as required by law within 10 days of its passage.

*Resolution #59-18

WHEREAS, the Upper Saddle River Fire Department is in possession of certain property that needs to be destroyed because it is obsolete and unusable;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of Upper Saddle River, County of Bergen, that Fire Chief Lawrence Rauch be and is hereby authorized to dispose of the following property in such manner and within such time period as may be appropriate and practical:

Industrial Scientific Carbon Monoxide Meter-Serial #M40-0811018-181

Scott Bottles: 1204213; 120107; 119139; 116793;10915; 10945; 119174; 1271948; 83574; 6393067; 116568; 113329; 5141310; 113310.

*Resolution #60-18

WHEREAS, N.J.S.A 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit's hiring practices comply with the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964", as amended, 42 U.S.C. § 2000e et seq. (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit's hiring practices as they pertain to the consideration of an individual's criminal history, as evidenced by the group affidavit form of the governing body attached hereto.

NOW, THEREFORE, BE IT RESOLVED, that the members of the governing body of the Borough of Upper Saddle River, hereby states that it has complied with N.J.S.A.40:A 4-5, as amended by P.L. 2017, c.183, by

certifying that the local unit's hiring practices comply with the above-referenced enforcement Guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

*Resolution #61-18

WHEREAS, the bond ordinance hereinafter described has been duly adopted and it is necessary to provide for the issuance of a portion of the bonds authorized by such bond ordinance;

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

Section 1. There shall be issued at this time \$260,000 of the bonds (the "Bonds") authorized pursuant to the bond ordinance adopted by the Borough Council of the Borough on June 13, 2007 (Ord. No. 5-07) (the "Bond Ordinance"). The Bonds are being issued to finance the acquisition of real property on East Crescent Avenue for municipal purposes in, by and for the Borough. The period of usefulness of the purpose to be financed by the Bond Ordinance is a period of 40 years computed from the date of such bonds.

Section 2. The Bonds shall be issued as a single issue of bonds, aggregating \$260,000 consisting of an issue of bonds in the denomination of \$5,000 each or any integral multiple thereof, numbered in the order of their maturity. Said issue shall be payable in annual installments on February 15 in each year as follows:

\$70,000 in the year 2019, and
\$95,000 in each of the years 2020 and 2021.

The Bonds shall be designated "General Improvement Bonds". The indebtedness evidenced by each Bond shall be deemed to have been incurred for the purpose described in the Bond Ordinance and in this resolution.

Section 3. The Bonds shall be dated May 1, 2018, and shall bear interest from their date until their respective maturities at the rate of 2.40% per annum, payable on each February 15 and August 15, commencing February 15, 2019 (each, an "Interest Payment Date"), in each year until maturity. The Bonds shall not be subject to redemption prior to their stated maturities.

Section 4. The Bonds will be issued in fully registered form. Interest on the Bonds will be payable at the times stated in Section 3 of this resolution, and principal of the Bonds will be paid annually on February 15 as set forth in the maturity

schedule hereinbefore stated, to the registered owners of the Bonds. Interest will be payable to owners of Bonds shown on the records of the Bond Registrar/Paying Agent (as hereinafter defined) as of the last business day of the month preceding the month in which such Interest Payment Date occurs.

The principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof.

Section 5. The Bonds shall be signed by the Mayor by manual or facsimile signature and by the Chief Financial Officer by manual or facsimile signature, the corporate seal of the Borough shall be imprinted, affixed or reproduced thereon, and such seal shall be attested by the Borough Clerk or Deputy Borough Clerk by manual or facsimile signature. The Bonds will be authenticated by the manual signature of the Bond Registrar/Paying Agent.

Section 6. Each of the Bonds shall be issued in substantially the following form:

UNITED STATES OF AMERICA
STATE OF NEW JERSEY
COUNTY OF BERGEN
BOROUGH OF UPPER SADDLE RIVER
GENERAL IMPROVEMENT BOND

<u>INTEREST RATE</u> <u>PER ANNUM</u>	<u>MATURITY DATE</u>	<u>DATED DATE</u>
2.40%	FEBRUARY 15, 20	MAY 1, 2018

REGISTERED OWNER: COLUMBIA BANK
PRINCIPAL SUM: -----DOLLARS

The Borough of Upper Saddle River, a municipal corporation of the State of New Jersey, located in the County of Bergen (hereinafter referred to as the "Borough"), for value received, hereby acknowledges itself indebted and promises to pay to the REGISTERED OWNER named above, on the MATURITY DATE specified above, upon surrender hereof, the PRINCIPAL SUM stated above and to pay to the REGISTERED OWNER hereof interest thereon from the DATED DATE of this Bond until it shall mature at the INTEREST RATE PER ANNUM specified above, payable on each February 15 and August 15, commencing February 15, 2019 (each, an "Interest Payment Date"), of each year until maturity. This Bond is not subject to redemption prior to its stated maturity. The principal hereof is payable at the office of the Chief Financial Officer, Borough Hall, 376 W. Saddle River Road, Upper Saddle

River, New Jersey 07458 (the "Bond Registrar/Paying Agent"). The interest so payable on any such Interest Payment Date will be paid to the person in whose name this Bond is registered on the record date for such interest, which shall be the last business day of the month preceding the month in which such Interest Payment Date occurs. Both the principal of and interest on this Bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof.

This Bond is one of an issue of Bonds of like date and tenor, except as to number, denomination and maturity, issued pursuant to the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes, as amended) and pursuant to a bond ordinance adopted by the Borough Council of the Borough on June 13, 2007 (Ord. No. 5-07) and a resolution adopted by the Borough Council of the Borough on April 5, 2018. The Bonds are issued in the denomination of \$5,000 each or any integral multiple thereof.

The Bond Registrar/Paying Agent shall keep at its office the books of the Borough for the registration of transfer of Bonds. The transfer of this Bond may be registered only upon such books and as otherwise provided in the hereinabove mentioned resolution upon the surrender hereof to the Bond Registrar/Paying Agent together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar/Paying Agent. Upon any such registration of transfer, the Bond Registrar/Paying Agent shall deliver in exchange for this Bond a new bonds or bonds, registered in the name of the transferee, of authorized denomination, in an aggregate principal amount equal to the unredeemed principal amount of this Bond, of the same maturity and bearing interest at the same rate.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of New Jersey to exist, be performed or happen precedent to or in the issuance of this Bond exist, have been performed and have happened, and that this Bond, together with all other indebtedness of the Borough, is within every debt and other limit prescribed by the Constitution or statutes of said State.

The full faith and credit of the Borough are hereby pledged irrevocably to the punctual payment of the principal of and interest on this Bond in accordance with its terms.

This Bond shall not be valid or become obligatory for any purpose until the Certification of Authentication hereon shall have been signed by the Bond Registrar/Paying Agent.

IN WITNESS WHEREOF, the Borough has caused this Bond to be signed by its Mayor by manual or facsimile signature and by its Chief Financial Officer by manual or facsimile signature and its seal to

be impressed, affixed or reproduced hereon, and said seal to be attested by its Borough Clerk by manual or facsimile signature, and this Bond to be dated May 1, 2018.

*Resolution #62-18

WHEREAS, the Borough of Upper Saddle River requires engineering services to prepare documents to update the Stormwater Pollution Prevention Plan and for the five-year extension of the Flood Hazard Area Individual Permit (No.263-13-0002.1, FHA 130001); and

WHEREAS, it is contemplated that the 2018 budget will contain the necessary appropriations estimated to be reasonably required for such services; and

WHEREAS, the Local Public Contracts Law (NJSA 40:A11-1 et. seq.) requires that the resolution authorizing the award of contract for "Professional Services" without competitive bids must be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Upper Saddle River as follows:

1. The Mayor and Council do hereby engage the services of:

Boswell Engineering
330 Phillips Avenue
South Hackensack, NJ 07606

All to serve at the pleasure of the Council at such just and fair compensation as may be mutually agreeable to the parties for actual services rendered.

2. The engagement of such services is made without competitive bidding under the provisions of N.J.S.A 40A:11-5 which excepts from competitive bidding "Professional Services" rendered by persons authorized by law to practice a recognized profession and whose practice is required by law.

3. A copy of this resolution shall be published in The Record as required by law within 10 days of its passage.

Ms. Carolyn Christman, 478 W. Saddle River Road, asked for clarification of the Resolution. Borough Engineer Kevin Boswell explained that he will prepare a stormwater Pollution Plan per State Statutes which involves making an inventory of all water ways which is done on an annual basis in order to update the Plan.

In response to Mr. Erik Friis, 4 Sparrowbush Road, question whether last year's document was in conformance, Mr. Boswell said the new plan must be responsive to new requirements and must be prepared by someone who is certified to prepare the documents.

*Resolution #63-18

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, "Meta Rohde v. Borough of Upper Saddle River", Docket Nos. 004607-2017 and 003632-2018, which matter involves appeals of the assessment on certain premises known as Block 1110, Lot 2 and being more commonly known as 52 Hillcrest Drive, for the 2017 and 2018 tax years; and

WHEREAS, the parcel is assessed for the 2017 and 2018 tax years at \$1,120,000.00; and

WHEREAS, said appeals were filed to contest the assessment on the property for the 2017 and 2018 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 2017 and 2018 tax years on said parcel shall be established at \$1,045,000.00.

2. 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 #64-18

WHEREAS, there is presently pending in the Tax Court of New Jersey a certain matter entitled, "Ulrich L. Rohde and Meta Rohde v. Borough of Upper Saddle River", Docket Nos. 004609-2017 and 003635-2018, which matter involves appeals of the assessment on certain premises known as Block 1110, Lot 1 and being more commonly known as 54 Hillcrest Drive, for the 2017 and 2018 tax years; and

WHEREAS, the parcel is assessed for the 2017 and 2018 tax years at \$1,220,000.00; and

WHEREAS, said appeals were filed to contest the assessment on the property for the 2017 and 2018 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 2017 and 2018 tax years on said parcel shall be established at \$1,145,000.00.

2. 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 #65-18

WHEREAS, the Borough of Upper Saddle River is in need of a part-time Tax Assessor; and

WHEREAS, Anthony Rinaldi is in possession of a Certified Tax Assessor License from the State of New Jersey; and

WHEREAS, the Mayor and Council is desirous of appointing Anthony Rinaldi as Tax Assessor;

NOW, THEREFORE, BE IT RESOLVED, that said position shall be a permanent part-time position, effective April 4, 2018 and Mr. Rinaldi shall be paid in accordance with the Upper Saddle River salary guides.

BE IT FURTHER RESOLVED, that the duties of the aforesaid position shall be as set forth in the State Statutes and the job description and functions of the Borough of Upper Saddle River. Furthermore, that said appointment shall be subject to Chapter 16 of the Borough Code, personnel policies, practices and regulations as well as applicable State agencies having jurisdiction.

*Approve Fire Department membership of Frank Cantone.

Resolution #57-18 by Councilman Durante, seconded by Councilman DiMartino:

WHEREAS, the Borough of Upper Saddle River advertised that sealed proposals would be received on March 8, 2018 for the 2018 Road Improvement project; and

WHEREAS, in response to said advertisement for proposals, a total of nine(9) bids were submitted; and

WHEREAS, a bid submitted by American Asphalt & Milling Services, LLC, 96 Midland Avenue, Kearney, NJ 07430 was the lowest responsible bidder in an amount of Base bid \$615,514.50, Alternate A \$108,089.75, Alternate B \$93,463.00, Alternate C \$86,749.50; 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 American Asphalt & Milling Services, LLC, 96 Midland Avenue, Kearney, NJ 07430 for the 2018 Road Improvement project in the amount of \$903,816.75.

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.

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

Councilman DeBerardine read for the first time: (Ord. #4-18)

"AN ORDINANCE TO AMEND CHAPTER 126 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED, "SUBDIVISION AND SITE PLAN REVIEW".

Resolution by Councilman DeBerardine seconded by Councilman Hafner:

"AN ORDINANCE TO AMEND CHAPTER 126 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED, "SUBDIVISION AND SITE PLAN REVIEW" was introduced at a Mayor and Council meeting on April 5, 2018 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 3, 2018 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.

Councilman Hafner read for the first time: (Ord. #5-18)

"AN ORDINANCE TO AUTHORIZE THE LEASING BY THE BOROUGH OF CERTAIN REAL PROPERTY KNOWN AS BLOCK 1112, LOT 11 AS DEPICTED ON THE TAX ASSESSMENT MAP, FOR MUNICIPAL PURPOSES".

Resolution by Councilman Hafner, seconded by Councilman DiMartino:

"AN ORDINANCE TO AUTHORIZE THE LEASING BY THE BOROUGH OF CERTAIN REAL PROPERTY KNOWN AS BLOCK 1112, LOT 11 AS DEPICTED ON THE TAX ASSESSMENT MAP, FOR MUNICIPAL PURPOSES" was introduced at a Mayor and Council meeting on April 5, 2018 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 3, 2018 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.

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RULE 7. Public Comments:

In response to a question by Ms. Sheryl Romano, 421 W. Saddle River Road, on details of the lease for the cultural center, Mr. Regan said the center will be used for municipal offices and to provide storage space at a cost of \$3,000 per month and that a General Liability insurance certificate will be provided.

Ms. Carolyn Christman, 478 W. Saddle River Road. Borough Engineer Kevin Boswell explained that the original grant application was for the replacement of the bridge, but that the cost would be approximately \$1.2 million dollars. The application was then resubmitted since it was determined that the bridge was structurally dangerous and the Borough received a grant for \$500,000 for repairs to the bridge. He said the underneath and eroding guiderails will be replaced but the bridge will not be widened nor would the height or opening be changed. Mr. Boswell said the failed section of the bridge will be repaired. In response to Ms. Christman regarding damage to her property due to soil removal, Mr. Boswell read portions of a letter from the DEP and FEMA dated 2014 in which they state that after conducting a number of site visits in regard to her complaints, they have closed the file as they find no violations. In response to her questions, Mr. Boswell said changing the hydraulics of the bridge would hurt her property and other properties.

Mr. Erik Friis, 4 Sparrowbush Road, said we should not have to pay the \$75,000 in legal fees to settle the eruv litigation. Mr. Regan explained that if we do not settle, we would lose the case and be obligated to pay all of the plaintiff's legal fees which could amount to over \$1,000,000. Mr. Friis insisted that the Borough should have negotiated more and asserted more pressure, but Councilman Durante pointed out that it was the Judge's determination that we should settle the matter. Mr. Rosen stated that if we did not settle, a preliminary injunction would have been issued which would have forced us to go to trial and the Plaintiff's would have been reasonably successful.

Ms. Pat Clancy, 34 Cottage Lane, said Cottage Lane is a cul-de-sac and asked if an easement is going through that will serve as a cut thru. Mayor said the eruv encompasses an area and that no one will be traversing Cottage Lane since it is a cul-de-sac. Mr. Boswell pointed out the eruv and easement on a map.

Ms. Pat Pula, 7 Windy Hill Court, asked why the eruv could not be run down Lake Street so that it would encompass the whole town and thereby avoid having trees cut down on Brook Road and Hampshire Hill. Mr. Rosen said that trees are not being taken down, only trimmed where the wires have to be strung.

Ms. Heripsime Ohanian, 10 Grist Mill, voiced her opposition to the eruv being erected and said her freedom of religion was being violated.

In response to Mr. Richard Nasser, 7 Candlestick Lane, who said our codes have been violated, Councilman Ditzoff explained that a Federal Court Judge would not uphold our ordinance and that Federal Law pre-empts local law.

Mr. Corado, 11 Cottage Lane, asked the reason for the eruv on Cottage Lane. Mr. Rosen explained the eruv creates a boundary, no one will be walking on Cottage Lane.

Councilman Durante agreed with Mr. R. Missaghien, 3 Rustic Road, that local ordinances should be tighten so that there could be no future litigation. Councilwoman Florio pointed out that the Borough has a strong construction and code enforcement policy.

Mr. Jason Cosgriff, 7 Brook Road, complained that 2 of his Norway Spruce trees were destroyed and that the whole neighborhood had been impacted. Mr. Preusch said he will make a site visit and follow up on the matter.

Mr. Barry Short, 543 E. Saddle River Road, was told that the 10 poles that were erected are located on the municipal right-of-way.

Mr. Regan read Resolution to go into Closed Session:

WHEREAS, the members of the USR Council deem it necessary to discuss certain actions under Section 7b of the Open Public Meetings Act; and

WHEREAS, the discussions more specifically will involve:

- 1) Eruv litigation.

NOW, THEREFORE, BE IT RESOLVED, that at 9:50 p.m., the Mayor and Council deem it necessary to exclude the public from discussion. The outcome of the discussion will be disclosed as follows:

- 1) Will be disclosed if and when formal action is taken.

BE IT ALSO RESOLVED, that the Governing body may return to Open Session to offer a Resolution that may approve a Settlement Agreement in the Eruv litigation.

Roll Call: All in favor.

Regular meeting resumed at 10:30 p.m.

Mr. Regan read Resolution #66-18:

A motion by Councilman Durante, seconded by Councilman Ditkoff:

WHEREAS, there is presently pending in the United States District Court for the District of New Jersey a matter entitled, "Bergen Rockland Eruv Association, et al v. the Borough of Upper Saddle River, Docket No. 2:17-cv-05512-JMV-CLW" ("the Litigation"); and

WHEREAS, in said Litigation, plaintiffs allege a right to attach thin strips of plastic, or PVC plastic pipes referred to as lechis, to utility poles within the Borough to effectuate the installation and/or expansion of an Eruv; and

WHEREAS, at the direction of the Honorable John Michael Vasquez of the United State District Court, plaintiffs and the Borough have engaged in negotiations to resolve all claims asserted in the Litigation and have agreed to terms of a tentative Settlement Agreement which would become effective upon approval by the Governing Body; and

WHEREAS, the Eruv as plaintiffs proposed and constructed encompassed a land area within the Borough of 638 acres and 557 homes, representing 19% of the land area of the Borough; and

WHEREAS, pursuant to the terms of the settlement, the land area within the eruv will be reduced to include 253 acres and 230 homes, representing 7.5% of the land area of the Borough; and

WHEREAS, the Governing Body has determined that entering into a settlement of the Litigation is in the best interest of the Borough and its residents and taxpayers.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that Mayor Joanne L. Minichetti and Borough Clerk Rose Vido be and are hereby authorized and directed to execute the Settlement Agreement on behalf of the Borough.

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

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 10:45 p.m.)

Respectfully submitted,

Rose Vido, RMC
Borough Clerk