

Minutes of the Regular Meeting of the Mayor and Council held on Thursday, August 2, 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.

Mayor Minichetti read Proclamation declaring August 7, 2018 as "National Night Out".

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.

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 July 5, 2018 were delivered to all members of the governing body and posted on the bulletin board and were unanimously approved, as amended, following a motion by Councilman Durante, seconded by Councilman Ditkoff.

RULE 3. Borough Clerk's Report:

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

Landscaper Permit	\$ 200.00
Copies	11.57
Garage Sales	20.00
Total	<u>\$ 231.57</u>

The Borough Clerk's office issued 6 licenses for the month of July. \$16.20 was forwarded to the NJ Department of Health for the Pilot Clinic and Animal Control Fund.

Proof of Publications were received for:

- (1) Adoption of Ord. #9-18 - Employee Compensation
- (2) Adoption of Ord. #10-18 - Tax Exemption Agreement
- (3) Resolution #90-18-Professional Services, Boswell Engineering

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

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

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

Youth Guidance Council: Minutes of 6/1/18 were received and filed.

Borough Official's Report:

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

Municipal Court: Report for June 12 & 26 were received and filed.

RULE 4. Communications, Petitions & Bills:

NWBCUA Minutes of 6/19/18 and notice of Special Meeting on 8/22/18.  
Resolution from Paramus.

Councilman DeBerardine presented bills in the amount of \$3,936,182.07:

A motion by Councilman DeBerardine, seconded by Councilman DiMartino to pay bills in the amount of \$3,936,182.07 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 Councilwoman Florio was unanimously approved by all Council members present.

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

\*Resolution #93-18

WHEREAS, AT&T CORP., on behalf of itself and its operating affiliate TELEPORT COMMUNICATIONS AMERICA, LLC, (collectively, "AT&T"), is a communications carrier authorized to provide service by the New Jersey Board of Public Utilities (BPU) and the Federal Communications Commission (FCC); and

WHEREAS, AT&T, as a public utility and common carrier, has requested approval to install communications facilities in Upper Saddle River public right-of-way; and

WHEREAS, AT&T is seeking to lease or obtain conduit space and access to poles with other utilities, particularly Verizon New Jersey Inc., and Verizon has required that AT&T obtain approval of the Upper Saddle River Borough Council as a condition of such access;

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Upper Saddle River that:

1. Permission and authority are hereby granted to AT&T to install communications facilities, or lease or obtain for such communications facilities space on existing poles or in existing conduits, in the public right-of-way in Upper Saddle River in order to provide communications services to the public, and to operate, maintain and repair said facilities, subject to the following:

A. The facilities shall be installed in underground conduit and/or on to existing utility poles in the public right-of-way in accordance with the plan attached hereto as Exhibit A, which rights-of-way are delineated in red on said Exhibit.

B. AT&T, its successors and assigns, shall adhere to all applicable Federal, State, and Local laws regarding safety requirements for the use of the public right-of-way.

C. AT&T, its successors and assigns, shall comply with all Federal, State, and Local laws requiring permits prior to beginning construction.

D. Such permission be and is hereby given upon the condition and provision that AT&T, its successors and assigns, not only indemnify and save harmless the Borough of Upper Saddle River, its officers, agents, and servants, from any claims whatsoever arising from or in any way connected to the acts or omissions of AT&T in use of the public right-of-way but shall agree on behalf of the Borough to defend any action at law or equity which may be brought against the Borough upon such claims or from claims arising during the construction period, excluding in all instances claims arising out of gross negligence or willful misconduct on the part of the Borough.

E. In addition to the aforesaid indemnity agreement, AT&T, its successors and assigns shall at its own cost and expense procure and keep at all times in full force and effect paid up policies for Comprehensive General Liability Insurance in favor of the Borough, in the amount of at least \$5,000,000, covering bodily injury and property damage arising out of any one accident. Proof of said coverage, naming the Borough as an insured and including the indemnification clause in Section D shall be filed with the Borough Clerk prior to the installation of any plant. The Borough shall have the right to increase the amount of Comprehensive General Liability Insurance and to alter the terms of insurance called for under this section provided it does so generally for all companies using the public right-of-way within the Borough. Said insurance shall not be subject to cancellation or change until thirty (30) days after the Borough Clerk has received written notice thereof as evidenced by return receipt of certified or registered letter.

F. Such permission be and is hereby given upon the further condition that in the use of the public right-of-way AT&T, its successors and assigns, shall become subject to any lawful Ordinance or Resolution now or hereafter adopted by the Borough.

G. Such permission be and is hereby given upon the condition that AT&T shall obtain all applicable permits which may be required by the Borough.

H. AT&T shall deposit with the Borough Clerk the sum of \$3,000 in escrow to be used for legal and engineering review fees related to AT&T's activities hereunder.

I. AT&T shall be responsible for the repair of damage to paving, existing utility lines, or any surface or subsurface installations, etc., arising from the construction, installation or maintenance of said plant.

J. Notwithstanding any provision contained herein, neither the Borough nor AT&T shall be liable to the other for consequential, incidental, exemplary or punitive damages on account of any activity pursuant to this instrument.

K. This instrument shall be adopted on behalf of the Borough by the Upper Saddle River Borough Council and attested to by the Borough Clerk who shall affix the Borough Seal thereto. Said execution, approval, and filing shall constitute the existence of public notification.

L. The permission and authority hereby granted shall be for a period of 50 years. However, after 15 years from the date of this agreement, the Borough shall have the right to terminate permission and authority, by Resolution with a minimum one year notice to AT&T to sell or liquidate its facilities in the public right-of-way. Conversely, AT&T shall be allowed to terminate permission and authority, by request of Resolution with a minimum of one year from passage of such Resolution to sell or liquidate its facilities in the public right-of-way.

M. AT&T agrees to advise and consult with Borough officials regarding the steps needed to deploy fiber that could connect police headquarters with security cameras to be mounted on traffic lights at the intersections of Lake Street and West Saddle River Road, and Lake Street and East Saddle River Road. Such consultation would include identification of relevant engineering professionals and construction firms able to provide the services required by the Borough, and the relevant officials at Verizon New Jersey responsible for granting pole attachment licenses.

#### STATEMENT

This resolution authorizes AT&T to install communications lines within conduit or on existing poles in the public right-of-way in order to provide communications services to the public.

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 Solid Waste Administration FY 2018 Clean Community Grant of \$19,914.48 and wishes to amend its 2018 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 2018 in the sum of \$19,914.48 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;  
Clean Community Grant FY 2018

BE IT RESOLVED that the sum of \$19,914.48 is hereby appropriated under the caption of:

General Appropriations

Operations excluded from the CAP

State and Federal Programs Receivable-Off-Set by Revenues:  
Clean Community Grant FY 2018

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 #97-18

WHEREAS, the Borough of Upper Saddle River requires engineering services for GPS location and Mapping of the Borough's existing stormwater outfall structures to comply with the NJDEP Stormwater Pollution Prevention Plan and the Borough's Tier A NJ Pollution Discharge Elimination System; 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 a fee not to exceed \$25,500.00 as 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 #98-18

WHEREAS, a Settlement Agreement has been entered into between the Borough of Upper Saddle River and Sergeant Craig Parrella in connection with charges filed by the Chief of Police as more particularly set forth in a Preliminary Notice of Disciplinary Action dated June 28, 2017; and

WHEREAS, the Settlement Agreement provides, among other things, that Sergeant Craig Parrella agrees to accept a demotion to the rank of Patrolman.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Upper Saddle River that it does hereby confirm the terms of the Settlement Agreement, including the demotion of Sergeant Craig Parrella to the rank of Patrolman, Highest Grade, effective immediately; and

BE IT FURTHER RESOLVED that a copy of this resolution shall be provided to the Chief of Police and D. John McAusland, Esq., attorney for Sergeant Craig Parrella.

\*Resolution #99-18

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, said Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough of Upper Saddle River has been awarded \$165,627 from the State of New Jersey Department of Transportation, for the purpose of its fiscal year 2017 Municipal Aid Program for Carlough Road (Section 5) and wishes to amend its 2018 budget to include this amount as a Current Fund 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 2018 in the sum of \$165,627 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;

Public and Private Revenue Offset with Appropriations  
NJDOT Grant-Carlough Road (Section 5)

BE IT RESOLVED that the sum of \$165,627 is hereby appropriated under the caption of:

General Appropriations

Operations excluded from the CAP

Public and Private Revenue Offset with Appropriations  
NJDOT Grant-Carlough Road (Section 5)

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

\*Resolution #100-18

RESOLUTION AUTHORIZING THE CANCELLATION OF CAPITAL ORDINANCE

WHEREAS, there appears open of record unexpended balance on a certain ordinance appropriation in the General Capital Fund; and

WHEREAS, the capital project has been completed; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Upper Saddle River, County of Bergen, New Jersey that the following ordinance appropriation balance in the General Capital Fund be cancelled of record:

<u>Ord. No.</u>	<u>Improvement Description</u>	<u>Deferred Charges Unfunded</u>
05-2007	Various Capital Improvements	\$196,648

Councilman Durante read for the first time: (Ord. #11-18)

"AN ORDINANCE TO AMEND CHAPTER 76 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED LICENSES".

Resolution by Councilman Durante, seconded by Councilman DiMartino:

"AN ORDINANCE TO AMEND CHAPTER 76 OF THE CODE OF THE BOROUGH OF UPPER SADDLE RIVER ENTITLED LICENSES" was introduced at a Mayor and Council meeting on August 2, 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 September 6, 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.

RULE 7. Public Comments:

Ms. Barbara Vitale, 295 Lake Street, asked for an explanation of the following Resolutions: Resolution #98-18-Mr. Regan explained that Boswell Engineering is being retained to provide GPS location and mapping of the Borough's stormwater structures as required by DEP. Resolution #98-18 involves an agreement between the Police Department and an employee. Resolution #99-18 was a grant the Borough received in the amount of \$165,627 for improvements to a section of Carlough Road. Mr. Preusch explained that Resolution #100-18 relates to a short-term note that had a balance of \$196,648 but was not expended and therefore the balance is being cancelled.

Ms. Elizabeth Pittman, 21 Old Stone Church Road asked if the Council was considering closing Plymouth Drive. Mayor Minichetti explained the matter was studied a number of times over the years, but no decision had been made and at this time, there are no plan to close the road. Ms. Pittmann wanted to thank the DPW for their swift response in repairing a sink hole on Old Stone Church Road.

Ms. Sheryl Romano, 421 W. Saddle River Road, complained that Rockland Electric is installing Smart Meters without the consent of the homeowner and that there is a monthly charge of \$15.00 if you opt out. She said she was concerned about health issues since these meters emit microwaves. Councilwoman Florio said they have installed these meters in Rockland County and are installing them in all other counties nationwide.

Ms. Romano asked that information regarding these Smart Meters be posted on the Borough website to make residents aware that they can opt out.

Ms. Ohanian, 10 Grist Mill Lane, was told that in order to switch utility companies, we would need approval from the Board of Public Utilities which is a difficult process. In regard to the deer population, she was advised that hunting would not be allowed in Upper Saddle River. Ms. Ohanian complained about speeders and was told to call the Police Department, 9-1-1 or if possible, take a picture of a license plate and that the County has jurisdiction over the speed limit on County roads.

Mr. Matt Leonard, 10 Grist Mill Lane, asked that the Borough website be more informative regarding the eruv. Mayor Minichetti said 2 Swiftreach messages totaling 7 pages and 2 maps were sent out, as well as information contained in the Borough Bulletin. As to any water issues in town, the Mayor explained the DEP is managing and monitoring any issue regarding water and have informed us that there are no water problems. In response to Mr. Leonard regarding recycling, Councilwoman Florio explained that recycling is picked up every other week. Mr. Preusch reported that the material is brought to a DEP licensed facility in Rockland County and that a monthly tonnage report is generated. He said our recyclables amounted to 6,025 tons which includes paper, glass, plastic, and cardboard.

There being no further comments; hearing was closed.

RULE 8. Adjournment.

A motion to adjourn by Councilman Durante, seconded by Councilman DiMartino was unanimously approved by all Council members present.  
(Meeting adjourned at 8:40 p.m.)

Respectfully submitted,

Rose Vido, RMC  
Borough Clerk