



Borough of Middlesex
Mayor and Council Regular Meeting
~ Minutes ~

1400 Mountain Avenue
Middlesex, NJ

Linda Chismar
732 356-7400 x238
www.middlesexboro-nj.gov

Tuesday, May 25, 2021

7:00 PM

Recreation Center

MAYOR'S STATEMENT

UNDER THE PROVISIONS OF N.J.S.A. 10:4-6 ET SEQ., NOTICE OF THE TIME AND PLACE OF THIS MEETING WAS GIVEN BY WAY OF AN ANNUAL MEETING NOTICE TO THE STAR LEDGER, COURIER NEWS AND HOME NEWS, AND POSTED AT BOROUGH HALL.

SALUTE TO FLAG

ROLL CALL

Mayor John Madden
Council President James Eodice
Councilman Jeremiah Carnes
Councilwoman Amy Flood
Councilman Jack Mikolajczyk
Councilman Martin Quinn
Councilman Douglas Rex

Also Present:

Marcia Karrow Administrator
Christopher Corsini Borough Attorney

Others Absent:

PRESENTATIONS

APPOINTMENTS

1. Mayor Madden Accepted the Resignation of Chris Maynard from the Recreation Committee effective May 10, 2021
 2. Mayor Madden Appointed Kristin Bennett to the Recreation Committee for a term expiring December 31, 2021
-

PROCLAMATIONS

1. May 14, 2021 - Apraxia Awareness Day

WHEREAS, May 14th marks Childhood Apraxia of Speech Day during which awareness will be raised about childhood apraxia of speech, an extremely challenging speech disorder that affects 1-in-1,000 children; and

WHEREAS, childhood apraxia of speech causes children to have significant difficulty learning to speak and is among the most severe speech deficits in children; and

WHEREAS, the act of learning to speak comes effortlessly to most children, those with apraxia require early, appropriate, and intensive speech therapy, often for many years, to learn to speak; and

WHEREAS, without appropriate speech therapy intervention, children with apraxia will have diminished communication skills, but are also placed at high risk for secondary impacts in reading, writing, spelling, and other school-related skills; and

WHEREAS, such primary and secondary impacts diminish future independence and employment opportunities and challenge the ability to become productive, contributing citizens if not resolved or improved; and

WHEREAS, public awareness about childhood apraxia of speech is essential for families of children with this neurological disorder and the professionals who support them to achieve the needed services for those learning to use their own voice; and

WHEREAS, our highest respect goes to these children, as well as their families, for their effort, determination, and resilience in the face of such obstacles.

NOW, THEREFORE, I, John L. Madden, Mayor of Middlesex Borough, hereby proclaim May 14, 2021 as

APRAXIA AWARENESS DAY
in Middlesex Borough

Councilwoman Flood read the Apraxia Awareness Day Proclamation into the record.

ORDINANCE(S) FOR INTRODUCTION

Borough Clerk Linda Chismar read ordinance 2035-21 by title:

ORDINANCE 2035-21

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF MIDDLESEX IN
CHAPTER 309 PEDDLING AND SOLICITING, SECTION 309-6 APPLICATION FOR
LICENSES**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF MIDDLESEX
THAT:**

Section 309-6 shall be amended to read as follows (strikethrough text is to be deleted, bold and underlined text is to be added):

Any person desiring a license to carry out any regulated activity in the Borough shall file, not more than three months prior to the time such activity shall commence, nor fewer than 10 days prior thereto, together with the fee and bond provided by § 309-11 of this chapter, ~~which fee shall be returned if the license is rejected,~~

The application fee shall be nonrefundable, unless the application is rejected by the Borough then the fee shall be returned to the applicant. An application **shall** consist of the following:

- A. A statement, on a form to be supplied by the Borough Clerk, setting forth:
 - . The applicant's name and social security number.
 - . The applicant's permanent home address.
 - . If employed, The name and address of the applicant's employer.
 - . The applicant's place(s) of residence for the preceding three years.
 - . The dates on which the applicant wishes to commence and complete the regulated activity.
 - . Whether the applicant has ever been convicted of a crime, misdemeanor or violation of any ordinance concerning canvassing or solicitation and, if so, the date, place and nature of the offense and the penalty imposed.
 - . Names or other communities in which the applicant has worked as a canvasser or solicitor in the past two years.
 - . Make, model, description and license number of any automobile that the applicant will use in connection with the regulated activity.
 - . The use and disposition of any funds to be solicited.
 - . A description of the methods to be used in conducting solicitations of funds.
 - . Proof, if applicable, that the organization on behalf of which the regulated activity will be conducted is a nonprofit corporation and/ or exempt from federal income taxation.
 - . A brief statement of the nature of the activity, any associates businesses or organizations, and if applicable, a description of the merchandise or service to be sold.
 - . Three copies of a photograph of the applicant taken within 60 days immediately prior to the date of the application, which photograph shall clearly show the head and shoulders of the applicant and shall measure two inches by two inches.
 - . The fingerprints and a background check of the applicant, to be completed and approved by the Borough of Middlesex Police Department.
- B. A letter or other written statement from the individual, firm or corporation employing the applicant, certifying that the applicant is authorized to act as the employer's representative in carrying out the regulated activity.

This ordinance shall take effect upon final adoption and publication as required by law.

RESULT:	FIRST READING [UNANIMOUS]	Next: 6/15/2021 7:00 PM
MOVER:	James Eodice, Council President	
SECONDER:	Jack Mikolajczyk, Councilman	
AYES:	Eodice, Carnes, Flood, Mikolajczyk, Quinn, Rex	

Borough Clerk Linda Chismar read ordinance 2036-21 by title:

ORDINANCE 2036-21

**AN ORDINANCE AMENDING CHAPTER 355-10 (MAINTENANCE AND REPAIR -
STORMWATER CONTROL REGULATIONS) TO CONFORM TO NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION REQUIREMENTS**

WHEREAS, pursuant to regulations adopted by the New Jersey Department of Environmental Protection and found at N.J.A.C. 7:8, municipalities are required to amend their Stormwater Control Regulations to conform with state regulations; and

WHEREAS, the Borough Council of the Borough of Middlesex has adopted a Stormwater Control Ordinance conforming with N.J.A.C. 7:8; and

WHEREAS, the County of Middlesex has requested a minor amendment to Chapter 355-10 of the recently adopted Stormwater Control Ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Middlesex in the County of Middlesex and State of New Jersey that Chapter 355-10 of the Borough Code be amended as follows (additions are indicated **thusly**):

Section 1

Chapter 335-10 is hereby amended as follows:

Chapter 355-10. Maintenance and Repair:

A. Applicability

Projects subject to review as in Chapter 355-1.C of this ordinance shall comply with the requirements of Chapter 355-10.B and 10.C.

B. General Maintenance

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative

and corrective maintenance (including replacement). The plan shall contain information on BMP location, design, ownership, maintenance tasks and frequencies, and other details as specified in Chapter 8 of the NJ BMP Manual, as well as the tasks specific to the type of BMP, as described in the applicable chapter containing design specifics.

3. If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
4. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
5. If the party responsible for maintenance identified under Chapter 355-10.B.3 above is not a public agency, the maintenance plan and any future revisions based on Chapter 355-10.B.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
6. Preventative and corrective maintenance shall be performed to maintain the functional parameters (storage volume, infiltration rates, inflow/outflow capacity, etc.) of the stormwater management measure, including, but not limited to, repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.
7. The party responsible for maintenance identified under Chapter 355-10.B.3 above shall perform all of the following requirements:
 - i. maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders;
 - ii. evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and
 - iii. retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Chapter 355-10.B.6 and B.7 above;

iv. **post a two-year maintenance guarantee in accordance with N.J.S.A. 40:55D-53**

8. The requirements of Chapter 355-10.B.3 and B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department.
 9. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.
- C. Nothing in this subsection shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53

Section II. Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section III. Effective Date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as required by law.

RESULT:	FIRST READING [UNANIMOUS]	Next: 6/15/2021 7:00 PM
MOVER:	James Eodice, Council President	
SECONDER:	Jack Mikolajczyk, Councilman	
AYES:	Eodice, Carnes, Flood, Mikolajczyk, Quinn, Rex	

ORDINANCE(S) FOR PUBLIC HEARING AND FINAL ADOPTION

Borough Clerk Linda Chismar read ordinance 2031-21 by title:

ORDINANCE 2031-21

AN ORDINANCE AUTHORIZING AN EMERGENCY APPROPRIATION, AS PER N.J.S.A. 40A:4-53, COVID-19 SPECIAL EMERGENCY

BE IT ORDAINED by the Governing Body of the Borough of Middlesex, County of Middlesex, State of New Jersey, that pursuant to N.J.S.A. 40A:4-53(m) (Ch.144, P.L. 1965 as amended, including Ch. 46, P.L. 2010 and P.L. 2020 c.74) the sum of \$129,026.75 is hereby appropriated for COVID-19 affected Community Swim Pool revenue losses and shall be deemed a special emergency appropriation as defined and provided for in N.J.S.A. 40A:4-53 and 40A:4-55.

The amount to finance the appropriation shall be provided for in succeeding annual budgets beginning in 2022 by inclusion of at least one-fifth (1/5) of the amount authorized pursuant to the act (N.J.S.A. 40A:4-55).

BE IT FURTHER ORDAINED that this ordinance shall take effect at the time and manner provided by law.

Mayor Madden opened the public hearing on Ordinance No. 2031-21. Seeing that there were no public comments, Mayor Madden closed the public hearing on Ordinance No. 2031-21.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Eodice, Council President
SECONDER:	Jack Mikolajczyk, Councilman
AYES:	Eodice, Carnes, Flood, Mikolajczyk, Quinn, Rex

Borough Clerk Linda Chismar read ordinance 2032-21 by title:

ORDINANCE 2032-21

AN ORDINANCE PROHIBITING THE OPERATION OF ANY CLASS FIVE CANNABIS RETAILER WITHIN THE BOROUGH AND REPEALING AND REPLACING CHAPTER 321 (RECREATIONAL MARIJUANA) OF THE MUNICIPAL CODE OF THE BOROUGH OF MIDDLESEX TO COMPLY WITH STATE LAW

WHEREAS, in 2020's general election, New Jersey voters approved a ballot measure supporting the legalization of recreational marijuana for persons at least 21 years of age; and

WHEREAS, the issue of recreational marijuana has been a prevalent topic in the New Jersey legislature since the election of Governor Phil Murphy in 2017; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), which concerns the development, regulation, and enforcement of a recreational cannabis marketplace for persons 21 years of age or older; and

WHEREAS, the state-wide administrative body known as the Cannabis Regulatory Commission is tasked with overseeing the licensing process for applicants desiring to become involved with the recreational cannabis marketplace; and

WHEREAS, the Act establishes six classes of businesses for licensure:

Class 1- cultivators, for facilities involved in growing and cultivating cannabis;

Class 2- manufacturing and packaging, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;

Class 3- wholesaling, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;

Class 4- distributing, for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another, or cannabis items in bulk between any type of licensed cannabis business;

Class 5- retailing, for locations at which cannabis and cannabis items and related supplies are sold to consumers; and

Class 6- delivery services, for businesses providing courier services for consumer purchases; and

WHEREAS, the Act authorizes municipalities to adopt regulations governing the number of licensed cannabis establishments, distributors, or delivery services, as well as the location, manner, and times of operation of establishments and distributors but not times of operation for delivery services, as well as regulations establishing civil penalties for violation of an ordinance governing the number of cannabis establishments, distributors, or delivery services that may operate in such municipality, or their location, manner, or the times of operations; and

WHEREAS, the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, the Act states that any such ordinance must be adopted within 180 days of the effective date of the Act; and

WHEREAS, the failure to enact such an ordinance shall mean that, for a period of five years, the growing, cultivating, manufacturing, selling, and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis and cannabis items to consumers shall be permitted in commercial and retail zones; and

WHEREAS, at the conclusion of the initial five-year period following the failure to enact such an ordinance, the municipality shall have another 180-day period to enact an ordinance, but said ordinance would be prospective only and not be applicable to any existing cannabis establishments; and

WHEREAS, any ordinance enacted by a municipality prior to the effective date of the Act addressing recreational cannabis within its jurisdiction are made null and void by virtue of the act; and

WHEREAS, existing Chapter 321 (Recreational Marijuana) of the Code of the Borough of

Middlesex is now null and void; and

WHEREAS, the Administration and Council of the Borough of Middlesex have determined that the retail sale of cannabis or cannabis items within Borough jurisdiction would be detrimental to the public health, safety, and welfare of the Borough and its residents; and

WHEREAS, all Class Five licensees (retailers) would be prohibited from operating anywhere in the Borough but other classes of cannabis businesses would be permitted to the extent allowed by the Borough's Zoning Ordinance, Chapter 420 of the Borough Code; and

WHEREAS, the Borough of Middlesex and its officials, due to the uncertainty of potential future impacts of allowing cannabis retailers within its jurisdiction, have determined that the prudent course of action is to allow sufficient time to carefully review all aspects of the Act and its impacts before permitting cannabis retailers to operate within the Borough;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Middlesex, in the County of Middlesex and State of New Jersey, as follows:

SECTION I.

Pursuant to the authority granted to the Borough by the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, all class five cannabis retailers are hereby prohibited from operating anywhere in the Borough of Middlesex.

SECTION II.

The code of the Borough of Middlesex is hereby amended by adding to the list of prohibited uses throughout the Borough all class five cannabis retailers. To effectuate this prohibition, the Borough hereby repeals and replaces the existing Chapter 321 of the Borough code with an updated prohibition on cannabis retailing.

SECTION III.

The new title of Chapter 321 shall be amended and read as: "Chapter 321 (Recreational Cannabis Retailing)"

SECTION II.

The current Chapter 321, currently Sections 321-1 through 321-5, is hereby repealed and replaced by a new Chapter 321, and shall be caused to appear in the Borough's Code as follows:

SECTION III.

Section 321-1 is hereby newly created and entitled "Recreational Cannabis" and shall read as follows:

All Class Five Cannabis Retailers, as defined in the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16) are hereby prohibited from operating anywhere in the Borough of Middlesex. Such retail establishments are a prohibited use in all zones.

The remaining classes of cannabis businesses are only permitted to operate to the extent

allowed by the Borough's zoning ordinance, Chapter 420, in the zones in which such uses are expressly permitted. However, nothing shall prohibit the delivery of cannabis items and related supplies by a delivery service, as stated in the Act.

SECTION IV.

Section 321-2 is hereby newly created and entitled "Medical Marijuana" and shall read as follows:

Nothing in this chapter shall prohibit the operation of alternate treatment centers ("ATC") pursuant to the New Jersey Compassionate Use Medical Marijuana Act. N.J.S.A. 24:61-1 et seq., provided that no ATC shall also hold a license as a marijuana retail establishment for the purposes of dispensing marijuana for recreational consumption.

SECTION V.

Any ordinances or parts thereof inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION VI.

If any such section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall only apply to this section, paragraph, subdivision, clause, or provision, and the remainder of this ordinance shall be deemed valid and effective.

SECTION VI.

This ordinance shall take effect upon adoption and publication in the manner otherwise prescribed by law.

Mayor Madden opened the public hearing on Ordinance No. 2032-21. Seeing that there were no public comments, Mayor Madden closed the public hearing on Ordinance No. 2032-21.

Council President Eodice, and Councilmembers Flood, Quinn, and Mikolajczyk made the following comments:

Councilwoman Flood expressed her concern over the wording of the Ordinance, specifically regarding voting yes to ban retail but allowing the others, showing worry that if passed they would be inviting the other Cannabis classes into the town by not being more specific. She conveyed her desire to be able to vote on each class, not just the retail, showing desire to remove some wording. Councilwoman Flood also asks for clarification on the state voiding Ordinances in reference to Cannabis that are currently in place. In addition, she states her belief that the Council should move slowly and not rush into anything, suggesting banning all classes until a later time, when more discussion can be had as well as more information present.

Councilman Quinn expressed his belief that the revenue taken in would be a boon to the town, emphasizing the need for extra revenue, as well as his concern for establishments currently selling Cannabis related products and the effect that banning the retail would have on these small operations.

Council President Eodice stated the need for compromise on the subject. Expressing his desire to have the residents have a say in what is done for the town. He also comments on the traffic concerns that retail establishments would impact the town with.

Councilman Mikolajczyk commented on the revenue in pounds being much larger then in ounces, discussing some number comparisons. He also stated his concerns that if the Council wait to make any decisions then they may fall to the wayside.

RESULT:	ADOPTED [5 TO 1]
MOVER:	James Eodice, Council President
SECONDER:	Jack Mikolajczyk, Councilman
AYES:	Eodice, Carnes, Flood, Mikolajczyk, Rex
NAYS:	Quinn

Borough Clerk Linda Chismar read ordinance 2033-21 by title:

ORDINANCE 2033-21

AN ORDINANCE AMENDING SECTION 343-5 OF ARTICLE II OF CHAPTER 343 (SMOKING) SO AS TO ADD SMOKING OR AEROSOLIZING CANNABIS OR CANNABIS ITEMS TO THE LIST OF PROHIBITED CONDUCT

WHEREAS, in 2020's general election, New Jersey voters approved a ballot measure supporting the legalization of recreational marijuana for persons at least 21 years of age; and

WHEREAS, the issue of recreational marijuana has been a prevalent topic in the New Jersey legislature since the election of Governor Phil Murphy in 2017; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), which concerns the development, regulation, and enforcement of a recreational cannabis marketplace for persons 21 years of age or older; and

WHEREAS, the Administration and Council of the Borough of Middlesex has already determined that the licensing of retail cannabis establishments within the Borough would be detrimental to the public health, safety, and welfare of the Borough and its residents pursuant to Chapter 321 of its Municipal Code; and

WHEREAS, the Act already provides that the fines or civil penalties that may be assessed for the smoking of tobacco in designated places under the New Jersey Smoke-Free Air Act shall be applicable to the smoking, vaping, or aerosolizing of cannabis items; and

WHEREAS, the Smoke-Free Air Act allows a municipality to bring actions in the name of their local board of health for smoking tobacco or cannabis in areas open to the public; and

WHEREAS, the existing Chapter 343 concerning smoking tobacco needs to be updated to include the smoking, vaping, aerosolizing, or otherwise consuming cannabis or cannabis items as prohibited conduct;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Middlesex, in the County of Middlesex and State of New Jersey, that Section 343-5 of the Municipal Code of the Borough of Middlesex is hereby amended as follows:

SECTION I.

Section 343-5 entitled "Smoking prohibited" is hereby amended as follows (struck through portions to be removed, bolded and underlined portions to be added):

Smoking shall be prohibited at all times in all enclosed public places within the Borough of Middlesex, including, but not limited to, the following places:

A. All enclosed areas available to and customarily used by the general public and all areas of business establishments and nonprofit entities generally accessible to the public, including, but not limited to, the public areas of retail stores, banks, offices, movie theaters, laundromats, hotels, motels, sports arenas, and bowling facilities.

B. All restaurants and bars in accordance with N.J.S.A. 26:3E-7 to 26:3E-13 are exempt from this article. [Amended 5-14-2002 by Ord. No. 1558]

C. All outdoor areas within ten linear feet from any and all entrances and exits of any and all enclosed indoor areas where smoking is prohibited, to ensure that tobacco smoke does not enter the smoke free indoor areas through entrances, windows, ventilation systems, or any other means.

D. All rest rooms, lobbies, reception areas, hallways, elevators, service lines, and any other common-use areas in enclosed public places.

E. All polling places.

F. All lobbies, hallways, elevators, and other common areas of multiunit residential buildings, including, but not limited to, apartment buildings, condominiums, town houses, trailer parks, retirement facilities, and nursing homes.

G. All buses, taxis, other means of public transit and waiting areas of public transit depots, and limousine and car services.

H. All private residences that are used as child-care or health-care facilities.

I. All health-care facilities, including but not limited to, clinics, physical therapy facilities, and offices of doctors, dentists, chiropractors, and psychiatrists.

J. All enclosed facilities owned, leased, or operated by the Borough of Middlesex.

K. All museums, galleries, and libraries.

L. All auditoriums, stages, performance halls or any venue wherein performance and demonstration occurs.

M. Sports arenas and gymnasiums.

N. Schools.

O. All lobbies, hallways, or common areas of multiunit commercial facilities.

For the purposes of this Chapter, **"smoking" shall include the smoking of tobacco or tobacco products and the smoking, vaping, aerosolizing, or otherwise consuming of cannabis or cannabis items.**

SECTION II.

Any ordinances or parts thereof inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION III.

If any such section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall only apply to this section, paragraph, subdivision, clause, or provision, and the remainder of this ordinance shall be deemed valid and effective.

SECTION IV.

This ordinance shall take effect upon its passage and publication as otherwise provided for by law.

Mayor Madden opened the public hearing on Ordinance No. 2033-21. Seeing that there were no public comments, Mayor Madden closed the public hearing on Ordinance No. 2033-21.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Eodice, Council President
SECONDER:	Jack Mikolajczyk, Councilman
AYES:	Eodice, Carnes, Flood, Mikolajczyk, Quinn, Rex

Borough Clerk Linda Chismar read ordinance 2034-21 by title:

ORDINANCE 2034-21

AN ORDINANCE CREATING A NEW CHAPTER 344 ENTITLED "SMOKING, CANNABIS LIMITATIONS" TO PROHIBIT SMOKING, VAPING, AEROSOLIZING, OR OTHERWISE CONSUMING CANNABIS OR CANNABIS ITEMS ON PUBLIC PROPERTY

WHEREAS, in 2020's general election, New Jersey voters approved a ballot measure supporting the legalization of recreational marijuana for persons at least 21 years of age; and

WHEREAS, the issue of recreational marijuana has been a prevalent topic in the New Jersey legislature since the election of Governor Phil Murphy in 2017; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L.

2021, c. 16) (CREAMM Act), which concerns the development, regulation, and enforcement of a recreational cannabis marketplace for persons 21 years of age or older; and

WHEREAS, the Administration and Council of the Borough of Middlesex has already determined that the licensing of retail cannabis establishments within the Borough would be detrimental to the public health, safety, and welfare of the Borough and its residents pursuant to Chapter 321 of its Municipal Code; and

WHEREAS, the Act already provides that the fines or civil penalties that may be assessed for the smoking of tobacco in designated places under the New Jersey Smoke-Free Air Act shall be applicable to the smoking, vaping, or aerosolizing of cannabis items; and

WHEREAS, the Smoke-Free Air Act allows a municipality to enact an ordinance preventing an individual from smoking or carrying lighted tobacco in any public place, including, but not limited to, places of public accommodation; and

WHEREAS, municipalities are given the discretion to enact an ordinance making it unlawful for any person who is of legal age to consume a cannabis item in a manner not from smoking, vaping, or aerosolizing in a public place, as well;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Middlesex in the County of Middlesex and State of New Jersey that a new Chapter entitled "Smoking, Cannabis Limitations" shall be inserted as Chapter 344 of the Municipal Code of the Borough of Middlesex and shall read as follows:

SECTION I.

Chapter 344-1 is hereby created and entitled "Findings/Purpose" and shall read as follows:

The purpose of this Chapter is to regulate the use and consumption of cannabis and cannabis items in public places, as discussed in Section 46 of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act. Pursuant to Section 46 and N.J.S.A. 26:3D-65(a), a municipality may, by ordinance, fine an individual who smokes or carries lighted cannabis, or consumes cannabis not by smoking, vaping, or aerosolizing, in any public place.

For purposes of this section, "public place" means "any place to which the public has access that is not privately owned; or any place to which the public has access where alcohol consumption is not allowed, including, but not limited to, a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, playground, swimming pool, shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library, or any other public building, structure, or area."

In connection therewith, the Borough of Middlesex finds that in public places, the right of nonsmokers to breathe clean air outweighs the right of smokers to smoke, and also finds that the consumption of cannabis in public places is inimical to the health, safety, and welfare of the Borough and its residents.

SECTION II.

Chapter 344-2 is hereby created and entitled "Cannabis Limitations" and shall read as

follows:

No person shall engage in the smoking, vaping, aerosolizing, or otherwise consuming of cannabis or cannabis items in a public place as defined in this Chapter.

SECTION III.

Chapter 344-3 is hereby created and entitled "Signs" and shall read as follows:

"No smoking, vaping, aerosolizing, or otherwise consuming cannabis or cannabis items" signs adequately providing notice of the prohibition on the smoking, vaping, aerosolizing, or otherwise consuming of cannabis or cannabis items shall be clearly, sufficiently, and conspicuously posted in all public places affected by this section. Such signs shall also indicate that violators are subject to the penalty provisions of this Chapter.

SECTION IV.

Chapter 344-4 is hereby created and entitled "Violations and Penalties" and shall read as follows:

Pursuant to N.J.S.A. 26:3D-65(a) and Section 46 of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, any person who violates this Chapter by smoking, vaping, aerosolizing, or otherwise consuming cannabis or cannabis items in a public place is subject to a civil penalty of up to \$200, which shall be recovered in a civil action by a summary proceeding in the name of the municipality pursuant to the "Penalty Enforcement Law of 1999," (P.L. 1999, c. 274) (C.2A:58-10 et. seq.).

SECTION V.

Any ordinances or parts thereof inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION VI.

If any such section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall only apply to this section, paragraph, subdivision, clause, or provision, and the remainder of this ordinance shall be deemed valid and effective.

SECTION VII.

This ordinance shall take effect upon its passage and publication as otherwise provided for by law.

Mayor Madden opened the public hearing on Ordinance No. 2034-21. Seeing that there were no public comments, Mayor Madden closed the public hearing on Ordinance No. 2034-21.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Eodice, Council President
SECONDER:	Jack Mikolajczyk, Councilman
AYES:	Eodice, Carnes, Flood, Mikolajczyk, Quinn, Rex

ADOPTION OF MINUTES

1. Approval of the May 11, 2021 Regular Meeting Minutes

RESULT:	APPROVED [UNANIMOUS]
MOVER:	James Eodice, Council President
SECONDER:	Amy Flood, Councilwoman
AYES:	Eodice, Carnes, Flood, Mikolajczyk, Quinn, Rex

MAYOR'S REPORT

COUNCIL MEMBER REPORTS

Council President Eodice

Council President Eodice made the following comments:

- Swim Pool Commission met May 19th ,
- Memberships are picking up
- Commission expressed their gratitude for the Ordinance up tonight

Councilman Carnes

Councilman Carnes made the following comments:

- Joint Land Use Board will meet May 26th, the previous meeting was cancelled
- The Cultural & Heritage Committee met May 21st
- Thanks Chris Maynard for his service on the Recreation Committee, and welcomes Kristin Bennett as a new member of the Committee
- New programs are being offered from the Recreation Department with success
- Board of Education launched an all districts Art Festival

Councilwoman Flood

Councilwoman Flood expressed her thanks to a resident who reached out to her with a concern in regards to trash.

Councilman Mikolajczyk

Councilman Mikolajczyk made the following comments:

- April had the lowest number of calls for the year
- UCR index crimes are up to 9
- Urges residents to be vigilant and safe
- 121 Motor Vehicle Summons issued

Councilman Quinn

No Report

Councilman Rex

Mr. Les Jones gave a summary of vaccine status for the County. The County has continued giving inoculations for homebound elderly individuals using their mobile vehicle. Inoculation rates are lower than in previous months. 39% of Middlesex Borough residents are fully vaccinated with 57% having received one shot. The Borough is receiving weekly Covid 19 updates reflecting the number of cases. Middlesex Board of Health has been requesting and needs an immediate Assessment of how they are performing. This data can be used to better serve the residents in their daily life. This will also assist in alerting the public as to all the County services available for their use. A Rabies clinic is scheduled for November 6th at the DPW Yard, the Veterinarian from SBB will be giving the inoculations. All supplies for the Clinic are being handled through the Veterinarian's office.

I have been in contact with our Borough lawyer concerning updating the Smoking Ordinance. This refers to N.J.S.A. 26-3D 62 which has higher fines compared to the Borough's Ordinance scheme for a) individuals who smoke being ordered not to or b) establishments that permit smoking in violation of the Act. The fines are not less than \$250 for first offense, \$500 for a second offence and \$1,000 for a third or subsequent offences. This can be collected through the Board and Health and a separate \$200 fine collected by Police. The old model, which is reflected in Chapter 343 of our Code is \$50-100 for a first, \$100-\$200 for a second and \$250-500 for a third. This old model was enacted back in 2002, prior to the passing of the Smoke Free Air Act and has been amended since but not to increase fines up to the maximum amount. The only edit to this ordinance introduced in the last meeting was to include smoking cannabis as a violation.

I am asking the council to go forward with increasing the Board of Health fines to compare to the State Statute; we would have to do another amendment. The disparity is just the product of an older Ordinance on the books. With everyone's permission I would like to go forward, and allow me to advise our Borough lawyer to create a new create a new Ordinance. Everyone knows that I do not like stuff hanging around. Doing this will take this off the plate. What say you all?

ADMINISTRATOR'S REPORT**Administrator's Report
May 25, 2021**

- i. **Flood Management:**
- i. ***Stormwater Ordinance - Introduced tonight as amended under new DEP rules**

- ii. **Update on Sewer Projects:**
- i. **Phase I:**
 - a. **i-Bank (formerly EIT) funding reimbursement;**
 - b. **Additional work on George Street needed**
 - c. **O&M Manual required by DEP**
- ii. **Phase II: Pump Stations: Going out to bid possibly the end of the week; bids to be received either on the 9th or 10th of June**
- iii. **Phase IV: Sewer Bypass**

- iii. **Update on Other Public Works Projects:**
- i. **Streetscape Project**
- ii. **2019 DOT: Fisher and Ashland: Project awarded to Stilo waiting for Notice to Proceed from Engineer**

- iii. *2020 DOT: Harris, Sherman, Chestnut, Hazelwood - This project is getting ready to go out to bid
- iv. Miscellaneous
 - i. *Recreation
 - ii. *DPW Personnel Shifting - Council approved to have Sally Lynch moving to be DPW Secretary & Senior/Recreation Director to hire full time Administrative Assistant for Senior Office.
 - iii. *150 Lofts PILOT Payment Update - Property owner feels \$135,000 in arrears. Need clarification.
 - iv. *Vaping Ordinance interest - Consensus of Council to introduce ordinance that only incorporates penalties of sale to underage individuals - not to have a license fee imposed
 - v. *Financial Disclosure Statements - Reminder
 - vi. *Smoking ordinance per Board of Health request - Consensus of Council obtained to introduce smoking ordinance
 - vii. *Body Worn Cameras for Police - Resolution on Agenda
 - viii. *Sewer rate increase - 1.005% sewer rate increase
 - ix. *Rescue Squad Line Striping - DOT agreed to work requested by Rescue Squad, plus additional notifications at the corner of Rt. 28 - An ordinance will be needed to approve receipt of this work
 - x. *Personnel Shifting and vacancies

PRIVILEGE OF THE FLOOR

Rob Dessino, 405 Edgeworth Street commented on the need for an assistant (second person in charge) for the DPW Superintendent.

Kevin Redzinski, 445 Fairview Avenue questioned the legality of the Administrator's polling of Council Members. Also, Mr. Redzinski discussed the junk that residents place at the curb and the need to adopt an ordinance which is strictly enforced, and imposes fines when junk is left out on the curb.

Mayor Madden, Administrator Karrow and Attorney Corsini responded to all questions and comments.

NEW BUSINESS/CONSENT AGENDA/RESOLUTIONS

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Eodice, Council President
SECONDER:	Jack Mikolajczyk, Councilman
AYES:	Eodice, Carnes, Flood, Mikolajczyk, Quinn, Rex

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 153-2021

ACCEPTANCE OF STANDING REPORTS

The Governing Body hereby accepts the following Reports itemized below:

1. Acceptance of the April, 2021 Police Report

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 154-2021

AUTHORIZING THE MAYOR TO EXECUTE THE PROFESSIONAL SERVICE AGREEMENT WITH RUTGERS UNIVERSITY BEHAVIORAL HEALTH CARE EAP AND THE BOROUGH OF MIDDLESEX EFFECTIVE JULY 1, 2021 - JUNE 30, 2022

The Governing Body authorizes the Mayor to execute the Professional Service Agreement with Rutgers Biomedical and Health Sciences - University Behavioral Health Care and the Borough of Middlesex effective July 1, 2021 - June 30, 2022. At the expiration of this contract the Contract will automatically renew for an additional one-year term.

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 155-2021

THE TAX COLLECTOR IS AUTHORIZED TO ISSUE TAX TITLE LIEN REDEMPTION'S FOR BLOCK 256 LOT 12 IN THE AMOUNT OF \$1,929.10

WHEREAS, pursuant to N.J.S.A. 54:5-54, a lien has been redeemed by the owners or those persons having an interest, and the purchasers of said property are legally entitled to receive redemption funds in the following specific amounts, and;

WHEREAS, the interest and payments on the following Tax Title Lien Redemptions were calculated for May 25, 2021 and;

NOW, THEREFORE, BE IT RESOLVED the Tax Collector is hereby authorized to issue a check to the lien holder in the following amount(s):

<u>Date of Sale:</u>	12/2/2020
<u>Block/Lot:</u>	256 / 12
<u>Amount:</u>	\$1,929.10
<u>Premium:</u>	\$1,600.00
<u>Certificate:</u>	19-00027
<u>Payable To:</u>	US Bank Cust Tower DB X Trust 50 South 16 th St. Suite 2050 Philadelphia, PA 19102

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 156-2021

APPROVAL FOR THE RESIDENTS OF 300 GREENE AVENUE TO CONDUCT A BLOCK PARTY ON DELAWARE AVENUE BETWEEN MELROSE AVENUE AND GREENE AVENUE ON JUNE 5, 2021 BETWEEN THE HOURS OF 10 A.M. AND 10 P.M.

WHEREAS, the residents of 300 Greene Avenue have requested to have a block party on Delaware Avenue between Melrose Avenue and Greene Avenue on June 5, 2021 between the hours of 10 a.m. and 10 p.m.; and

WHEREAS, all the designated officials have given approval for this block party.

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

1. The Governing Body hereby grants approval to the residents of 300 Greene Avenue to conduct a block party on Delaware Avenue between Melrose Avenue and Greene Avenue on June 5, 2021 between the hours of 10 a.m. and 10 p.m.
2. This resolution shall take effect immediately.

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 157-2021

ACKNOWLEDGING THE CHANGE IN STATUS FOR CERTAIN PROPERTIES UNDER THE VETERAN TAX DEDUCTIONS

WHEREAS, per (N.J.S.A. 54:4-8.10 et seq.as amended by P.L. 2019 c.413; N.J.A.C. 18:27-1.1 et seq.), certain Veterans were the owners of property in the Borough of Middlesex on or before October 1, 2020, and

WHEREAS, said Veterans did file their claims for the Veteran deduction with the proper official of the Borough of Middlesex, Middlesex County, and

WHEREAS, the Tax Assessor has allowed the following Veteran deduction(s) for the 2021 tax year totaling \$250.00

Name: Adams, Matthew
Block/Lot: 99 / 44.03
Amount: \$250.00

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 158-2021**APPROVAL OF THE TOWING LICENSES FOR 2021/2022 (EXPIRING 5/31/2022)**

The following applications for Towing Licenses for 2021/2022 have been approved by the Police Department and met all Borough requirements, and the Borough Clerk is hereby authorized to issue the license in consideration of the fees which have been paid.

1. Hart's Auto Body
2. Tierno's Automotive Inc.
3. M&W Towing Service
4. Mike's Towing
5. JVD Towing

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 159-2021**AUTHORIZING THE MAYOR AND BOROUGH CLERK TO EXECUTE THE MIDDLESEX BOROUGH PUBLIC WORKS EMPLOYEES CONTRACT EFFECTIVE JANUARY 1, 2021 - DECEMBER 31, 2024 - *Item Removed from Consent***

The Mayor and Borough Clerk are hereby authorized to execute the Contract between the Middlesex Borough Public Works Employees Contract (Local 255, United Service Workers Union, IUJAT) and the Borough of Middlesex effective January 1, 2021 - December 31, 2024.

RESULT:	TABLED BY CONSENT VOTE [UNANIMOUS]	Next: 6/15/2021 7:00 PM
MOVER:	James Eodice, Council President	
SECONDER:	Jack Mikolajczyk, Councilman	
AYES:	Eodice, Carnes, Flood, Mikolajczyk, Quinn, Rex	

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 160-2021**ACKNOWLEDGING THE CHANGE IN STATUS FOR CERTAIN PROPERTIES UNDER THE SENIOR CITIZEN / DISABLED PERSON TAX DEDUCTIONS**

WHEREAS, certain Senior Citizens/ Disabled Persons were the owners of the property in the Borough of Middlesex on or before October 1, 2020, and

WHEREAS, said Senior Citizens / Disabled Persons did file their claims for the Senior Citizen/ Disabled Person deduction with the proper official of the Borough of Middlesex, Middlesex County prior to December 31, 2020; and

WHEREAS, the Tax Collector has disallowed the following Senior Citizen/ Disabled Person deduction for the 2020 year totaling \$250.00.

Name: Vitale, Peggy

Block/Lot: 282 / 34.02

Amount: \$250.00

Reason: Form Not Returned/Over Income

Year: 2020

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 161-2021

REIMBURSEMENT OF DOG LICENSE FEES IN THE AMOUNT OF \$10.00 TO LINDA YARUSSI, 12 NEW STREET, MIDDLESEX AND \$13.00 TO MS. CORTNEY WILLIAMS, 120 NEILSON STREET APT. 202, NEW BRUNSWICK

The Governing Body hereby approves the reimbursement fees for a Dog Licenses to Ms. Linda Yarussi, 12 New Street, Middlesex, New Jersey in the amount of \$10.00 and Ms. Cortney Williams Yarussi, 120 Neilson Street Apt. 202, New Brunswick, New Jersey in the amount of \$13.00.

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 162-2021

APPROVING THE MAYOR AND BOROUGH CLERK TO EXECUTE THE CONTRACT WITH MIDDLESEX COUNTY FOR HEALTH SERVICES EFFECTIVE JANUARY 1, 2021 - DECEMBER 31, 2022

The Governing Body hereby approves the Mayor and Borough Clerk to execute a contract with Middlesex County to provide Middlesex Borough with health services for the term January 1, 2021 - December 31, 2022.

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 163-2021

**RENEWAL OF JUNKYARD LICENSES FOR 2021/2022 (EXPIRING 5/31/2022) FOR THE
BOROUGH OF MIDDLESEX**

The application for renewal of Junkyard License filed by Falgi Carting LLC, has been approved by the Police Department, Fire Official, Zoning Officer, Tax Collector and Board of Health. The Borough Clerk is hereby authorized to issue the license in consideration of the fees which have been paid. This Licenses will expire on May 31, 2022.

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 164-2021

**AUTHORIZING THE PURCHASE OF 32 POLICE BODY CAMS UNDER NJ STATE
CONTRACT #17-FLEET-00731 IN THE AMOUNT OF \$78,197.00**

WHEREAS, the Governing Body of the Borough of Middlesex wishes to purchase 32 police body cams for the Middlesex Borough Police Department under the NJ State Contract #17-FLEET-00731; and

WHEREAS, the purchase of goods and services by local contracting units is authorized by the Local Contracts Law, 40A:11-12; and

WHEREAS, Safe Fleet/COBAN Technologies, Inc. is under the NJ State Contract #17-FLEET-00731 through May 14, 2023 for the purchase of police body cams; and

WHEREAS, the cost for said purchase of 32 police body cams is \$78,197.00; and

NOW, THEREFORE BE IT RESOLVED by the Mayor and Borough Council that the purchase of 32 body cams for the Middlesex Borough Police Department, in the amount of \$78,197.00, under NJ State Contract #17-FLEET-00731 be and is hereby approved.

The CFO hereby certifies that the funds in the amount of \$78,197.00 to be appropriated in the 2021 Capital Budget.

NON-CONSENT AGENDA/RESOLUTIONS

Borough Clerk Linda Chismar read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 165-2021**PAY ALL CLAIMS**

THE DISBURSING OFFICERS BE AND THEY ARE HEREBY AUTHORIZED TO PAY THE ATTACHED CLAIM LIST AS PRESENTED, IF FOUND CORRECT, AND APPROVED BY THE FINANCE COMMITTEE. EXCLUDED VOUCHERS MAY BE PAID UPON BEING FOUND ACCEPTABLE.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	James Eodice, Council President
SECONDER:	Jack Mikolajczyk, Councilman
AYES:	Eodice, Carnes, Flood, Mikolajczyk, Quinn, Rex

AGENDA WORKSHOP ITEM

PRIVILEGE OF THE FLOOR ON AGENDA WORKSHOP ITEMS

EXECUTIVE SESSION

ADJOURNMENT

The next Regular Meeting will be June 15, 2021

Respectfully yours,

Linda Chismar
Borough Clerk