



Borough of Middlesex
Mayor and Council Regular Meeting
~ Minutes ~

1200 Mountain Ave
Middlesex, NJ

Kathleen Anello
732-356-7400 x236
www.middlesexboro-nj.gov

Tuesday, September 25, 2018

7:00 PM

Municipal Building

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.

Mayor DiMura stated that he was adding a Resolution to hire a crossing guard to the Consent Agenda and also adding discussion on the Rescue Squad Coverage for MHS football games and FYI football games and LOSAP benefits for emergency service volunteers to the Agenda Workshop Items. Council approved.

SALUTE TO FLAG

ROLL CALL

Mayor Ron DiMura
Council Member Kevin Dotey
Council Member Dan Parenti
Council Member Sean Kaplan
Council Member John Madden
Council President Robert Schueler
Council Member Jack Mikolajczyk

Also Present:

Aravind Aithal Attorney

PRESENTATIONS

1. Citizen of the Year - Todd Nicolay

Mayor DiMura awarded a plaque to Todd Nicolay on behalf of the governing body as this year's "Middlesex Borough Citizen of the Year". Mayor DiMura indicated that Todd has been dedicated to youth athletics in town for all sports and is also the Chairman of the Booster Club, which benefits the young people in town. Mayor DiMura stated that people like Todd Nicolay is why Middlesex is a great place to live and Middlesex is more than a community, we are family. The Mayor also stated that "for all the things that Todd has done, he is an example of why we are a family".

Todd Nicolay thanked the Mayor and Council for everything that they do to make Middlesex the great town that it is.

Mayor DiMura also thanked John Ellery and Middlesex Funeral Home for the donation of the plaque.

APPOINTMENTS

PROCLAMATIONS

ORDINANCE(S) FOR INTRODUCTION

ORDINANCE(S) FOR PUBLIC HEARING AND FINAL ADOPTION

The Borough Clerk read ordinance 1949-18 by title:

ORDINANCE 1949-18

**AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF MIDDLESEX,
COUNTY OF MIDDLESEX, NEW JERSEY, CHAPTER 367 SWIMMING POOL,
MUNICIPAL, SECTION 367-3 FEES**

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

Section 367-2 Membership is amended to read as follows:

A. There shall be five types of membership:

(4) Single parent and one child, which parent shall have legal custody of the child.

(5) Couples membership, which shall be available to two adults residing at the same residence.

F. Membership shall not exceed 1,000, excluding senior memberships, in number based upon consideration of capacity, safety, convenience and enjoyment. In computing the total of 1,000 memberships, an individual membership shall be counted as $\frac{1}{2}$ rather than one toward the total number of memberships allowed. The Board shall maintain a waiting list and fill all applications for membership strictly in order of receipt.

Section 367-3 Fees and charges is amended to read as follows:

Fees and charges shall be as follows:

A. Schedule of fees.

1. Resident family membership: \$264 per season if paid after April 15 of each year and \$247.50 if paid prior thereto.

2. Resident individual membership: \$176 per season if paid after April 15 of each year and \$159.50 if paid prior thereto.

3. Resident senior citizen membership: \$38.50 per season.

4. Nonresident family membership: \$379.50 per season.

5. Nonresident individual membership: \$242 per season.

6. Nonresident senior citizen membership: \$71.50 per season.
7. Resident couple membership or resident parent/one child membership: \$220 per season.
8. Nonresident couple membership or nonresident parent/one child membership: \$310.75 per season.
- E. The Swim Pool Commission has the authority to increase the membership fees by no more than 10% per year with the stipulations that the rates are not raised more than 30% over the next five years.
- F. Resident and nonresident family membership may include, for an additional fee of \$50 per season, one “nanny” or nonfamily childcare provider membership.

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

1. The Governing Body does hereby amend Section 367-3 Fees and Charges as stated above.
2. This Ordinance shall take effect immediately upon final passage and publication according to law.

Mayor DiMura opened the public portion for discussion on Ordinance No. 1949-18. Seeing that there was no public participation, Mayor DiMura closed the public portion for discussion on Ordinance No. 1949-18.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Madden, Council Member
SECONDER:	Robert Schueler, Council President
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

The Borough Clerk read ordinance 1950-18 by title:

ORDINANCE 1950-18

**AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF MIDDLESEX,
COUNTY OF MIDDLESEX, NEW JERSEY, CHAPTER 26, ECONOMIC DEVELOPMENT
COMMITTEE**

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

Subsection 26-2 shall be amended as follows:

Membership; appointment; terms of office; vacancies. The Economic Development Committee shall consist of twelve (12) members, who shall be appointed by the Mayor. The

Mayor and one (1) member of the Borough Council, to be appointed by the Mayor, shall serve as members. The Chairman of the Zoning Board shall serve as a member. Eight members shall be appointed by the Mayor, who shall be either residents of the Borough or owners/operators of businesses located within the Borough. The Economic Development Specialist shall serve as a member during his/her tenure in such position. All members shall serve for a term of one (1) year. Vacancies in the membership of the Economic Advisory Committee occurring for whatever reason shall be promptly filled by appointment by the Mayor. The Mayor shall designate the member of the Economic Advisory Committee who shall serve as Chair. The Economic Advisory Committee shall meet at least four (4) times (i.e., quarterly) each year. Additional meetings shall be held as required and deemed necessary by the Chair of the Economic Advisory Committee.

Subsection 26-5 shall be amended as follows:

A majority of the members (7 of 12) shall constitute a quorum of the Committee.

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

Mayor DiMura opened the public portion for discussion on Ordinance No. 1950-18. Seeing that there was no public participation, Mayor DiMura closed the public portion for discussion on Ordinance No. 1950-18.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kevin Dotey, Council Member
SECONDER:	Dan Parenti, Council Member
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

The Borough Clerk read ordinance 1951-18 by title:

ORDINANCE 1951-18

**AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF MIDDLESEX,
COUNTY OF MIDDLESEX, NEW JERSEY, CHAPTER 108, ADULT USES AND
ENTERTAINMENT, SECTION 108-2 MASSAGE PARLORS**

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

Chapter 108, Adult Uses and Entertainment, Section 108-2. Massage Parlors shall be deleted in its entirety.

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

Mayor DiMura opened the public portion for discussion on Ordinance No. 1951-18. Seeing that there was no public participation, Mayor DiMura closed the public portion for discussion on Ordinance No. 1951-18.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Madden, Council Member
SECONDER:	Jack Mikolajczyk, Council Member
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

The Borough Clerk read ordinance 1952-18 by title:

ORDINANCE 1952-18

AN ORDINANCE REPEALING AND REPLACING CHAPTER 272 OF THE BOROUGH OF MIDDLESEX, ENTITLED "MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS."

Exclusions: *This ordinance specifically excludes physicians, physical therapy groups, chiropractors, and any other such medical group or medical support group licensed by the State of New Jersey.*

WHEREAS the Governing Body of the Borough of Middlesex had adopted Ordinance No. 1565-02; and

WHEREAS since the passage of the Ordinance 1565-02 by the Governing Body of the Borough of Middlesex, the State of New Jersey Office of the Attorney General, Division of Consumer Affairs has established the Massage, Bodywork and Somatic Therapy Certification Act, N.J.S.A. 45:11-53; and

WHEREAS the Governing Body of the Borough of Middlesex finds that the public interest and the health and welfare of the citizens of the Borough of Middlesex require that persons offering massage, bodywork or somatic therapy in the Borough of Middlesex holds a certification from the Massage, Bodywork and Somatic Therapist Certification Act, N.J.S.A. 45:11-53.

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

1. Chapter 272 is hereby repealed, replaced and amended by the creation of new Ordinance No. 1852-18 to be entitled "Massage and Bodywork Therapy Establishments" to read as follows:

Chapter 272 Massage and Bodywork Therapy Establishments.

272-1 *Purpose.* The purpose of this Chapter is to establish regulations and permit requirements for the operation of massage and bodywork therapy establishments in order to protect and preserve the health, safety and welfare of the citizens of the Borough of Middlesex, and the patrons of such establishments, and to minimize and control adverse utilization of such establishments to preserve the quality of life, protect and preserve the character of the Borough.

272-2 *Definitions.* For the purpose of this Section, the following terms, phrases and words shall have the meanings stated herein.

a. "Massage and Bodywork Therapies" shall mean the systems of activity of structured touch which include, but are not limited to, holding, applying pressure, positioning and mobilizing soft tissue of the body by manual technique and use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of applying therapeutic massage and bodywork principles. Such application may include, but is not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, explaining and describing myofascial movement, self-care and stress management as it relates to massage and bodywork therapies. Massage and bodywork therapy practices are designed to affect the soft tissue of the body for the purpose of promoting and maintaining the health and well-being of the client. Massage and bodywork therapies do not include the diagnosis of illness, disease, impairment or disability.

b. "Massage and Bodywork Therapist" shall mean a person certified and/or licensed to practice Massage and Bodywork Therapies pursuant to the provisions of the Massage, Bodywork and Somatic Therapist Certification Act, N.J.S.A. 45:11-53.

c. "Massage and Bodywork Therapy Establishment" shall mean any establishment, business or operation wherein Massage and Bodywork Therapies are administered or are permitted to be administered, which shall include the operation of an outcall massage and bodywork therapy service.

272-3 *Permits Required.*

a. *Massage and Bodywork Therapy Establishment Permit Required.* No person, firm, corporation, organization or other entity shall own, maintain, operate or conduct a Massage and Bodywork Therapy Establishment or utilize any premises in the Borough of Middlesex as or for a Massage and Bodywork Therapy Establishment unless or until such person or entity first obtained a permit for such establishment or premises from the Borough of Middlesex in accordance with the terms and provisions of this Section.

b. *Massage and Bodywork Therapist Registration/Documentation Required.* No person shall practice Massage and Bodywork Therapies, unless he/she has a valid and subsisting massage and bodywork therapist permit or license issued to him/her by the New Jersey Board of Massage and Bodywork Therapy, pursuant to the terms and provisions of N.J.S.A. 45:11-53 et seq., and evidence of same has been submitted to the Borough of Middlesex in accordance with the terms and provisions of this Section.

272-4 *Applications; Fees.*

a. Every applicant for a Massage and Bodywork Therapy Establishment Permit shall file an application with the Borough Clerk upon a form to be provided by said Clerk and pay an annual fee for the sum of:

- (1) Two Hundred Fifty (\$250.00) Dollars per massage table;
- (2) One Hundred (\$100.00) Dollars per massage chair; and,
- (2) Five Hundred (\$500.00) Dollars per shower fixture or room, whichever is greater in number.

b. Upon receipt of a completed application for a Massage and Bodywork Therapy Establishment, full payment of the fees herein, and registration of all Massage and Bodywork Therapists who shall provide services and/or be employed at the Massage and Bodywork Therapy Establishment, the Borough Clerk shall issue a license to operate, but not prior to the application being processed and approvals granted by all responsible parties. Responsible parties are granted up to 30 days to review and act on the application following receipt of the completed application. Notwithstanding anything to the contrary herein, prior to performing any services as a Massage and Bodywork Therapist at any Establishment herein described, the Therapist must first register, as herein required.

272-5 *Application Requirements.*

a. *Application for a Massage and Bodywork Therapy Establishment Permit.* Any person, firm, corporation, organization or other entity applying for a Massage and Bodywork Therapy Establishment Permit shall submit the required application, together with the associated fees, which shall include the following information:

- (1) The type of ownership of the establishment (i.e., whether individual, partnership, corporation or otherwise).
- (2) The name, style and designation under which the establishment is to be conducted.
- (3) The address and all telephone numbers, including facsimile, where the establishment is to be maintained, operated, and conducted.
- (4) A complete list of the name(s) and address(es) of all massage and bodywork therapists, along with a copy of each therapist's certificate and/or license issued by the State of New Jersey issued to the applicant pursuant to N.J.S.A. 45:11-53, *et seq.*, and N.J.A.C. 13:37-16.1, *et seq.*, name(s) and address(es) of other employees at the establishment, and the name and residence address of the manager or other person principally in charge of the day-to-day operation of the establishment.
- (5) The following personal information concerning the applicant, if an individual; concerning each stockholder holding direct or beneficial interest in stock of the corporation, each officer and director, if the applicant is a corporation; concerning each partner, including limited partners, if the applicant is a partnership; concerning the members, if

the applicant is a limited liability company; and concerning the manager or other person principally in charge of the day-to-day operation of the establishment:

(a.) The name, residence address and residence telephone number. It shall be an ongoing responsibility of the applicant to notify the Borough, in writing, of any change in name, address or telephone number of the individuals identified.

(b) The two (2) previous addresses immediately prior to the present address of the individuals identified.

(c) Written proof of age.

(d) Height, weight, sex and color of hair and eyes.

(e) Two (2) front-faced portrait photographs of the individuals taken within thirty (30) days of the date of the application, and at least two (2") inches by two (2") inches in size.

(f) The establishment or similar business history and experience, including, but not limited to, whether or not such person has previously operated such an establishment, along with the location of such prior operations, whether or not such person has previously applied for a license or permit for such an establishment, and if same was denied, revoked or suspended, and the reasons therefore.

(6) Floor plans for the proposed facility.

(7) The names and addresses of three (3) adult residents of the County of Middlesex who will serve as character references for the applicant. These references must be persons other than relatives and business associates of the applicant.

b. *Registration/Documentation of a Massage and Bodywork Therapist.* Any person registering as a Massage and Bodywork Therapist shall submit the following information.

(1) The name, residence address and residence telephone number of the therapist. It shall be an ongoing responsibility of the therapist to notify the Borough, in writing, of any change in name, address or telephone number.

(2) A copy of a certificate and/or license issued by the State of New Jersey issued to the applicant pursuant to N.J.S.A. 45:11-53, *et seq.*, and N.J.A.C. 13:37-16.1, *et seq.*

(3) Two (2) front-faced portrait photographs of the individual taken within thirty (30) days of the date of the application , and at least two (2") inches by two (2") inches in size.

- (3) It shall be an ongoing responsibility of the any person registered, or requiring registration as hereunder outlined, to notify the Borough, in writing, of any change in name, address or telephone number of the individuals identified.

272-6 Building Requirements; Inspections. Upon receipt of an application for a Massage and Bodywork Therapy Establishment Permit, the Borough Clerk shall refer the application to the Construction Code Official, the Fire Department, the Police Department, the Health Officer and the Zoning Officer, which departments may inspect the premises where the proposed massage and bodywork therapy establishment is to be maintained, operated or conducted. No Massage and Bodywork Therapy Establishment shall be issued a permit or be maintained, operated or conducted in the Borough unless an approval by the Health Official, Construction Official, Zoning Officer, and Fire Marshal has been granted indicating that the establishment complies with the minimum requirements of the construction, zoning, building and health codes for businesses operating in the Borough of Middlesex.

272-7 Display of Permits. The Massage and Bodywork Therapy Establishment shall display the permit issued by the Borough, and the certificate and/or license issued by the State of New Jersey to each and every massage and bodyworks therapist pursuant to N.J.S.A. 45:11-53, *et seq.*, and N.J.A.C. 13:37-16.1, *et seq.* employed and/or conducting business at the establishment, in an open and conspicuous place within the premises of the establishment.

272-8 Operating Requirements.

- a. Every portion of the Massage and Bodywork Therapy Establishment, including all appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- b. Price rates for all services shall be prominently displayed in the reception area in a location available to all prospective customers.
- c. All employees, including Massage and Bodywork Therapists, shall be clean and wear clean, nontransparent outer garments.
- d. Dressing areas for employees and customers shall be available on the premises. Such dressing areas shall be shielded from public view and provide the individual utilizing same privacy from all other individuals. If the dressing area is also used as the therapy/massage room, then adequate procedures shall be in place to safeguard the privacy of the individual using same as a dressing area. In no case shall these dressing areas be locked when both a client and any employee are present.
- e. All Massage and Bodywork Therapy Establishments shall provide clean, laundered sheets and towels in sufficient quantity, which shall be laundered after each use thereof and stored in a sanitary manner.
- f. The sexual or genital area of customers must be covered by towels, cloths or undergarments when in the presence of an employee or Massage and Bodywork Therapist.

g. It shall be unlawful for any person knowingly, in a Massage and Bodywork Therapy Establishment, to place his or her hand upon or touch with any part of his or her body, to fondle in any manner, or to massage a sexual or genital area of any other person.

h. No Massage and Bodywork Therapist, employee or manager shall perform, or offer to perform, any act which would require the touching of the customer's sexual or genital area.

i. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat-rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the establishment is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry. The Massage and Bodywork Therapy Establishment shall maintain for inspection logs of not less than the 30 most recent days evidencing (i) date/time that repairs, maintenance and cleaning of each portion of the establishment occurred; and, (ii) the identity of the person(s) who performed such repair, maintenance or cleaning.

j. Oils, creams, lotions and other preparations used in administering massage and bodywork therapies shall be kept in clean, closed containers or cabinets.

k. Animals, except for Seeing Eye dogs, shall not be permitted in the massage and bodywork work area.

l. Each Massage and Bodywork Therapist shall wash his or her hands in hot running water, using antibacterial soap or disinfectant before administering massage or bodywork therapy to each customer.

m. No Massage and Bodywork Therapy Establishment shall permit any activity or behavior prohibited by the laws of the State of New Jersey, particularly, but not exclusive of laws proscribing prostitution, indecency and obscenity, including the sale, uttering or exposing and public communication of obscene material.

n. Hours of operation of any Massage and Bodywork Therapy Establishment shall not commence prior to 9:00 a.m., and shall not extend beyond 9:00 p.m.

o. During hours of operation, the public entry way into the Massage and Bodywork Therapy Establishment shall not be locked, barricaded or otherwise fashioned in such as way as to limit or impede the immediate access into the establishment.

p. It shall be the responsibility of the owner(s) of the Massage and Bodywork Therapy Establishment and the holder of the license for the Massage and Bodywork Therapy Establishment to ensure that all employees, including Massage and Bodywork Therapists, comply with all provisions of this Ordinance.

272-9 *Advertising and solicitation practices.*

a. No person shall advertise or offer to provide massage-related services for compensation within the Borough of Middlesex unless licensed as a Massage and Bodywork Therapy Establishment pursuant to this ordinance.

b. All advertisements for massage therapy services to be provided within the Borough of Middlesex shall include the Massage and Bodywork Therapy Establishment's name, address, and telephone number.

272-10 *Inspection of Establishment.* The Health Official, Construction Official, and/or the Fire Marshal shall, from time to time, and at least once a year, make an inspection of each Massage and Bodywork Therapy Establishment within the Borough for purposes of determining whether or not the provisions of this Section are being complied with. The Police Department shall also, from time to time, conduct inspections of each Massage and Bodywork Therapy Establishment to determine if there are any violations of this Section and/or violations of any other ordinance of the Borough of Middlesex or the laws of the State of New Jersey on the premises. Such inspections, unless it appears that a violation of the temporal limitations on hours of operation exists, shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any Massage and Bodywork Therapy Establishment to fail to allow such inspection officer access to the premises or to hinder such officer in any manner. If any Massage and Bodywork Therapy Establishment reasonably appears to be operating outside of the hours permitted hereunder, the Health Official, Construction Official, Fire Marshall and/or Police Department may immediately enter the premises notwithstanding any limitations to entry herein.

272-11 *Sleeping Quarters.* No part or portion of any Massage and Bodywork Therapy Establishment shall be used for or connected with any bedroom or sleeping quarters, nor shall any person sleep in such Massage and Bodywork Therapy Establishment, except for limited periods incidental to and directly related to a Massage and Bodywork Therapy treatment. This provision shall not preclude the location of a Massage and Bodywork Therapy Establishment in separate quarters of a building housing a hotel, motel or other separate business.

272-12 *Violations; Penalties; Suspension or Revocation of Permit.*

a. Unless otherwise provided law, any person violating the any of the provisions of this Chapter, shall, upon conviction thereof, and at the discretion of the municipal court, be punished by imprisonment for a term not exceeding ninety (90) days or by a fine of less than seven hundred fifty dollars (\$750.00), nor exceeding, two thousand five hundred dollars (\$2,500.00) or both, for a first violation. A second violation of any provision of this Chapter shall be punished by imprisonment for a term not exceeding ninety (90) days or by a fine of less than one thousand five hundred dollars (\$1,500.00), nor exceeding, three thousand dollars (\$3,000.00) or both. A third or subsequent violation of this Chapter shall be punished by imprisonment for a term not exceeding ninety (90) days or by a fine of less than two thousand five hundred dollars (\$2,500.00), nor exceeding, five thousand dollars (\$5,000.00), or both.

b. Any conviction of a Massage and Bodyworks Therapist or any employee of a Massage and Bodywork Therapy Establishment of a violation of any activity or behavior prohibited by the laws of the State of New Jersey alleged to have occurred at or within a Massage and Bodywork Therapy Establishment, particularly, but not exclusive of laws proscribing solicitation, prostitution, indecency and obscenity, including the sale, uttering or exposing and public communication of obscene material, shall devolve upon the owner and/or manager of such establishment, it being specifically declared by that, following such a conviction of a Massage and Bodyworks Therapist or employee, the offensive activity or

behavior of such Massage and Bodyworks Therapist or employee is imputed upon the owner and/or manager as an accessory to such a violation.

c. Suspension/Revocation.

(1) In addition to any of the penalties provided herein or proscribed by law, and notwithstanding the filing of a summons and/or criminal complaint in the municipal court or Superior Court, any violation of the following provisions, shall subject the Massage and Bodywork Therapy Establishment to the suspension or revocation of the applicable permit:

- (A) Fraud, misrepresentation or false statement made by the applicant in the application for the permit.
- (B) Fraud, misrepresentation or false statement made by the applicant in the course of carrying on the permitted business in the Borough.
- (C) Any violation of any provisions of this Ordinance.
- (D) A conviction of a crime involving moral turpitude, a felony, an offense involving sexual misconduct, or any crime involving dishonesty.
- (E) Conducting the permitted business in the Borough in an unlawful manner or in such manner as to endanger the health, safety or general welfare of the public.

(2) Such suspension or revocation shall be upon notice issued by the Health Official.

(3) The said permit(s) may be suspended by the Health Official if, in his/her discretion and opinion, the conduct of the permittee is detrimental to the health, safety and general welfare of the Borough of Middlesex.

2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Middlesex, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Middlesex are hereby ratified and confirmed, except where inconsistent with the terms hereof.

4. This Ordinance shall take effect immediately upon final passage and publication according to law.

Mayor DiMura opened the public portion for discussion on Ordinance No. 1952-18. Seeing that there was no public participation, Mayor DiMura closed the public portion for discussion on Ordinance No. 1952-18.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Sean Kaplan, Council Member
SECONDER:	John Madden, Council Member
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

ADOPTION OF MINUTES

1. Approval of the August 28, 2018 Regular Meeting & Executive Meeting Minutes

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Dan Parenti, Council Member
SECONDER:	Kevin Dotey, Council Member
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

MAYOR'S REPORT

Mayor DiMura reported that work has begun on Runyon Avenue and because of a low bid we have been able to expand the paving to include Hallock, Grove and Clay.

Also, the Mayor stated that the Mountainview Parking Lot is just about completed.

Mayor DiMura also reported that he has been working with the County and DEP regarding odor issues with Spray Tech and Active International. The Mayor was informed that over the last year they have received over \$250,000 worth of fines. Last week the Mayor stated that he attended a meeting with the County and DEP and feels that they have made some progress, and we can now give Active International a letter to correct the issues and if they don't the DEP has given the County permission to shut them down. With regard to Spray Tech, the county and town were forced to enter into an agreement with Spray Tech regarding complaints. Mayor DiMura expressed to the DEP representative that they have to look at quality of life issues that affect Middlesex Borough, and that our residents cannot open windows because of the odor. In last week's meeting the DEP stated that they would support us going to court to ask for our agreement to be cancelled and go after Spray Tech for violations. The Mayor will update everyone how this works out as we proceed, but reminded residents to please continue to report odors.

Mayor DiMura updated everyone on the status of the agreement with OLMV. He mentioned that a demand letter was sent to the Diocese to return all money that has been spent and based on the fact that there was difficulty getting into the facility, the next step will be legal action. This will be discussed this evening in Executive Session.

REPORTS - STANDING COMMITTEES

Finance/Taxation/Real Estate/Insurance/Public Utilities

Fire/OEM/Rescue Squad

1. Approval of the Fire Report & Fire Chief Report for June, 2018

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Robert Schueler, Council President
SECONDER:	Dan Parenti, Council Member
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

2. Accepting the Resignation of Andrew Klein from Parker Fire House & his Transfer to Lincoln Hose Company

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Robert Schueler, Council President
SECONDER:	Dan Parenti, Council Member
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

Recreation/Recreation Fields/Swim Pool/Community Celebrations

1. Approval of the August, 2018 Recreation Trust Account

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kevin Dotey, Council Member
SECONDER:	Robert Schueler, Council President
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

2. Approval of the September, 2018 Director's Report

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kevin Dotey, Council Member
SECONDER:	Robert Schueler, Council President
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

Public Works/Buildings & Grounds/Recycling

Police/Legal/Code Enforcement & Zoning/Shade Tree/Construction/Municipal Court

1. Approval of the August, 2018 Police Report

Councilman Mikolajczyk reported that October is wear pink for a cause month with ribbons and a fundraiser for breast cancer awareness. October will be the start of the food drive and it is a bit earlier this year to make sure we are in time for Thanksgiving. November is No Shave November for Men's cancer awareness.

Also, I attended a Shade Tree meeting on September 13th. With the weather and rain this year we seem to have quite a few emergent issues popping up and although the DPW has stepped in and helped for a few I feel we may be in a tight position in terms of dangerous trees that need to be addressed and the fall planting needs that may become a budget transfer item for November. To that end we have reached out to the finance committee for November consideration.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jack Mikolajczyk, Council Member
SECONDER:	Sean Kaplan, Council Member
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

Administration/Department of Senior Services/Legislation/Licensing

PRIVILEGE OF THE FLOOR

Dave Polakiewicz, 240 Hazelwood Avenue questioned (1) If the \$250,000 fine included Spray Tech and Active International; (2) Status of proposal for police security at borough schools; (3) If OLMV goes into litigation will the borough be responsible for additional legal costs; (4) If council members that attended OLMV parish would be put in a difficult position if the borough proceeded with litigation; and (5) If Direct Development would be doing election related work for the Democratic party in 2018.

Rich Rutkowski, 211 Maple Street spoke regarding campaign donations and fines as it relates to borough business. Also, he commented on the Direct Development Contract, their donation and the council's vote on the public relations contract.

Betty Platten, 4 Hooker Avenue spoke regarding campaign donations and fines to political parties.

Evan Walters, West Second Street questioned (1) the roads that were be resurfaced in 2018; (2) the warehouse project to be done by Claremont Companies on the Absolute property; and (3) if the Absolute property will be cleaned up.

Mayor DiMura stated that over the last year people have spoke about campaign contributions and contracts for the borough. Since 2010 there have been 37 candidates that have run, 1/2 democrat and 1/2 republicans. (1 independent) Each campaign took in contributions from private contributors, and each campaign takes direct contributions or in-kind contributions from people doing business in the borough. Mayor DiMura stated that in his 7 years as Councilman and Mayor, we have made decisions based on the merits of the work that they already are doing in the borough. In his 3 years as Mayor, any recommendations made were all unanimously approved, but one contract and it unfair that people are making decisions based on whatever contributors make to the campaign. No candidate benefits from any contribution, and we have tried here to work together and get things done. We are investing in the roads and the Police Department and have brought in 5 million dollars in grant money. We have done this by working together and putting differences aside, because when we put differences aside and work together there is nothing that we cannot achieve. The Mayor stated that he is not answering questions about the campaign because it is not borough business and in the past he has reached out to people to talk about this.

NEW BUSINESS/CONSENT AGENDA/RESOLUTIONS

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Dan Parenti, Council Member
SECONDER:	Jack Mikolajczyk, Council Member
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 238-2018

**APPROVING A CONTRACT WITH DIRECT DEVELOPMENT FOR MUNICIPAL
MARKETING/PR/DESIGN SERVICES SEPTEMBER, 2018 - AUGUST, 2019 - *Item
Removed from Consent***

The Governing Body hereby approves a contract with Direct Development, Tinton Falls, New Jersey for Municipal Marketing/PR/Design Services from September, 2018 - August, 2019 in the amount of \$2,500 per month.

RESULT:	ADOPTED BY CONSENT VOTE [4 TO 2]
MOVER:	Robert Schueler, Council President
SECONDER:	Sean Kaplan, Council Member
AYES:	Dotey, Parenti, Kaplan, Schueler
NAYS:	Madden, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 226-2018

**APPROVING A BLOCK PARTY FOR RESIDENTS ON WILSON STREET ON
SEPTEMBER 30, 2018**

WHEREAS, the residents of 23 Wilson Street have requested to have a block party on Wilson Street between Washington Avenue and Locust Street on September 30, 2018 between the hours of 1 p.m. and 5 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 23 Wilson Street to conduct a block party on Wilson Street between Washington Avenue and Locust Street on September 30, 2018 between the hours of 1 p.m. and 5 p.m.
2. This resolution shall take effect immediately.

The Borough Clerk read the following resolution:

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

RESOLUTION 227-2018

**AUTHORIZING THE MAYOR AND BOROUGH CLERK TO REDEEM TAX SALE
CERTIFICATE #15-01851 AND TAX SALE PREMIUM FOR BLOCK 306, LOT 25.01**

The Tax Collector is hereby authorized to issue a check in the amount of \$36,062.13 to redeem Tax Sale Certificate #15-01851 and a check in the amount of \$ 18,100.00 for a Tax Sale Premium, Block 306 Lot 25.01, 571 W Pershing Ave. Check is made payable to:

US Bank Cust for BV001 Trust
50 South 16th St.
Suite 2050
Philadelphia, PA 19102

The Borough Clerk read the following resolution:

US Bank Cust for PC 7 Firsttrust Bank
50 South 16th St.
Suite 2050
Philadelphia, PA 19102-2513

S Brothers, Inc. Base Bid: \$537,427.84
P.O. Box 317
South River, NJ 08882

1. At the recommendation of the Borough Engineer, Remington & Vernick Engineers, the Mayor and Council hereby award the bid for the 2018 Road Resurfacing Project to S Brothers, Inc., South River, NJ 08882.

NOW FURTHER BE IT RESOLVED, that the Treasurer hereby certifies funds are available in account number C-04-17-920-000-093 in the amount of \$200,612.25; account number C-04-18-947-000-093 in the amount of \$300,000.00; and account number C-04-16-893-000-096 in the amount of \$36,815.59.

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Robert Schueler, Council President
SECONDER:	John Madden, Council Member
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 230-2018

**THE GOVERNING BODY HEREBY APPROVES THE LEASE BETWEEN THE BOROUGH
OF MIDDLESEX AND AMERICA LEGION JOHN W. LUPO MEMORIAL POST 306
EFFECTIVE APRIL 28, 2015 - APRIL 28, 2025**

The Governing Body hereby approves the Lease between the Borough of Middlesex and the American Legion John W. Lupo Memorial Post 306 effective April 28, 2015 - April 28, 2025.

The Borough Clerk read the following resolution:

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

RESOLUTION 231-2018

**RELEASING PERFORMANCE BOND TO WHIRL CORPORATION, INC. FOR 2011
SUPPLY AND INSTALLATION OF NON-ELEVATED BLEACHER UNIT AT SIMCHOCK
FIELD - *Item Removed from Consent***

WHEREAS, final payment to Whirl Corporation, Inc. has been submitted for the Supply and Installation of Non-Elevated Bleacher Unit at Simchock Field; and

WHEREAS, Borough Attorney has reviewed all documents and is recommending release of the Performance Bond;

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Middlesex, County of Middlesex, State of New Jersey in accordance with NJAC 40:55D-53c. (1) of the Municipal Land Use Law, and by recommendation of the Borough Attorney, the governing body, hereby agrees to release the performance bond for the Supply and Installation of Non-Elevated Bleacher Unit at Simchock Field.

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Dan Parenti, Council Member
SECONDER:	Jack Mikolajczyk, Council Member
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 232-2018**HIRING TOM LYNCH AS A BUS DRIVER FOR THE SENIOR & DISABLED SERVICES**

The Governing Body hereby hires Tom Lynch as a bus driver for the Department of Senior & Disabled Services effective August 15, 2018 at \$18.00 per hour for approximately 20 hours per week. This resolution is pending the necessary drug testing and background check.

This resolution is amended to include the Bus Driver is hired pending the necessary drug testing and background check.

The Borough Clerk read the following resolution:

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

RESOLUTION 233-2018**THE GOVERNING BODY HEREBY APPROVE TO SURPLUS THE POLICE
DEPARTMENT 2004 CROWN VICTORIA**

The Governing Body hereby approve to surplus the Police Department (Gold) 2004 Ford Crown Victoria, VIN 2FAFP71W04X139317.

The Borough Clerk read the following resolution:

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

RESOLUTION 234-2018**APPROVING A BLOCK PARTY ON OCTOBER 20, 2018 ON B STREET BETWEEN
WALNUT STREET AND MAPLE STREET**

WHEREAS, the residents of B Street have requested to have a block party on B Street between Walnut Street and Maple Street on October 20, 2018 between the hours of 2 p.m. and 8 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 B Street to conduct a block party on B Street between Walnut Street and Maple Street on October 20, 2018 between the hours of 2 p.m. and 8 p.m.
2. This resolution shall take effect immediately.

The Borough Clerk read the following resolution:

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

RESOLUTION 235-2018**CONDITIONALLY DESIGNATING CLAREMONT COMPANIES AS REDEVELOPER FOR PROPERTY KNOWN AS TAX BLOCK 318 LOTS 38.01 & 48, IN THE LINCOLN BOULEVARD REDEVELOPMENT AREA FOR THE DEVELOPMENT OF A WAREHOUSE PROJECT - *Item Removed from Consent***

WHEREAS, Tax Block 318, LOT 38.01 AND Lot 48 (the "Property") is located in the Lincoln Boulevard Redevelopment Area (the "Redevelopment Area"); and

WHEREAS, the Borough of Middlesex (the "Borough") is desirous of the redevelopment of this 21+/- acre site for re-use consistent with the Borough's Master Plan and the Redevelopment Plan for the Redevelopment Area, adopted on December 13, 2016 as amended; and

WHEREAS, Claremont Companies., made a presentation to the Borough Economic Development Committee regarding its concept proposal for the Property; and

WHEREAS, the Property is privately owned and Claremont Companies., have a contract to purchase the property; and

WHEREAS, the proposal has been found consistent with the Borough's goals for redeveloping the area.

NOW THEREFORE BE IT RESOLVED by the Council of the Borough of Middlesex that **Claremont Companies**, 49 Rt 202 Far Hills, NJ 07931 is hereby conditionally designated as Redeveloper for the development of Tax Block 318 Lot's 38.01 & 48; located in the Lincoln Boulevard Redevelopment Area, for a warehouse project, the detail of which is subject to further refinement, for the reasons set forth herein.

BE IT FURTHER RESOLVED, that said conditional designation is subject to the following conditions:

1. That the conditional designation is limited to a period of one hundred and twenty (120) days from the date of this Resolution at which time it will automatically expire and be of no further force and effect, and the parties will no longer have any obligation to the other, except as to final payment of any Borough costs under the Escrow Agreement required herein. The Borough may, in its sole discretion, extend and re-extend the conditional designation provided sufficient progress is being in negotiation of a redevelopment agreement, which determination is at the sole discretion of the Borough and which extension must be in the form of a duly adopted resolution of the Borough Council.
2. That Claremont Companies and the Borough shall negotiate and agree upon the terms and conditions of a redevelopment agreement within the period of the conditional designation, as such period may be extended by the Borough in its sole discretion.
3. That Claremont Companies agrees to pay any and all costs incurred by the Borough from the date of the conditional designation to execution of a

redevelopment agreement or termination of the redeveloper designation, as set forth herein.

4. Within fourteen (14) days of the adoption of this resolution, Claremont Companies and the Borough enter into an escrow agreement, the form of which is attached hereto and made part of this resolution.

BE IT FURTHER RESOLVED, that upon completion of negotiations on a Redevelopment Agreement, the Borough Council shall be required to review and authorize execution of any and all related documents in order to effectuate the completion and implementation of this project.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

RESULT:	ADOPTED BY CONSENT VOTE [5 TO 0]
MOVER:	Jack Mikolajczyk, Council Member
SECONDER:	Dan Parenti, Council Member
AYES:	Dotey, Parenti, Kaplan, Schueler, Mikolajczyk
RECUSED:	Madden

The Borough Clerk read the following resolution:

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

RESOLUTION 239-2018

HIRING DEBRA LIPARI AS A FLOATING SCHOOL CROSSING GUARD

The Governing Body hereby hires Debra Lipari, Middlesex, New Jersey as a Floating School Crossing Guard effective immediately at \$14.25 per hour, as she has been investigated by the Police and met all the requirements for this position. This resolution is pending the necessary drug testing and background check.

This resolution is amended to include the Crossing Guard is hired pending the necessary drug testing and background check.

NON-CONSENT AGENDA/RESOLUTIONS

The Borough Clerk read the following resolution:

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

RESOLUTION 236-2018

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:	Sean Kaplan, Council Member
SECONDER:	Dan Parenti, Council Member
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 237-2018

EXECUTIVE SESSION

WHEREAS, N.J.S.A. 10:4-12 allows for a Public Body to go into closed session during a Public Meeting; and

WHEREAS, the Governing Body of the Borough of Middlesex has deemed it necessary to go into closed session to discuss certain matters which are exempted from the Public; and

WHEREAS, the regular meeting of this Governing Body will reconvene.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Middlesex will go into closed session for the following reason listed below as outlined in N.J.S.A. 10:4-12 and the minutes will be kept, and once the matter involving the confidentiality of the items no longer require confidentiality, the minutes can be made public.

1. OLMV Potential Litigation
2. 105 William Street - Litigation

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Madden, Council Member
SECONDER:	Robert Schueler, Council President
AYES:	Dotey, Parenti, Kaplan, Madden, Schueler, Mikolajczyk

AGENDA WORKSHOP ITEM

1. Solar Energy - Lucent Energy

A consensus of council was taken to move forward and take the next step to put a solar energy "canopy" in the back of the municipal building.

2. Mountain View Park Playground

A request had been made a few years ago by Danny Garofalo to update the Mountain View Park Playground to make it a special needs playground. Mayor DiMura was unaware of the request until the Recreation Director recently brought in a concept for a special needs playground and mentioned it to him. The Mayor approached the County and they agreed to update this playground and dedicate it to Dan Garofalo. They suggested that the borough get a proposal and bring this to them and they may give the borough a grant for the entire project. A consensus of council was obtained to begin the process for this special needs playground to be dedicated to Danny Garofalo.

3. Purchasing New Street Sweeper

Mayor DiMura was advised that our street sweeper needs in excess of \$25,000 to be repaired and is 14 years old. The DPW obtained a quote of \$48,000 - \$50,000 per year to lease a sweeper for 5 years and then \$1 to purchase it. The first payment would not be due until 2020. The DPW is looking for options to temporarily get one for the fall months and bond for one next year. A consensus of council was to get more information on this lease and get options for the fall street sweeping.

4. Rescue Squad Coverage for MHS Football Games and FYI Football Games

Mayor DiMura reported that the borough is in need of emergency service coverage for the MHS football games and AYI football games, as the Rescue Squad cannot guarantee coverage. Mayor DiMura would like to reach out to Robert Wood to guarantee coverage for the remaining home MHS football games and the home AYI football games. Mayor DiMura will look into the cost of this outside coverage.

5. LOSAP Benefits for Emergency Service Volunteers

Mayor DiMura stated that because the rescue squad and fire department are in need of members he would like to bring up looking into the establishment of a LOSAP Benefit Program for the emergency service volunteers. This program is a tax deferred income benefit for Fire, OEM and Rescue Squad. A consensus of Council was taken to have a presentation at the October 9, 2018 Regular Meeting.

PRIVILEGE OF THE FLOOR ON AGENDA WORKSHOP ITEMS

Betty Platten, 4 Hooker Avenue commended the council for moving forward on all items on the Agenda Workshop which included solar energy, Mountain View Park playground, new street sweeper, emergency coverage for the high school football/AYI football and LOSAP Benefits.

EXECUTIVE SESSION

1. OLMV Potential Litigation
 2. 105 William Street - Litigation
 3. County Health Contract
 4. Administrator's Position
-

ADJOURNMENT

The next Regular Meeting will be October 9, 2018

Respectfully yours,

Kathleen Anello, RMC
Borough Clerk