

**BOROUGH OF MIDDLESEX
REGULAR MEETING
AGENDA
DECEMBER 13, 2016
7 PM**

1. **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.
2. **SALUTE TO FLAG**
3. **ROLL CALL:**

Greco [] Kaplan [] Corley [] Madden [] Schueler [] Mikolajczyk []
Mayor DiMura []
4. **PRESENTATIONS** – Outgoing Remarks of Council President Kaplan and Councilman Greco
5. **APPOINTMENTS**
 1. Resolution #236-16 Appointing Bryan Rodrigues as a Probationary Patrolman for the Borough of Middlesex effective December 14, 2016 at an annual salary of \$51,339.00
6. **PROCLAMATIONS**
7. **NEW BUSINESS**
 1. **ORDINANCE NO. 1904-16 – AN ORDINANCE OF THE BOROUGH OF MIDDLESEX AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MIDDLESEX BY ADDING A CHAPTER TO ESTABLISH STANDARDS OF ETHICAL CONDUCT FOR OFFICERS AND EMPLOYEES OF THE BOROUGH OF MIDDLESEX AND ESTABLISHING THE MIDDLESEX BOROUGH ETHICAL STANDARDS BOARD**
 2. **ORDINANCE NO. 1905-16 – AN ORDINANCE OF THE BOROUGH OF MIDDLESEX AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MIDDLESEX BY ADDING A CHAPTER TO ESTABLISH A PARKS AND RECREATION COMMITTEE**
8. **PUBLIC HEARING**
 1. **ORDINANCE NO. 1902-16 – BOND ORDINANCE PROVIDING FOR A SANITARY SEWER REHABILITATION PROJECT BY AND IN THE BOROUGH OF MIDDLESEX, IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY; APPROPRIATING \$2,450,000 THEREFOR AND AUTHORIZING THE**

ISSUANCE OF \$2,450,000 BONDS OR NOTES TO FINANCE THE COST THEREOF

2. ORDINANCE NO. 1903-16 – ORDINANCE OF THE BOROUGH OF MIDDLESEX, IN THE COUNTY OF MIDDLESEX, AMENDING THE REDEVELOPMENT PLAN FOR THE LINCOLN BOULEVARD REDEVELOPMENT AREA

9. ADOPTION OF MINUTES

1. Approval of the November 22, 2016 Regular Meeting Minutes

10. REPORTS

Mayor

1. October 11, 2016 & October 25, 2016 Regular Meeting Minutes

11. REPORTS - STANDING COMMITTEES:

1. Finance/Taxation/Real Estate/Insurance/Public Utilities
2. Recreation/Recreation Fields/Swim Pool/Community Celebrations
3. Fire/OEM/Board of Health/Rescue Squad
4. Public Works/Buildings & Grounds/Recycling
 1. Pesticides Committee Report
5. Police/Legal/Code Enforcement/Construction/Municipal Court
 1. Approval of the 2016 year Zoning/Code Enforcement Report
6. Administration/Department of Senior Services/Legislation/Licensing

During the conduct of the meeting, unless a Public Hearing is held or the Regular Order of Business is waived, the audience does not participate. A Public Portion is held at the end of the meeting. Individuals commenting from the audience will be provided an opportunity to address the Council but will not be permitted to speak again until everyone has had an opportunity to speak. If a group is represented by an attorney, the attorney will be given an opportunity to speak on behalf of all of the members of the group. The Council, pursuant to the Open Public Meeting Act, will not publicly discuss personnel matters and may choose not to respond to comments made by members of the public during this portion of the meeting; however, the Council will give all comments appropriate consideration and will refer all individual complaints to the Mayor or appropriate Borough representative for resolution.

- 12. CONSENT AGENDA/RESOLUTIONS:** Matters listed within the Consent Agenda have been referred to members of the Borough Council for reading and study, are considered to be routine and will be enacted by one motion of the Council. If separate discussion is desired, the item may be removed from the Consent Agenda by Council action. The Resolutions listed below were submitted to the Borough Council for review and will be adopted by one motion.

1. Resolution #237-16 The Tax Collector authorizes to refund partial payment of 2016 3rd quarter property taxes in the amount of \$877.42 on Block 252, Lot 1.
2. Resolution #238-16 The Tax Collector authorizes to refund overpayment of 4th quarter taxes in the amount of \$3,711.39 on Block 43, Lot 10.
3. Resolution #239-16 At the recommendation of the Police Chief advancing Police Officer Scott Mulford to Patrolman Class "F" effective December 29, 2016 at an annual salary of \$60,177.
4. Resolution #240-16 The Governing body hereby approves the Mayor to execute the Community Forestry Management Plan for the years 2017 – 2021.
5. Resolution #241-16 A resolution in support of Senate Bill S-2254 and Assembly Bill A-3821 which affirms the language and legislative intent of the Fair Housing Act
6. Resolution #242-16 The Governing Body hereby authorizes the Mayor to execute the PSE&G Installation and Repayment Agreement between Public Service Electric and Gas Company and Middlesex Borough-Admin Building.
7. Resolution #243-16 The Governing Body hereby supports Assembly Bill 3880 and urges the New Jersey General Assembly and the New Jersey State Senate to enact this important legislation.
8. Resolution #244-16 The Governing Body hereby authorizes the Treasurer to cancel all outstanding checks from the current operating account dated prior to January 1, 2016 in the amount of \$2,269.21.
9. Resolution #245-16 The Governing Body hereby authorizes the Treasurer to cancel all outstanding checks from the payroll Account dated prior to January 1, 2016 in the amount of \$8,699.60.
10. Resolution #246-16 Authorizing Reimbursement of Medicare Premiums for Certain Eligible Pensioners under Chapter III, Public Law 1973, NJ Health Benefits Plans
11. Resolution #247-16 The Governing Body hereby authorizes the Treasurer to pay the former Recreation Director her full allowance of \$6,830.87 in the payroll of December 23, 2016.
12. Resolution #248-16 Authorizing to remit the Condo Reimbursements for 2016 to Gramercy Gardens, Foxhall Condo Association, Hanover Square Condo Association and Middlesex Village Condo Association.
13. Resolution #249-16 Requesting that the Director of the Division of Local Government Services approve the insertion of the Middlesex County Open Space, Recreation and Farmland and Historic Preservation Trust Fund the amount of \$1,497,227.00 as a revenue into the budget of the year 2016

14. Resolution #250-16 The Governing Body hereby waives the Borough fee for a raffle license under the Middlesex Fire Exempt Organization.
13. **NON-CONSENT AGENDA/RESOLUTIONS:** Matters listed within the Non-Consent Agenda will be individually addressed and acted upon accordingly. Council reserves the right to refer an item to Committee for further review and discussion. The Resolutions listed below were submitted to the Borough Council for review and will be adopted individually by motion.
1. Resolution #251-16 Pay all Claims
14. **PRIVILEGE OF THE FLOOR**
15. **AGENDA WORKSHOP ITEMS**
1. Flying Field
16. **PRIVILEGE OF THE FLOOR ON AGENDA WORKSHOP ITEMS**
17. **EXECUTIVE SESSION** Resolution #252-16
1. Landlocked Property – Block 318/Lots 44 and 47
18. **ADJOURNMENT.** The next Regular Meeting will be on December 27, 2016.

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that:

Resolution #236-16

WHEREAS, Bryan Rodrigues has successfully completed the psychological and medical examination required for the position of a Probationary Patrolman in the Borough of Middlesex; and

WHEREAS, Chief Geist is recommending that Bryan Rodrigues be appointed to the position of Probationary Patrolman effective December 14, 2016 at an annual salary of \$51,339.00.

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

1. Bryan Rodrigues is hereby appointed a Probationary Patrolman for the Borough of Middlesex effective December 14, 2016 at an annual salary of \$51,339.00.
2. This resolution shall take effect immediately.

ADOPTED _____

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

MAYOR OF THE BOROUGH OF MIDDLESEX

I CERTIFY THE FOREGOING TO BE A TRUE AND
CORRECT ABSTRACT OF A RESOLUTION
REGULARLY ADOPTED AT A MEETING OF THE
COMMON COUNCIL OF MIDDLESEX, HELD

AND IN THAT RESPECT A TRUE AND CORRECT
COPY OF ITS MINUTES

CLERK OF THE BOROUGH OF MIDDLESEX, NJ

ORDINANCE NO. 1904-16

AN ORDINANCE OF THE BOROUGH OF MIDDLESEX AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MIDDLESEX BY ADDING A CHAPTER TO ESTABLISH STANDARDS OF ETHICAL CONDUCT FOR OFFICERS AND EMPLOYEES OF THE BOROUGH OF MIDDLESEX AND ESTABLISHING THE MIDDLESEX BOROUGH ETHICAL STANDARDS BOARD

WHEREAS, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce ordinances to manage regulate and control the finances and property of the municipality; and

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

SECTION ONE. The Code of the Borough of Middlesex, Middlesex County, New Jersey is hereby adding a chapter to include the following:

38-1 - Short title.

This chapter is known and may be cited as the "Borough of Middlesex Ethics Ordinance."

38-2 - Findings—Declarations.

The Borough council finds and declares that:

- A. Public office and employment are a public trust; and
- B. The vitality and stability of representative democracy depend upon the public's confidence in the integrity of its elected and appointed representatives; and
- C. Whenever the public perceives a conflict between the private interest and the public duties of a government officer or employee, that confidence is imperiled; and
- D. Governments have the duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed, and to apprise their officers and employees of the behavior which is expected of them while conducting their public duties; and
- E. It is the purpose of this chapter to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for Borough officers and employees are clear, consistent, uniform in their application, and enforceable on a Borough-wide basis, and to provide Borough officers or

employees with advice and information concerning possible conflicts of interest which might arise in the conduct of their public duties.

- F. This Article is enacted under the authority of the Local Government Ethics Law, L. 1991, c. 29 (N.J.S.A. 40A:9-22.1), and under the further authority granted to the Borough of Middlesex under the provisions of Title 40 and 40A of the New Jersey Statutes.

38-3 - Definitions.

As used in this chapter:

"Agency" means any agency, board, governing body, including the mayor and council, bureau, division, office, commission or other instrumentality within the Borough, and any independent local authority, including any entity created by more than one county or municipality, which performs functions other than of a purely advisory nature, but does not include the school board.

"Business organization" means any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union or other legal entity.

"Employee" means any person, whether compensated or not, whether part-time or full-time, employed by or serving on a Borough agency who is not a local officer, but does not mean any employee of the school district.

"Interest" means the ownership or control of more than ten (10) percent of the profits, assets or stock of a business organization but does not include the control of assets in a non-profit entity or labor union.

"Member of immediate family" means the spouse or dependent child of a Borough officer or employee residing in the same household.

"Officer" means any person whether compensated or not, whether part-time or full-time (1) elected to any office of a Borough agency; (2) serving on a Borough agency which has the authority to enact ordinances, approve development applications or grant zoning variances; (3) who is a member of an independent municipal, county or regional authority; or (4) who is a managerial executive or confidential employee of a Borough agency, as defined in N.J.S.A. 34:13A-3, but does not mean any employee of a school district or member of a school board.

38-4 - Ethics board established.

- A. There is established, pursuant to the provisions of Chapter 29, Laws of 1991, the Borough of Middlesex Ethics Board consisting of six members who are residents of the Borough, at least two of whom are public members. The

members of the ethics board are appointed by resolution of the Borough council. The members are chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. No more than three members of the ethics board are of the same political party.

- B. The members of the ethics board shall annually elect a chairperson from among the membership.
- C. The members shall serve for terms of five years, except that of the members initially appointed, two of the public members are appointed to serve for terms of five years, one member is appointed to serve for a term of four years, and the remaining members are appointed to serve for terms of three years. Each member shall serve until his or her successor has been appointed and qualified. Any vacancy occurring in the membership of the ethics board is filled in the same manner as the original appointment for the unexpired term.
- D. Members of the ethics board shall serve without compensation but are reimbursed by the Borough for necessary expenses incurred in the performance of their duties under this chapter.

38-5 - Powers of the ethics board.

The ethics board shall have the following powers:

- A. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of the code of ethics or financial disclosure requirements by local officers and employees serving the Borough;
- B. To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing;
- C. To forward to the county prosecutor or the attorney general or other governmental body any information concerning violations of the code of ethics or financial disclosure requirements by officers or employees serving the Borough which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the attorney general;
- D. To render advisory opinions to officers or employees serving the Borough as to whether a given set of facts and circumstances would constitute a violation of any provision of the code of ethics or financial disclosure requirements;
- E. To enforce the provisions of the code of ethics and financial disclosure requirements with regard to officers or employees serving the Borough and to

impose penalties for the violation thereof as authorized by Chapter 29, P.L. 1991; and

- F. To adopt rules and regulations and to do other things as are necessary to implement the purposes of this chapter.

38-6 - Support of ethics board.

- A. The mayor and council of the Borough shall provide the ethics board with offices for the conduct of its business and the preservation of its records, and shall supply equipment and supplies as may be necessary.
- B. All necessary expenses incurred by the ethics board and its members are paid, upon certification of the chairperson, by the Borough treasurer, within the limit of funds appropriated by the mayor and council for those purposes. Notwithstanding this provision, no expense exceeding \$500.00 shall be incurred without prior approval of the Governing Body of the Borough of Middlesex.
- C. The ethics board may appoint employees, including independent counsel, and clerical staff as are necessary to carry out the provisions of this chapter within the limits of funds appropriated by the mayor and council for those purposes.

38-7 - Code of ethics established.

- A. The ethics board shall promulgate a code of ethics for all local government officers and employees serving the Borough. Local government officers and employees serving the Middlesex parking authority and the housing authority of the Borough is deemed to be serving the Borough for purposes of this chapter. The Borough code of ethics so promulgated is either identical to the provisions set forth in Section 5 of Chapter 29, P.L. 1991 or more restrictive, but not less restrictive.
- B. Within fifteen (15) days following the promulgation thereof, the Borough code of ethics, and a notice of the date of the public hearing to be held thereon, are published in at least one newspaper circulating within the Borough and distributed to the Borough clerk and to the heads of the local government agencies serving the Borough for circulation among the local government officers and employees serving the Borough. The Borough ethics board holds a public hearing on the Borough code of ethics not less than thirty (30) days following its promulgation at which any local government officer or employee serving the Borough and any other person wishing to be heard are permitted to testify. As a result of the hearing, the ethics board may amend or supplement the Borough code of ethics as it deems necessary.

- C. If the Borough code of ethics is not identical to the provisions set forth in Section 5 of Chapter 29, P.L. 1991, the Borough ethics board shall thereafter submit the Borough code of ethics to the local finance board for approval. If the board fails to act within sixty (60) days following receipt of the code, the Borough code of ethics is deemed approved. A Borough code of ethics requiring board approval takes effect for all local government officers and employees serving the Borough sixty (60) days after approval by the board.
- D. A Borough code of ethics identical to the provisions set forth in Section 5 of Chapter 29 , P.L. 1991, takes effect ten (10) days after the public hearing held thereon.
- E. The Borough ethics board shall forward a copy of the Borough code of ethics to the Borough clerk and shall make copies of the Borough code of ethics available to local government officers and employees serving the Borough.

38-8 - Annual financial disclosure statement.

- A. Borough Officers shall annually file a financial disclosure statement. All financial disclosure statements filed pursuant to this section include the following information which specifies, where applicable, the name and address of each source and the officer's job title:
 - 1. Each source of income, earned or unearned, exceeding two thousand dollars (\$2,000.00) received by the Borough officer or a member of his or her immediate family during the preceding calendar year. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security is the source of income, the security need not be reported unless the Borough officer or member of his or her immediate family has interest in the business organization; and
 - 2. Each source of fees and honorariums having an aggregate amount exceeding two hundred fifty dollars (\$250.00) from any single source for personal appearances, speeches or writings received by the Borough officer or a member of his or her immediate family during the preceding calendar year; and
 - 3. Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding four hundred dollars (\$400.00) from any single source excluding relative, received by the Borough officer or a member of his or her immediate family during the preceding calendar year; and

4. The name and address of all business organizations in which the Borough officer or a member of his or her immediate family has an interest during the preceding calendar year; and

5. The address and brief description of all real property in the state in which the Borough officer or a member of his or her immediate family held an interest during the preceding calendar year.

The following disclosures in addition to those contained in subsections (A)(1) through (A)(5) above are required annually of local government officers and employees involved in development, redevelopment or property acquisition, as listed hereafter, and housing inspectors.

6. The address and brief description of all real property in the Borough in which (a) the local government officer or a member of his or her immediate family, or (b) any business organization required to be disclosed pursuant to subsection (A)(4) above, held an interest during the preceding calendar year.

The information required by subsection (A)(6) to be disclosed by persons described in subsection (A) above, is disclosed in the annual disclosure statement provided that within thirty (30) days of acquiring an interest in property, the person fulfills this requirement either by filing a disclosure statement for the preceding year listing the property, if not previously disclosed, or by filing a supplement to the previously filed disclosure statement. This disclosure requirement shall not apply to residential real property owned and actually occupied by the person as his or her principal residence.

As used in this section, "local government officer or employee involved in development, redevelopment or property acquisition" means and includes: mayor, members of council, Borough administrator, Borough attorney, assistant Borough attorneys, Director of the Department of Finance, Director of the Department of Inspections, Construction Official, Fire Subcode Official, Plumbing Subcode Official, Electrical Subcode Official, Director of the Department of Public Works, Director of the Department of Recreation, Chief of Police, Captain of the Police Department, Lieutenant of the Police Department, Tax Assessor, Borough Clerk, Deputy Borough Clerk, Borough Engineer, Borough Planning Consultant, Borough Auditor, Municipal Judge, Borough Prosecutor, Borough Public Defender, zoning administrative officer, planning board members, zoning board of adjustment members, planning board attorney, zoning board of adjustment attorney, all commissioners, Fire Chief, Library Board of Trustees member, Director of the Middlesex Public Library, or any other person who is a managerial executive or confidential employee, as defined in Section 3, N.J.S.A. 34:13A-3, of the Borough of Middlesex or of any agency created under the authority of or appointed by the Borough of Middlesex.

B. On receipt from the local finance board of the financial disclosure statement form prescribed by it for persons required by N.J.S.A. 40A:9-22 to file

disclosure statements the clerk shall furnish same to the persons required to file. At the same time, the clerk shall deliver to those persons required by this section, but not by N.J.S.A. 40A:9-22, to file local disclosure statements, a copy of the local financial disclosure form, which form contains designated space for furnishing the required information.

- C. All persons required to file annual disclosure statements file the same with the Borough clerk. A copy of the statement of all persons required to be filed by N.J.S.A. 40A:9-22 is furnished by the Borough clerk (1) to the local finance board, and (2) to the Borough's ethics board. Borough Officers shall file initial financial disclosure statements by the earlier of (1) ninety (90) days following the effective date of Chapter 29 P.L. 1991, or (2) thirty (30) days following the effective date of this Ordinance. Thereafter statements are filed on or before April 30th of each year.

A copy of the local disclosure form required only by subsection (A) of this section is filed with the Borough clerk and a copy thereof is furnished to the Borough's ethics board.

- D. All financial disclosure statements filed are public records.

38-9 - Request for advisory opinion authorized.

An officer or employee serving the Borough may request and obtain from the ethics board an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the code of ethics or any financial disclosure requirements. Advisory opinions of the ethics board is not made public except when the ethics board by the vote of two-thirds of all its members directs that the opinion be made public. Public advisory opinions shall not disclose the name of the Borough officer or employee unless the ethics board in directing that the opinion be made public so determines.

38-10 - Ethics complaint—Procedures—Penalties and sanctions.

- A. The ethics board, upon receipt of a signed written complaint by any person alleging that the conduct of any officer or employee serving the Borough is in conflict with the code of ethics or financial disclosure requirements, shall acknowledge receipt of the complaint within thirty (30) days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint.
- B. The ethics board shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis.
- C. If the ethics board concludes that the complaint is outside its jurisdiction, frivolous or without factual basis, it reduces that conclusion to writing and

transmits a copy thereof to the complainant and to the officer or employee against whom the complaint was filed. Otherwise the ethics board shall notify the officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. The officer or employee shall have the opportunity to present the ethics board with any statement or information concerning the complaint which he or she wishes.

- D. If the ethics board determines that a reasonable doubt exists as to whether the officer or employee is in conflict with the Borough's code of ethics or any financial disclosure requirements, it conducts a hearing in the manner prescribed by Section 38-11 concerning the possible violation and any other facts and circumstances which may have come to its attention with respect to the conduct of the officer or employee.
- E. The ethics board shall render a decision as to whether the conduct of the officer or employee is in conflict with the code of ethics or any financial disclosure requirement. This decision is made by no less than two-thirds of all members of the ethics board.
- F. If the ethics board determines that the officer or employee is in conflict with the code or any financial disclosure requirements, it may impose any penalties which it believes appropriate within the limitation of Section 10 of Chapter 29, P.L. 1991. A final decision of the ethics board may be appealed to the local finance board within thirty (30) days of the decision.
- G. A finding by the ethics board that an appointed local government officer or employee is guilty of the violation of the provisions of this chapter, or of any code of ethics in effect pursuant to this chapter, is sufficient cause for his or her removal, suspension, demotion or other disciplinary action by the officer or agency having the power of removal or discipline. When a person who is in the career service is charged with violating the provisions of this chapter or any code of ethics in effect pursuant to this chapter, the procedure leading to removal, suspension, demotion or other disciplinary action is governed by any applicable procedures of Title 11A of the New Jersey Statutes and the rules promulgated pursuant thereto.

38-11 – Ethical standards.

Officers and employees of the Borough of Middlesex shall comply with the following provisions:

- A. No officer or employee of the Borough of Middlesex or member of his or her immediate family shall have an interest in a business organization or engage in

any business, transaction or professional activity which is in substantial conflict with the proper discharge of his or her duties in the public interest.

- B. No officer or employee shall use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself or others.
- C. No officer or employee shall act in his or her official capacity in any matter where he, a member of his or her immediate family or any business organization in which he or she has an interest has a direct or indirect financial or personal involvement that might reasonably be expected to impair his or her objectivity or independence or judgment.
- D. No officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his or her independence of judgment in the exercise of his or her official duties.
- E. No officer or employee, member of his or her immediate family or any business organization in which he or she has an interest shall solicit or accept any gift, favor, political contribution, service, promise of future employment or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his or her official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the officer in the discharge of his or her official duties.
- F. No officer or employee shall use or allow to be used his or her public office or employment or any information not generally available to the members of the public which he or she receives or acquires in the course of and by reason of his or her office or employment for the purpose of securing financial gain for himself, any member of his or her immediate family or any business organization with which he or she is associated.
- G. No officer or employee or any business organization in which he or she has an interest shall represent any person or party other than the Borough in connection with any cause, proceeding, application or other matter pending before any agency of the Borough of Middlesex. This provision shall not be deemed to prohibit an employee from representing another employee where the representation is within the context of official labor union or similar representation responsibilities, nor shall this provision be applicable to the Borough Public Defender with respect to representation of defendants in the Municipal Court.
- H. No officer shall be deemed in conflict with these provisions if, by reason of his or her participation in the enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no

material or monetary gain accrues to him or her as a member of any business, profession, occupation or group to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group.

- I. No elected officer shall be prohibited from making an inquiry for information on behalf of a constituent if no fee, reward or other thing of value is promised to, given to or accepted by the officer or a member of his or her immediate family, whether directly or indirectly, in return therefor.
- J. Nothing shall prohibit any officer or employee of the Borough of Middlesex or members of his or her immediate family from representing himself, herself or themselves in negotiations or proceedings concerning his, her or their own interests.
- K. No officer or employee elected or appointed in the Borough shall, without receiving formal written authorization from the appropriate person or body, disclose any confidential information concerning any other officer or employee or any other person or any property or government affairs of the Borough.
- L. No officer or employee shall approve or disapprove or in any way recommend the payment of any bill, voucher or indebtedness owed or allegedly owed by the Borough in which he has a direct or indirect personal, pecuniary or private interest.
- M. No officer or employee elected or appointed in the Borough shall request, use or permit the use of any public property, vehicle, equipment, labor or service for personal convenience or the private advantage of himself or any other person. This prohibition shall not be deemed to prohibit an official or employee from requesting, using or permitting the use of such public property, vehicle, equipment, material, labor or service which it is the general practice to make available to the public at large or which are provided as a matter of stated public policy for the use of officials and employees in the conduct of official business.

38-12 - Conduct of hearings.

All hearings required pursuant to this chapter are conducted in conformity with the rules and procedures, insofar as they may be applicable, provided for hearings by a state agency in contested cases under the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.).

38-13 - Records to be preserved.

All statements, complaints, requests or other written materials filed pursuant to this chapter, and any rulings, opinions, judgments, transcripts or other official papers

prepared pursuant to this act are preserved for a period of at least five years from the date of filing or preparation; as the case may be.

38-14 – Enforcement; violations and penalties.

- A. An appointed officer or employee of the Borough of Middlesex found guilty by the Middlesex Borough Ethical Standards Board of the violation of any provision of this chapter or of any Code of Ethics in effect pursuant to this chapter shall be fined not less than \$100 nor more than \$500, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1.[1] The Middlesex Borough Ethical Standards Board shall report its findings to the office or agency having the power of removal or discipline of the appointed officer or employee and may recommend that further disciplinary action be taken.

(1) Editor's Note: See now N.J.S.A. 2A:58-10 et seq.

- B. An elected officer or employee of the Borough of Middlesex found guilty by the Middlesex Borough Ethical Standards Board of the violation of any provision of this chapter or of any Code of Ethics in effect pursuant to this chapter shall be fined not less than \$100 nor more than \$500, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:58-1).[2]

[2] Editor's Note: See now N.J.S.A. 2A:58-10 et seq.

- C. The findings by the Middlesex Borough Ethical Standards Board that an appointed officer or employee of the Borough of Middlesex is guilty of the violation of the provisions of this chapter or of any Code of Ethics in effect pursuant to this chapter shall be sufficient cause for his or her removal, suspension, demotion or other disciplinary action by the officer or agency having the power of removal or discipline. When a person who is in the career service is found to have violated the provisions of this chapter or any in effect pursuant to this chapter, the procedure leading to removal, suspension, demotion or other disciplinary action shall be governed by any applicable procedures in Title 11A of the New Jersey Statutes Annotated and the rules promulgated pursuant thereto.

SECTION TWO. This ordinance shall take effect after passage and publication as provided by law.

ATTEST:

Kathleen Anello, Municipal Clerk

Ronald J. DiMura, Mayor

ORDINANCE NO. 1905-16

AN ORDINANCE OF THE BOROUGH OF MIDDLESEX AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MIDDLESEX BY ADDING A CHAPTER TO ESTABLISH CHAPTER 93 – PARKS AND RECREATION COMMITTEE

WHEREAS, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce ordinances to manage regulate and control the finances and property of the municipality; and

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

SECTION ONE. The Code of the Borough of Middlesex, Middlesex County, New Jersey is hereby adding a chapter to include the following:

93-1 - Establishment.

There is hereby established in the Borough of Middlesex a parks and recreation committee, which shall have the duties and powers hereinafter more particularly set forth, and the members of which shall be appointed by the Mayor with the advice and consent of Council in accordance with the provisions of this chapter.

93-2 - Membership; terms; liaison; filling of vacancies.

A.

The parks and recreation committee shall be composed of seven members and two alternate members, who shall be citizens and residents of the Borough of Middlesex. Such members and alternate members shall be appointed by the Mayor to serve three-year terms; provided, however, that the initial appointments shall be made in the following manner: two members for initial one-year terms; two members for initial two-year terms; three members for initial three-year terms; one alternate for an initial one-year term; and one alternate for an initial two-year term. After the conclusion of the initial terms as herein provided, all terms shall be for three years. The Mayor shall designate the alternate members as "alternate no. 1", and alternate no. 2". At meetings of the parks and recreation committee, alternate members shall be permitted to participate in discussion of the proceedings, but shall not be permitted to vote except in the absence or disqualification of one or more regular members, in which event, alternate members shall be permitted to vote in lieu of such absent or disqualified regular members in the order of numerical designation of such members.

B.

In addition to the aforementioned members, the Mayor shall appoint a member of the Borough Council to serve as a liaison to the recreation committee each year, who shall be permitted to participate in discussions of the proceedings of the committee, but who shall not be permitted to vote. Such members of the Borough Council shall serve a one-year term.

C.

All appointments shall expire on December 31. Initial appointments as above provided, shall be made for the balance of the one-, two- or three-year term designated, ending on December 31 of the applicable year.

D.

Vacancies shall be filled by the Mayor for the unexpired term only. The members shall serve until their respective successors are appointed, found qualified, and take office.

93-3 - Relation to the Borough committee.

A.

The Borough Council shall cooperate with the recreation committee to coordinate and provide equipment for recreational activities, as well as to coordinate the development, operation and maintenance of parks, public places, playgrounds, and recreational areas, in the Borough of Middlesex, in order to provide for the maximum benefit and planned development for the residents of the Borough of Middlesex.

B.

The Borough Council may, from time to time, by resolution, place activities, parks, public places, playgrounds and recreational areas under the jurisdiction of the parks and recreation committee for development, operation or maintenance thereof, or for such purposes as may be specified in any such resolution. The Borough shall continue to be responsible for the care, custody and policing of any such parks, public places, playgrounds and recreational areas, which, from time to time, may be placed under the jurisdiction of the parks and recreation committee, unless such responsibilities or any others shall be specifically assigned in any such resolution.

C.

The parks and recreation committee herein established shall not be deemed to be a park or recreation commission pursuant to N.J.S.A. 40:12-1 et seq., but such parks and recreation committee shall have only those powers and duties as may be set forth herein or as may be more particularly provided by resolution of the Borough Council.

D.

There shall be no appropriation of public funds to the parks and recreation committee, except as may be provided by the Borough Council for designated purposes consistent with the intent of this chapter. The parks and recreation committee shall recommend to the Borough Council proposals, from time to time, as may be consistent herewith.

E.

The Borough shall obtain liability insurance coverage covering the approved activities under the jurisdiction of the parks and recreation committee, the participants in those activities, the Borough of Middlesex and individual members of the parks and recreation committee.

F.

Neither the parks and recreation committee nor any member or members thereof shall have any power or right, express or implied, to bind or obligate the Borough of Middlesex or the Borough committee, directly or indirectly.

93-4 - Duties.

The primary purpose of the parks and recreation committee shall be to:

A.

Assist in providing equipment as needed to programs concerned with the recreation of the residents of the Borough of Middlesex.

B.

Provide recommendations for the orderly development of parks or other public lands in the Borough of Middlesex.

C.

Cooperate with the Middlesex County Department of Parks and Recreation in coordinating and advising on activities to be held on county-owned recreational land should such aid be requested by the Middlesex County Department of Parks and Recreation.

D.

Suggest improvements needed for orderly development and to undertake such improvements as it is authorized to carry out pursuant to this chapter or hereafter by resolution of the Borough Council.

E.

Operate and maintain such parks or other public lands over which it is given jurisdiction in any resolution of the Borough Council and shall do so pursuant to any standards set forth in any such resolution.

F.

Handle other specific programs which may be assigned or authorized by the Borough Council, by resolution from time to time, in accordance with the general purposes of the parks and recreation committee and the provisions of this chapter and subject to the limitations contained herein.

93-5 - Limitations.

The parks and recreation committee shall not act in any manner which would cause a forfeiture of any lands of the Borough of Middlesex. The Borough reserves the right to limit the jurisdiction, purposes or programs of the parks and recreation committee at any time by resolution of the Borough Council.

93-6 - Organization.

The parks and recreation committee may organize as it sees fit, choosing a chairperson and such other officers from among its members as it may deem advisable, adopt rules and bylaws for the orderly conduct of Meetings, and organize sub-committees for the administration and handling of its programs.

Members shall attend one-half of all public meetings in each calendar year and shall not be absent from three consecutive regularly scheduled meetings. The committee shall petition the Borough Council for removal and replacement of any member with attendance below this standard.

93-7 – Recreation Director.

The Recreation Director appointed by the Mayor shall serve as a voting member of the parks and recreation committee.

93-8 - Grievance procedure; appeals.

A.

Any recognized recreational group who feels or believes it is aggrieved by any of the actions of the Recreation Director shall have the right to appeal any of the Recreation Director's actions and/or recommendations in the first instance to the Borough Administrator. Said appeal shall be filed not later than ten (10) days from the date of any action or recommendation taken by the Recreation Director and shall be in writing to the Borough Administrator.

B.

The Borough Administrator shall thereafter set the matter down for a hearing and consider the testimony of witnesses and other evidence to be presented and at the conclusion of which the Borough Administrator shall render a decision as soon as is practicable.

C.

Any party may appeal in the final instance the decision of the Borough administrator to the Borough Council, within five days of the Borough administrator's decision in writing to the Borough clerk.

SECTION TWO. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in such conflict or inconsistent.

SECTION THREE. This Ordinance may be renumbered for codification purposes.

SECTION FOUR. In the event that any section, part or provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

SECTION FIVE. This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

ATTEST:

Kathleen Anello, Municipal Clerk

Ronald J. DiMura, Mayor

INTRODUCED: December 13, 2016

DATE PUBLICATION
OF INTRODUCTION:

ADOPTED:

DATE OF PUBLICATION
OF ADOPTION:

ORDINANCE NO. 1902-16

BOND ORDINANCE PROVIDING FOR A SANITARY SEWER REHABILITATION PROJECT BY AND IN THE BOROUGH OF MIDDLESEX, IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY; APPROPRIATING \$2,450,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,450,000 BONDS OR NOTES TO FINANCE THE COST THEREOF

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MIDDLESEX, IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

SECTION 1. The improvements described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the Borough of Middlesex, in the County of Middlesex, State of New Jersey (the "Borough") as general improvements. For the said improvements stated in Section 3, there is hereby appropriated the aggregate sum of \$2,450,000. Pursuant to Sections 40A:2-7d and 40A:2-11c of the Local Bond Law (N.J.S.A. 40A:2-1 et seq.) (the "Local Bond Law"), the Borough is not required to provide for a cash down payment for such improvements or purposes.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$2,450,000 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in a principal amount not exceeding \$2,450,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. The improvements and purposes hereby authorized and purposes for the financing of which said debt obligations are to be issued are the rehabilitation of the Borough sanitary sewer system, including but not limited to the rehabilitation of approximately 9,600 linear feet (covering 11 streets) of various size sanitary sewer mains and 43 manholes, and the reconstruction of five manholes. The appropriation set forth above also includes all work, materials, appurtenances and equipment necessary for or incidental thereto.

a. The aggregate estimated cost of said improvements and purposes is \$2,450,000.

b. The aggregate estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$2,450,000.

SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Middlesex make a loan, contribution or grant-in-aid to the Borough for the improvements authorized hereby and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey, and/or the County of Middlesex. In the event, however, that any amount so loaned, contributed or granted by the United States of America, the State of New Jersey, and/or the County of Middlesex shall be received by the Borough after the issuance of the bonds or notes

authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose. This Section 4 shall not apply however, with respect to any contribution or grant in aid received by the Borough as a result of using such funds from this bond ordinance as "matching local funds" to receive such contribution or grant in aid.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer of the Borough shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of Section 8.1 of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance, and to the extent of any inconsistency herewith, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs will be on file in the office of the Clerk of the Borough and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

a. The purposes described in Section 3 of this bond ordinance are not current expenses and are improvements which the Borough may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

b. The average period of usefulness of said purposes within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 40 years.

c. The supplemental debt statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$2,450,000 and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

d. An aggregate amount not exceeding \$120,000 for items of expense listed in and permitted under section 20 of the Local Bond Law is included in the estimated cost indicated herein for the improvements hereinbefore described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the debt obligations authorized by this bond ordinance. The debt obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the debt obligations and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough reasonably expects to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. This Section 9 is intended to be and hereby is a declaration of the Borough's official intent to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations Section 150-2. No reimbursement allocation will employ an "abusive arbitrage device" under Treasury Regulations §1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147, inclusive, of the Internal Revenue Code of 1986, as amended (the "Code"). The proceeds of any bonds or notes authorized by this bond ordinance used to reimburse the Borough for costs of the improvements or purposes described in Section 3 hereof, or funds corresponding to such amounts, will not be used in a manner that results in the creation of "replacement proceeds", including "sinking funds", "pledged funds" or funds subject to a "negative pledge" (as such terms are defined in Treasury Regulations §1.148-1), of any bonds or notes authorized by this bond ordinance or another issue of debt obligations of the Borough, other than amounts deposited into a "bona fide debt service fund" (as defined in Treasury Regulations §1.148-1). The bonds or notes authorized herein to reimburse the Borough for any expenditures toward the costs of the improvements or purposes described in Section 3 hereof will be issued in an amount not to exceed \$2,450,000. The costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be "capital expenditures" in accordance with the meaning of Section 150 of the Code. All reimbursement allocations will occur not later than 18 months after the later of (i) the date the expenditure from a source other than any bonds or notes authorized by this bond ordinance is paid, or (ii) the date the improvements or purposes described in Section 3 hereof is "placed in service" (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than 3 years after the expenditure is paid.

SECTION 10. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code, of the interest on all bonds and notes issued under this ordinance.

SECTION 11. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

ATTEST:

Kathleen Anello, Municipal Clerk

Ronald J. DiMura, Mayor

ORDINANCE NO. 1903-16

ORDINANCE OF THE BOROUGH OF MIDDLESEX, IN THE COUNTY OF MIDDLESEX, AMENDING THE REDEVELOPMENT PLAN FOR THE LINCOLN BOULEVARD REDEVELOPMENT AREA

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law") authorizes municipalities to determine whether certain parcels of land located therein constitute areas in need of rehabilitation; and

WHEREAS, on July 25, 2006, the Mayor and Council of the Borough of Middlesex, New Jersey (the "Borough") adopted resolution #179-06, entitled "Resolution Designating an Area in Need of Rehabilitation Along the West Portion of Lincoln Boulevard from the Bound Brook Border to 200 Feet East of it's Intersection with Mountain Avenue and the South Portion of Mountain Avenue from it's Intersection with Lincoln Boulevard to William Street in the Borough of Middlesex" (the "Designating Resolution"), which resolution designated said area as an area in need of rehabilitation (the "Rehabilitation Area"); and

WHEREAS, on September 18, 2007, the Mayor and Council of the Borough of Middlesex New Jersey (the "Borough") adopted Ordinance #1723-07, entitled Ordinance of The Borough of Middlesex, in The County of Middlesex, adopting the Redevelopment Plan for the Lincoln Boulevard Rehabilitation area; and

WHEREAS, on April 14, 2015, the Mayor and Council of the Borough of Middlesex New Jersey (the "Borough") adopted Ordinance #1871-15 entitled an Ordinance of The Borough of Middlesex, in The County of Middlesex, State of New Jersey, amending the Redevelopment Plan for The Lincoln Boulevard Redevelopment area to allow for certain properties not under common ownership located within the focus areas to opt out of the Redevelopment Plan; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, a governing body may adopt, revise or amend a redevelopment plan; and

WHEREAS, during the time since adoption of the Redevelopment Plan (the "Plan"), little development has occurred in the Redevelopment Area under the Plan; and

WHEREAS, on April 9, 2014, the Planning Board authorized Paul N. Ricci, P.P., Lic. No. L1005570 (the "Planning Consultant") to conduct an investigation and prepare a study of the Redevelopment Area; and

WHEREAS, the Borough Council has determined that the Plan must be amended to address further refinement of the permitted uses and certain bulk standards for that area; and

WHEREAS, the Borough Council has determined that it is in the best interest of the Borough to adopt an Amendment to the Plan within that area to effectuate the redevelopment of the area; and

WHEREAS, on July 19, 2016, the Borough Council referred amendments to the Plan to the Planning Board and received no comment; and

WHEREAS, Paul N. Ricci, P.P, has worked with the Mayor and the Borough's professional staff to further refine and revise the Redevelopment Plan; and

WHEREAS, this further refinement is set forth in the Plan revisions Prepared by Mr. Ricci and dated November 18, 2016, (the "November 18 Revised Plan"); and

WHEREAS, by Resolution No. 234-16 adopted on November 22, 2016, the Mayor and Council referred the November 18 Revised Plan of the Lincoln Boulevard Redevelopment Plan to the Planning Board for review pursuant to N.J.S.A. 40A:12A-7(e); and

WHEREAS, the Mayor and Council hereby find that the November 18 Revised Plan is in the best interest of the Borough and now desire to adopt the November 18 revised Redevelopment Plan.

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

1. The aforementioned recitals are incorporated herein as though fully set forth at length.

2. The November 18 Revised Redevelopment Plan, attached hereto as Exhibit A and made a part hereof, is hereby approved pursuant to N.J.S.A. 40A:12A-7.

3. The sections of the Zoning Map of the Borough of Middlesex that relate to the portions of the Lincoln Boulevard Redevelopment revised in the November 18 Revised Plan, if any, are hereby amended to incorporate the provisions of the November 18 Revised Plan that apply thereto.

4. If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

5. A copy of this Ordinance shall be available for public inspection at the offices of the Borough Clerk.

6. This Ordinance shall take effect immediately upon final adoption and publication thereof according to law.

ATTEST:

Kathleen Anello, Municipal Clerk

Ronald J. DiMura, Mayor

INTRODUCED: November 22, 2016

DATE PUBLICATION
OF INTRODUCTION: November 28, 2016

ADOPTED: December 13, 2016

DATE OF PUBLICATION
OF ADOPTION:

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that:

Resolution #237-16

The tax collector is hereby authorized to refund a partial payment of 2016 3rd quarter property taxes in the amount of \$877.42 on Block 252 Lot 1. The property has been bought by the United States Army Corps of Engineers and is now an Exempt property. The check should be payable to:

Diversified Settlement Services, Inc.
1200 Veterans Highway, Suite C-7
Bristol, PA 19007

ADOPTED _____

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

MAYOR OF THE BOROUGH OF MIDDLESEX

I CERTIFY THE FOREGOING TO BE A TRUE AND
CORRECT ABSTRACT OF A RESOLUTION
REGULARLY ADOPTED AT A MEETING OF THE
COMMON COUNCIL OF MIDDLESEX, HELD

AND IN THAT RESPECT A TRUE AND CORRECT
COPY OF ITS MINUTES

CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that:

Resolution #238-16

The Tax Collector is hereby authorized to refund an overpayment of 4th quarter taxes in the amount of \$ 3711.39 on Block 43, Lot 10, 316 Second Street due to a duplicate payment by the mortgage company. The check is to be made payable to:

Dovenmuehle Mortgage Inc.
1206 St. Charles Road
Elgin, IL 60120

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

ADOPTED _____

MAYOR OF THE BOROUGH OF MIDDLESEX

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COPY OF ITS MINUTES

CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that:

Resolution #239-16

WHEREAS, Police Officer Scott Mulford is eligible for advancement in grade pursuant to Article XV of the Police Department Ordinance; and

WHEREAS, On December 2, 2016 Chief Geist recommended Police Officer Scott Mulford be advanced in grade.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Middlesex, County of Middlesex, State of New Jersey that Police Officer Scott Mulford be and is hereby advanced in grade to Patrolman Class "F" effective December 29, 2016 at an annual salary of \$60,177.

ADOPTED _____

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

MAYOR OF THE BOROUGH OF MIDDLESEX

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COPY OF ITS MINUTES

CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that: **Resolution #240-16**

The governing body hereby approves the Mayor to execute the Community Forestry Management Plan for the years 2017 – 2021.

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

ADOPTED _____

MAYOR OF THE BOROUGH OF MIDDLESEX

I CERTIFY THE FOREGOING TO BE A TRUE AND
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COMMON COUNCIL OF MIDDLESEX, HELD

AND IN THAT RESPECT A TRUE AND CORRECT
COPY OF ITS MINUTES

CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that:

Resolution #241-16

A RESOLUTION IN SUPPORT OF SENATE BILL S-2254 AND ASSEMBLY BILL A-3821 WHICH AFFIRMS THE LANGUAGE AND LEGISLATIVE INTENT OF THE FAIR HOUSING ACT

WHEREAS, the Borough of Middlesex supports the provision of affordable housing in a reasonable, rational and achievable way, consistent with economic realities and sound planning; and

WHEREAS, pursuant to the March 2015 New Jersey Supreme Court order which transferred oversight of the Fair Housing Act (FHA) to the courts, hundreds of municipalities filed declaratory judgment actions to voluntarily comply with their State imposed affordable housing requirements; and

WHEREAS, in February, the Ocean County Superior Court included a distinct "gap period" analysis retroactively over an additional 16 year period, separate and apart from the normal 10 year present and prospective need; and

WHEREAS, the Appellate Division recently in a unanimous decision overturned the February Ocean County Superior Court decision and held that municipalities are only responsible to address the ten year present and prospective need, not any "gap period" number; and

WHEREAS, the New Jersey Supreme Court has, for the stated purposes of, "...judicial economy and efficiency based on the large number of actions involved. The Court makes no findings as to the reasonable probability of success on the merits, irreparable harm, or the relative hardship to the parties," agreed to hear an appeal of the Appellate Division ruling in late November; and

WHEREAS the Fair Housing Act (FHA) and existing case law, requires that "present and prospective fair share of the housing need in a given region ... shall be computed for a 10- year period." N.J.S.A. 52:27D-307(c)]; and

WHEREAS, the "gap issue" arises out of the inability of the New Jersey Council on Affordable Housing to promulgate third round regulations from 1999 to the present or make any final determination as to state and regional housing need, as well as constant litigation by certain groups; and

WHEREAS, any retroactive "gap" obligations could have significant and unfunded impacts on municipalities, may double count households under both present and prospective need, and will likely result in forcing municipalities and their property taxpayers to subsidize development; and

WHEREAS, this issue needs a resolution which provides both certainty and an achievable path forward so municipalities can proceed with planning for and implementing their affordable housing obligations;

WHEREAS, Senate Bill S-2254, sponsored by Senators Greenstein and Bateman, and Assembly Bill A-3821, sponsored by Assemblymen DeAngelo and Benson, re-affirm the language and legislative intent of the Fair Housing Act, so as to preclude significant unfair impacts and instead further progress toward a more rational statewide housing policy, including reasonable and achievable obligations for municipalities, facilitate municipal compliance and the actual provision of affordable housing.

NOW, THEREFORE, BE IT RESOLVED, on this 13 day of December, 2016 by the Borough of Middlesex, County of Middlesex, that:

1. The Borough of Middlesex strongly urges New Jersey Legislators to immediately reaffirm the language and legislative intent of the Fair Housing Act (FHA) and expressly clarify that the municipal affordable housing share is the sum of present and prospective need for the enumerated ten year period.
2. The Borough of Middlesex supports Senate Bill S-2254 and Assembly Bill A-3821.
3. Copies of this resolution be distributed to the Governor, the Lieutenant Governor, the President of the New Jersey Senate, the Speaker of the New Jersey General Assembly, the Legislative Sponsors, (insert State Senator and Assembly Representatives), Senator Jeff Van Drew, Senator Ronald Rice, Assemblyman Jerry Green and Assemblywoman Mila Jasey, the New Jersey League of Municipalities and the New Jersey Conference of Mayors

ADOPTED _____

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

MAYOR OF THE BOROUGH OF MIDDLESEX

I CERTIFY THE FOREGOING TO BE A TRUE AND
CORRECT ABSTRACT OF A RESOLUTION
REGULARLY ADOPTED AT A MEETING OF THE
COMMON COUNCIL OF MIDDLESEX, HELD

AND IN THAT RESPECT A TRUE AND CORRECT
COPY OF ITS MINUTES

CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that:

Resolution #242-16

The governing body hereby authorizes the Mayor to execute the PSE&G Installation and Repayment Agreement between Public Service Electric and Gas Company and Middlesex Borough-Admin Building for the installation of certain energy conservation measures at the borough.

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

ADOPTED _____

MAYOR OF THE BOROUGH OF MIDDLESEX

I CERTIFY THE FOREGOING TO BE A TRUE AND CORRECT ABSTRACT OF A RESOLUTION REGULARLY ADOPTED AT A MEETING OF THE COMMON COUNCIL OF MIDDLESEX, HELD

AND IN THAT RESPECT A TRUE AND CORRECT COPY OF ITS MINUTES

CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that: **Resolution #243-16**

WHEREAS, the Centers for Disease Control (CDC) reported that from 2004 to 2006, there were approximately 9,500 hospital discharges per year with a diagnosis related to food allergy,

WHEREAS, among children under age 18 years. Food allergy is the leading cause of anaphylaxis outside the hospital setting,

WHEREAS, five Americans die each day from anaphylaxis,

WHEREAS, Researchers estimate that up to 15 million Americans have food allergies,

WHEREAS, this potentially deadly disease affects 1 in every 13 children in the United States or roughly two in every classroom,

WHEREAS, Assemblywoman Nancy Pinkin has introduced Assembly Bill 3880 to order the Commissioner of Health to develop, in consultation with the New Jersey Restaurant Association and in consideration of food allergy information published by the federal Food and Drug Administration, an informational sign promoting food allergen awareness,

WHEREAS, the sign is to include information about the most common food allergens, the health-related consequences of allergic reactions to food, best practices for food storage and preparation to prevent cross-contamination with food allergens, the symptoms of and appropriate responses to an allergic reaction to food, and such other information as the Commissioner deems appropriate,

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council of the Borough of Middlesex, County of Middlesex, State of New Jersey hereby confirms for the record of its support of Assembly Bill 3880 and urges the New Jersey General Assembly and the New Jersey State Senate to enact this important legislation; and

BE IT FURTHER RESOLVED, the Borough Clerk shall forward copies of this Resolution to: Senator Nicholas Scutari, Assemblyman Jerry Green, Assemblyman James Kennedy and Assemblywoman Nancy Pinkin.

ADOPTED _____

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

MAYOR OF THE BOROUGH OF MIDDLESEX

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CORRECT ABSTRACT OF A RESOLUTION
REGULARLY ADOPTED AT A MEETING OF THE
COMMON COUNCIL OF MIDDLESEX, HELD

AND IN THAT RESPECT A TRUE AND CORRECT
COPY OF ITS MINUTES

CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that:

Resolution #244-16

The Governing Body hereby authorizes the Treasurer to cancel all outstanding checks from the Current Operating Account dated prior to January 1, 2016.

<u>Ck#</u>	<u>Amount</u>	<u>Ck Date</u>
35554	\$35.00	2/13/2013
35910	\$135.00	4/10/2013
36462	\$500.00	7/16/2013
36852	\$26.00	9/25/2013
37034	\$89.85	10/23/2013
37973	\$25.00	3/26/2014
38034	\$200.00	4/9/2014
38269	\$169.12	5/14/2014
38501	\$35.00	6/25/2014
38511	\$15.00	6/25/2014
39562	\$175.00	1/16/2015
39582	\$110.00	1/28/2015
39845	\$313.01	3/2/2015
39878	\$129.27	3/2/2015
40026	\$25.70	3/25/2015
40269	\$100.56	4/29/2015
40314	\$24.20	5/13/2015
41361	\$40.70	12/9/2015
41498	\$120.80	12/23/2015

\$2,269.21

ADOPTED _____

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

MAYOR OF THE BOROUGH OF MIDDLESEX

I CERTIFY THE FOREGOING TO BE A TRUE AND CORRECT ABSTRACT OF A RESOLUTION REGULARLY ADOPTED AT A MEETING OF THE COMMON COUNCIL OF MIDDLESEX, HELD

AND IN THAT RESPECT A TRUE AND CORRECT COPY OF ITS MINUTES

CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that:

Resolution #245-16

The Governing Body hereby authorizes the Treasurer to cancel all outstanding checks from the Payroll Account dated prior to January 1, 2016.

<u>Ck#</u>	<u>Ck date</u>	<u>Amount</u>
12000	5/3/2013	\$2,224.71
12582	8/23/2013	\$124.40
13267	5/2/2014	\$832.17
803	12/24/2014	\$32.00
14171	1/9/2015	\$123.13
823	1/22/2015	\$700.00
14390	4/2/2015	\$123.13
14426	4/17/2015	\$375.78
14657	6/26/2015	\$64.86
14828	8/7/2015	\$123.13
14833	8/7/2015	\$375.06
14844	8/7/2015	\$1,193.24
14859	8/7/2015	\$313.29
14888	8/7/2015	\$294.74
14955	8/21/2015	\$487.54
15141	10/16/2015	\$181.71
15149	10/16/2015	\$193.13
15187	11/13/2015	\$121.35
15190	11/13/2015	\$123.12
968	11/25/2015	\$650.00
15246	11/27/2015	\$18.35
15313	12/24/2015	\$24.76
		\$8,699.60

ADOPTED _____

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

MAYOR OF THE BOROUGH OF MIDDLESEX

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CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that:

Resolution #246-16

A RESOLUTION AUTHORIZING REIMBURSEMENT OF MEDICARE PREMIUMS FOR CERTAIN ELIGIBLE PENSIONERS UNDER CHAPTER III, PUBLIC LAW 1973, NJ HEALTH BENEFITS PLANS

WHEREAS, Chapter III of Public Laws 1973, which provided for reimbursement of Medicare premiums of certain eligible pensioners was adopted by the Mayor and Council by resolution on April 9, 1974; and

WHEREAS, certain retired employees of the Borough have applied for reimbursement.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Middlesex that the disbursing officers be and they are hereby authorized to draw checks, charged against Insurance (1) Group Insurance for Employees from the period July through December 2016, as follows:

James L Benson 445 Harris Ave Middlesex, NJ 08846	\$629.40	Patricia A Benson 445 Harris Ave Middlesex, NJ 08846	\$629.40
Archie J Blood Jr 54 Lincoln Ave Barnegat, NJ 08005	\$578.40	Margie L Blood 54 Lincoln Ave Barnegat, NJ 08005	\$629.40
Anthony Cole 246 Oak Dr Middlesex, NJ 08846	\$578.40	Susan Cole 246 Oak Dr Middlesex, NJ 08846	\$578.40
Dorothy Coren 20 Mead Ave Middlesex, NJ 08846	\$663.00	Joseph Coren 20 Mead Ave Middlesex, NJ 08846	\$1,069.80
John Giuliano 339 Second St Middlesex, NJ 08846	\$578.40	John A Haverstick 771 County Rt 16 Mexico, NY 13114-3193	\$730.80
Judith Lynch 359 Market St	\$243.60	Thomas Lynch 359 Market St	\$629.40

Middlesex, NJ 08846

Charlie Nash \$578.40
213 Melrose Ave
Middlesex, NJ 08846

Arthur Roberts \$578.40
305 Harris Ave
Middlesex, NJ 08846

Jerry Schaefer \$629.40
58 Joe-Ent Rd
Flemington, NJ 08822

Earl S Thompson \$624.00
6525 41 Ave North
St Petersburg, FL 33709-4907

James Tolomeo \$629.40
841 West Second St
Middlesex, NJ 08846

Roger Wahler \$629.40
16 Fitzsimmons Ave
Middlesex, NJ 08846

Middlesex, NJ 08846

Jerome Nowak \$578.40
1886 East Fir Ave, Apt 104
Fresno, CA 93720

Erica Schaefer \$629.40
58 Joe-Ent Rd
Flemington, NJ 08822

Lorraine Smith \$578.40
5602 Gold Ct
New Bern, NC 28560-9747

Karen Thompson \$624.00
6525 41 Ave North
St Petersburg, FL 33709-4907

Rita Wahler \$599.40
16 Fitzsimmons Ave
Middlesex, NJ 08846

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

ADOPTED

MAYOR OF THE BOROUGH OF MIDDLESEX

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CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that:

Resolution #247-16

The Mayor and Council having accepted Dina Fornataro-Healey's resignation effective October 28, 2016 hereby authorize the Treasurer to pay her full allowance of \$6,830.87 in the next regular borough payroll of December 23, 2016. The benefits include the following:

21.5 Hours Compensation Time	\$ 702.62
17 Days Vacation Time	\$ 4,167.21
8 Days Sick Time	\$ 1,961.04
TOTAL	\$ 6,830.87

ADOPTED _____

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

MAYOR OF THE BOROUGH OF MIDDLESEX

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CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that: **Resolution #248-16**

The Treasurer is hereby authorized to remit the Condo Reimbursements for 2016 to the following:

Gramercy Gardens \$ 7,016.86
Midatlantic Property Mgmt
315 Raritan Avenue
Highland Park, NJ 08904

Foxhall Condo Association \$ 7,648.18
Attn: Sheila Paciullo, Manager
PO Box 233
Middlesex, NJ 08846

Hanover Square Condo Association \$ 5,804.78
Alliance Property Management
PO Box 2207
Morrestown, NJ 07962-2207

Middlesex Village Condo Association \$ 24,946.41
C/O Regency Management Group
35 Clyde Road, Suite 102
Somerset, NJ 08873

ADOPTED _____

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

MAYOR OF THE BOROUGH OF MIDDLESEX

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CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that:

Resolution #249-16

SPECIAL ITEMS OF REVENUE AND APPROPRIATION

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

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Middlesex, County of Middlesex, hereby requests that the Director of Local Government Services approve the insertion of an item of revenue in the budget of the year 2016 in the sum of \$1,497,227.00, which item is now available as a revenue from the Middlesex County Open Space, Recreation and Farmland and Historic Preservation Trust Fund in the amount of \$1,497,227.00;

BE IT FURTHER RESOLVED that the like sum of \$1,497,227.00 is hereby appropriated under the caption of "Middlesex County Open Space, Recreation and Farmland and Historic Preservation Trust Fund"; and

BE IT FURTHER RESOLVED that the above is a result of a County Grant of \$1,497,227.00 from the Middlesex County Open Space, Recreation and Farmland and Historic Preservation Trust Fund.

ADOPTED _____

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

MAYOR OF THE BOROUGH OF MIDDLESEX

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CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that: **Resolution #250-16**

The Governing Body hereby waives the Borough fee for a raffle license under the Middlesex Fire Exempt Organization.

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

ADOPTED _____

MAYOR OF THE BOROUGH OF MIDDLESEX

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CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that: **Resolution #251-16**

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.

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

ADOPTED _____

MAYOR OF THE BOROUGH OF MIDDLESEX

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CLERK OF THE BOROUGH OF MIDDLESEX, NJ

Be it resolved, by the Mayor and Council of the Borough of Middlesex, New Jersey that: **Resolution #252-16**

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. Landlocked Property – Block 318/ Lots 44 and 47

CLERK OF THE BOROUGH OF MIDDLESEX

Council	Aye	Nay	Abstain	Absent
Corley				
Greco				
Kaplan				
Madden				
Mikolajczyk				
Schueler				

ADOPTED _____

MAYOR OF THE BOROUGH OF MIDDLESEX

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CLERK OF THE BOROUGH OF MIDDLESEX, NJ

BOROUGH OF MIDDLESEX PLANNING BOARD

**RESOLUTION APPROVING ORDINANCE 1903-16 AS CONSISTENT WITH THE
MASTER PLAN**

WHEREAS, the Governing Body referred Ordinance 1903-16 to the Planning Board for review in compliance with N.J.S.A. 40:55D-26; and

WHEREAS, the proposed Ordinance makes certain modifications to the Lincoln Boulevard Redevelopment Ordinances of the Borough; and

WHEREAS, the Lincoln Boulevard Redevelopment Plan is a non condemnation redevelopment and the amendments recognize that although the plan has been in effect for some time not much redevelopment has taken place and that certain types of development that may be interested in the Borough may not fit squarely within the existing Ordinance and that from time to time adjustments may be necessary to help fulfill the original goals of providing for an organized redevelopment of the area; and

WHEREAS, the Planning Board on November 30, 2016 at a duly noticed Special Meeting discussed the proposed ordinance and was provided testimony by the Board Planner and advice from its counsel; and

WHEREAS, the Board at that meeting determined that the 2012 Master Plan of the Borough recognizes that, from time to time, the Lincoln Boulevard Redevelopment Plan will require revisions, as circumstances change, and as such determined that the revisions are consistent with the intent of the Master Plan; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Middlesex that Ordinance 1903-16 is hereby returned to the Governing Body in compliance with N.J.S.A. 40:55D-26 with the recommendation that the Ordinance is consistent with the Master Plan and should be adopted.

BE AND THE SAME IS HEREBY APPROVED.

I hereby certify that the above Resolution is a true copy of the Resolution adopted by the Planning Board of the Borough of Middlesex on November 30, 2016


Secretary

Motion to approve: Robert Schueler

Second: James Green

Ayes: Albert Lowande, Andrew Galida, James Green, Robert Schueler
John Anello, Mayor DiMura, Frank Ryan

Nays:

Abstentions: John Sweeney

Absent: Paul Woska

Borough of Middlesex

1200 Mountain Ave.
Middlesex, NJ 08846
Tel. (732) 356-7400 ext. 260 Fax (732) 356-7954
bpalumbo@middlesexboro-nj.gov

TO: Jack Mikolajczyk

FROM: Barrie Palumbo/Zoning Officer

DATE: December 8, 2016

RE: 2016 End of the year Zoning / Code Enforcement Report

Fences and sheds permits issued - 43

General house renovations permits issued – 89

Solar permits issued – 66

Permits for new houses – 7

New Businesses – 33

Vacant Properties currently registered – 65

“Flipped” – 23

150 Lincoln Blvd – two buildings are occupied; two others are still under construction.

Municipal Court – 3 major cases:

1. Hampton Gardens – is disputing the requirements for registering each apartment as per section 320 Landlord Registration.
2. 300 Lincoln Blvd – trial to be held for the used car sales, disturbing the riparian buffer, storage of junk and unregistered vehicles and tenancy which did not obtain approvals.
3. 229 Bound Brook Road – 24 summonses issued for stockpiling of dirt without the proper approvals.



**PSE&G Direct Install Program for
Government and Non-Profit Facilities
and Small Businesses located in UEZs**

**Customer Contract (Terms & Conditions)
INSTALLATION AND REPAYMENT AGREEMENT**

Contact Name:

Date:

10/20/16

Facility Name:

Middlesex Boro-Admin BLDG

Facility Address:

Mountain Ave

PSE&G Account #:

6564518609

Town, State and Zip Code:

Middlesex, NJ 08846

TrakSmart ID:

Phone:

Phone #2:

Audit Date:

?

Facility Sq. Footage:

0

Auditing Firm:

Egs - Ray Miller

Auditor:

Ray Miller

This Installation and repayment Agreement is entered into by and between Public Service Electric and Gas Company (the "Company" or "PSE&G") and Middlesex Boro-Admin BLDG (the "Customer") and Landlord (if the energy conservation measures (ECMs) are to be installed at the Landlord's property), each individually referred to as a "Party" and collectively referred to as the "Parties".

Public Service Electric and Gas Company is offering an energy conservation program (the "Program") to customers in its electric and/or gas service territory ("Customer"), that are government or non-profit entities with annual peak demands equal to or less than 200 kW. The Program is also offered to small business customers with annual peak demands equal to or less than 200 kW, that are located in an Urban Enterprise Zone (UEZ). The Customer is the Company's customer of record, i.e. the PSE&G electric and/or gas account holder. Under the Program, the Company is arranging the installation of certain energy conservation measures ("ECMs") at eligible Customer government/non-profit/small business facilities (the "Facility").

This Direct Install Program for Government/Non-Profit/Small Business Facilities Customer Contract - Installation and Repayment Agreement (the "Agreement") is entered into by and between PSE&G and Middlesex Boro-Admin BLDG as of 10/20/16.

Customer agrees (a) to have the Company or its designee install the ECMs and (b) to pay a portion of the installation cost as described in Paragraph 6 listed below. The following are Terms and Conditions that govern the Program and the installation of the ECMs:

1. ECMs to be Installed

The Company, (or the Company through its designated Contractor) will install at Customer's facility the ECMs described in Paragraph 6 below. The Company shall permanently disable all lamps replaced pursuant to this Agreement (make them unfit for reuse). The Company shall dispose of all materials including fluorescent ballasts and lamps, old fixtures and HVAC/refrigeration equipment.

2. Installation Date

The Company will use commercially reasonable efforts to install the ECMs within thirty (30) days of Customer signing this Agreement.

3. Warranty and Disclaimers

(a) The Company will provide a one-time replacement free of charge for any equipment that fails to operate according to manufacturer's specifications for a period of one (1) year after the date of the original installation.

(b) Customer may have other warranty rights that may have been provided by the manufacturer of the devices installed under this Agreement. Customer, however, may exercise such rights only against the manufacturer, and not against the Company or its affiliates. The Company shall use commercially reasonable effort to assist the Customer's efforts to enforce the manufacturer warranties.

(c) OTHER THAN THE REPLACEMENT WARRANTY STATED IN SUBPARAGRAPH 3(a) ABOVE, NEITHER THE COMPANY NOR ITS AFFILIATES MAKE ANY WARRANTIES OF ANY KIND, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(d) THE COMPANY DOES NOT GUARANTEE THAT THE ECMS WILL, IN FACT, SAVE ANY LEVEL OF ENERGY OR RESULT IN A LOWERING OF CUSTOMER'S ENERGY BILLS. The information provided in the "Energy Efficiency Upgrade Proposal" is for informational purposes only and Customer's actual energy savings may vary based on numerous determining factors including but not limited to weather, changes to Customer utility rates, Facility use and Facility operating hours.

(e) Neither the Company nor its affiliates shall be liable to Customer for consequential or incidental damages arising out of the Program, whether in contract, tort (including negligence) or any other theory of recovery.

4. Access to Property

(a) The Customer grants PSE&G and its subcontractor(s) reasonable access to the Facility during normal business hours to perform the installation work at such date and time as the Parties shall mutually agree. If Customer's Facility requires work to be performed during off-business hours, arrangements may be made for off hours installation. In all instances, Customer will be responsible for costs arising from failure to grant access as arranged. These costs will not be included with the ECMs installation costs, savings analysis, or Customer contribution.

(b) In addition, the Customer will allow the Company to make a reasonable number of follow-up visits during the twenty-four months following installation, with advance notice and at a time convenient to the Customer. The purpose of the follow-up visits is to provide the Company with an opportunity to review the operation of the ECMs for program education purposes. During the follow-up visits, the Company may make recommendations to the Customer regarding operation of the ECMs, however Customer is under no obligation to follow any such recommendations. If the Customer implements such recommendations, the Company will not be liable to the Customer in tort (including negligence) for the Customer's reliance on the recommendations.

5. Discretion of Company

When undertaking the installation, the Company (at its sole discretion) may choose not to make the installations specified below for reasons, including but not limited to: issues related to safety, discovery of unforeseen conditions or the complete utilization of Company's program budget.

6. Equipment and Customer Contribution

(a) The Company or its designee will install the equipment listed in the "Energy Efficiency Upgrade Proposal" attached to this Agreement. The estimated cost of the installation including the estimated cost of the Customer's contribution, which shall be 30% of the total project cost, is also itemized in this Agreement. The Customer will pay Customer's cost contribution over a period of thirty six (36) months interest free, through an additional charge on the PSE&G utility bill, or, if the Customer chooses, in one lump sum interest free, through an additional charge on the PSE&G utility bill. If a Customer chooses to pay Customer's cost contribution over a period of thirty six (36) months and Customer occupies the Facility under a lease agreement, and if Customer terminates the lease agreement or vacates the Facility prior to making the final Program payment, in addition to all other remedies available to the Company, the Company may declare all of the unpaid balance immediately due and payable, and the Customer shall immediately pay all of the unpaid amount to the Company.

The total project amount is \$13,834.09

The Customer opts to pay its cost contribution via their PSE&G bill in (check one):

☐ One lump sum payment of \$4,150.23 OR ☐ Thirty six (36) monthly payments of \$115.28

(b) The Customer shall pay no more than the estimated cost shown on the report. If the actual cost of the installation is less than the estimated cost or if the Company chooses not to install the ECMs in accordance with Section 5, the Company shall adjust the Customer's contribution and advise the Customer. The reduction in contract amount will be confirmed on the "Customer Job Completion Certification Form".

(c) If the actual cost of the installation is more than the estimated cost, subject to PSE&G approval, the Customer Contract will be amended and Customer, PSE&G and Landlord (if required) signatures will be required. The increase in contract amount will be confirmed on the "Change Order and Amendment".

(d) Customer certifies that it has not and will not receive incentives under the New Jersey Clean Energy Program for the same ECMs.

7. CUSTOMER HAS OBTAINED, TO THE EXTENT IT HAS DEEMED NECESSARY OR PRUDENT, LEGAL COUNSEL TO ADVISE IT ON THIS AGREEMENT.

8. Customer agrees that this Agreement constitutes the full, complete, and only agreement between the Parties and supersedes any previous representations or agreements, and this Agreement shall not be amended except in writing signed by duly authorized representatives of both Parties.

9. The NJ BPU requires that PSE&G participate in the PJM Capacity Market* through the demand reductions achieved by the ECMs installed as part of this Program. The Customer acknowledges and agrees that, for purposes of participating in the PJM Capacity Market, PSE&G shall own the rights to all such demand reductions without cost or obligation to the Customer. PSE&G's ownership of the Project's demand reductions does not affect the Customer's ownership of the ECMs nor the energy savings derived from the ECMs.

As required by PJM, PSE&G reserves the right to perform measurement and verification ("M&V") at all participating facilities. PSE&G M&V activities at the Facility may, in PSE&G's sole discretion, include but not be limited to, meter installation, calibration and maintenance of M&V equipment, data gathering and screening, verification of M&V reports and the use of customer energy and cost savings, and billing information. PSE&G will notify the Customer if an ECM installed at the Facility requires M&V, will inform the Customer of the PSE&G M&V activities, and will work with the Customer to minimize any adverse effects on the Customer's normal operations. PSE&G, or its subcontractor, may audit the Facility to verify the operation of all installed ECMs for up to four (4) years following installation to ensure compliance with PJM Capacity Market rules and regulations. The Customer shall cooperate with and support PSE&G's ownership of the demand reductions as set forth in this Section 9.

*PJM Capacity Market

PJM Interconnection is the regional transmission operator (RTO) that coordinates the movement of wholesale electricity in all or parts of 13 states including New Jersey. PJM operates a competitive wholesale electricity market and manages the high-voltage electricity grid to ensure reliability for more than 61 million people. PJM holds regular capacity auctions to ensure there is sufficient generating capacity available to meet customer needs. Load reductions from ECMs are allowed to participate in these auctions as 'negative' generation. PSE&G is required to offer the demand reductions achieved through PSE&G's energy efficiency programs into the PJM Capacity Auctions. The Customer will own the ECMs installed as part of the Project, as well as recognize the ECM energy and/or cost savings, however they may not offer the demand reductions into the PJM Capacity Market.

10. Customer agrees (A) That the laws of the State of New Jersey shall govern this Agreement and any dispute arising hereunder shall be litigated in a Federal or State Court located in the State of New Jersey, (B) TO WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW THE RIGHT TO A TRIAL BY JURY.

11. In the event any provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, the remaining provisions of this Agreement shall remain in full force and effect to the maximum extent possible.

12. This Agreement is neither intended to create, nor shall it be construed as creating, a joint venture, partnership or other form of business association between the Parties, or an agreement to enter into any business relationship.

13. **Entire Agreement: Counterparts**

This Agreement constitutes the full, complete and only agreement between the Parties hereto with respect to the foregoing and supersedes any previous agreements, representations or undertakings, either oral or written. This Agreement may be executed by the Parties hereto on separate counterparts each of which when executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

14. **Amendments**

This Agreement shall not be amended, modified or otherwise altered, except pursuant to a written agreement signed by the Parties.

15. **Governing Law: Venue**

This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of New Jersey.

16. **Limitation of Liability: Limitation of Actions**

In no event will PSE&G or its subcontractors be liable for any losses, damages, cost or expenses however caused, arising from this Agreement. PSE&G's total liability to Customer for all actions, claims, or suits of any kind, whether based upon warranty, contract, tort (including negligence and strict liability) or otherwise, for any losses, damages, costs or expenses of any kind whatsoever arising out of, resulting from, or related to the performance or breach of this Agreement shall, under no circumstances, exceed the cost of the Customer's contribution to the cost of the ECMs. PSE&G shall not, under any circumstances, be liable for any special, indirect, incidental, punitive or consequential losses, damages, costs, or expenses whatsoever (including for lost profits, time or revenue) for anything arising out of the performance or nonperformance of this Agreement, whether claims for said losses or damages are premised on warranty, negligence, strict liability, contract or otherwise. Any action against PSE&G arising out of, resulting from, or related to the performance or breach of this Agreement shall be filed no later than one (1) year after the cause of action has occurred. The provisions of this paragraph 16 shall survive termination or expiration of this Agreement.

17. **Indemnity**

CUSTOMER SHALL DEFEND AND HOLD THE COMPANY HARMLESS FOR ALL NEGLIGENT OR INTENTIONAL ACTS OF THIRD PARTIES. THE PROVISIONS OF THIS PARAGRAPH PROVIDING FOR THE CUSTOMER'S DUTY TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE COMPANY SHALL ALSO APPLY TO AND PROTECT THE COMPANY'S OFFICERS, AGENTS, SERVANTS, EMPLOYEES, SHAREHOLDERS, SUCCESSORS, AND ASSIGNS. THE CUSTOMER'S OBLIGATION TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE COMPANY SHALL UNDER THE PROVISIONS OF THIS PARAGRAPH EXCLUDE ONLY AND TO THE EXTENT THAT SUCH INSTANCES ARE DUE TO THE COMPANY'S INTENTIONAL AND DELIBERATE MISCONDUCT OR WHERE THE PERSONAL INJURY, DEATH, OCCUPATIONAL DISEASE OR LOSS OR DAMAGE TO REAL OR PERSONAL PROPERTY WAS DUE TO THE COMPANY'S SOLE NEGLIGENCE.

18. **Customer Confidentiality**

PSE&G shall consider all information furnished by Customer to be confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than in connection with the Program without the Customer's prior written consent. The Customer shall consider all information furnished by PSE&G to be confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than in connection with the Program without PSE&G's prior written consent; provided, however, either Party may disclose such information as may be required to be disclosed by law or court order from a court of competent jurisdiction, and provided further that, unless otherwise prohibited by law, the Party whose information is required to be disclosed is given reasonable time to take legal action to quash such action and seek other protection. The Customer expressly understands and agrees that PSE&G is required to: 1) Report all program data including customer specific information to the NJ regulators on a periodic basis ("Regulatory Reporting"), and 2) Prepare a Program evaluation report (the "Program Evaluation Report") and submit it to the NJ regulators. The Customer expressly further understands and agrees that both the Regulatory Reporting and the Program Evaluation Report may, among other participant and

Project information, identify the Program participants by name and Project address, identify the ECMs implemented by each Program participant and the energy and cost savings achieved by each Program participant.

19. Sale or Transfer of Property

If Customer chooses to pay Customer's cost contribution over a period of thirty six (36) months and Customer occupies the Facility under a lease agreement, and if Customer terminates the lease agreement or vacates the Facility prior to making the final Program payment, then in addition to all other remedies available to the Company, the Company may declare all of the unpaid balance immediately due and payable, and the Customer shall immediately pay all of the unpaid amount to the Company.

The Customer must provide PSE&G with ninety (90) days advance written notice of a change of ownership, change of billing account information, or if a "customer of record" modification is made to the billing account.

Notice to be sent to:

PSE&G
Attention: Hardley Dupont
80 Park Plaza
M/C T8
Newark, NJ 07102

If the Facility or any portion thereof, including property or any improvements thereupon, or any of Customer's ownership interest in the Facility, direct or otherwise, is sold or transferred during the course of the Project, including during the repayment period, without PSE&G's prior written consent, the full amount of the outstanding balance of the Customer's cost contribution due to PSE&G shall become immediately due and payable. Alternatively, with PSE&G's prior written consent, PSE&G may allow the Customer to transfer the outstanding balance of the Customer's cost contribution to a different billing account.

In the event of (i) a sale or transfer of all or part of the Facility and/or Customer's ownership interest therein, (ii) a lease termination or Customer vacates the Facility, (iii) bankruptcy, insolvency or liquidation of Customer or (iv) forced shut down of Customer's operations and/or the Facility, PSE&G's rights to capture and monitor energy savings shall survive.

Authorized Signature of Customer:

By signing below, the Customer agrees that the address as it appears above is the address where ECMs will be installed and to the applicability of the Terms and Conditions as set forth in this Agreement.

Customer Signature: _____	PSE&G Signature: _____
Customer Name (Print): _____	PSE&G Name (Print): _____
Customer Title: _____	PSE&G Title: _____
Customer Date: _____	PSE&G Date: _____

ONCE EXECUTED BY THE COMPANY AND CUSTOMER AND LANDLORD IF REQUIRED, THIS BECOMES A BINDING CONTRACT

Authorized Signature of Landlord (if required):

Landlord Signature required ☐ Yes ☐ No

I hereby authorize the installation of the ECMs as described in the "Energy Efficiency Upgrade Proposal".

Tenant (Customer) Name: _____
 Street Address: _____
 City: _____ State: _____ Zip Code: _____
 Landlord Signature: _____ Date: _____
 Company Name (if appropriate): _____
 Landlord Name: _____ Landlord Telephone: _____
 Landlord Address: _____
 City: _____ State: _____ Zip Code: _____