Municipal Building
1200 Mountain Avenue

January 13, 2004

A public meeting of the Mayor and Council was held at the above place on the above date commencing at 8:00 p.m.

Mayor	Ronald S. Dobies
Council President	Michael Hompesch
	Giancarlo Colitti
	Jerry D'Angelo
	Josephine Liana
	Garrett Mulcahy
	Laura Thomasey
Attorney:	George Hendricks
Administrator:	Joseph Manning

Mayor Dobies opened the meeting with the Sunshine Law Statement saying the meeting had been advertised in the Public Meeting Notice of January 6, 2004.

Mayor Dobies swore in Probationary Patrolman Robert C. Ellis, Probationary Patrolman Mark Melchiorre, Jr. and Probationary Patrolman Thomas J. Carroll.

The Borough Clerk read Ordinance No. 1595-04 by title for introduction.

ORDINANCE NO. 1595-04

AN ORDINANCE TO AMEND ORDINANCE ENTITLED SHADE TREE COMMISSION, CHAPTER 100

Council President Hompesch moved for introduction of Ordinance No. 1595-04 seconded by Councilman Mulcahy and carried by the following roll call votes: Ayes: Members Colitti, D'Angelo, Hompesch, Liana, Mulcahy and Thomasey. Nos.: None. Abstain: None.

The Borough Clerk read Ordinance No. 1596-04 by title for introduction.

ORDINANCE NO. 1596-04

AN ORDINANCE TO AMEND ORDINANCE ENTITLED PROPERTY MAINTENANCE CODE, CHAPTER 54 SECTION 54-9(A)

Council President Hompesch moved for introduction of Ordinance No. 1596-04 seconded by Councilman Mulcahy and carried by the following roll call votes: Ayes: Members Colitti, D'Angelo, Hompesch, Liana, Mulcahy and Thomasey. Nos.: None. Abstain: None.

The Borough Clerk read Ordinance No. 1597-04 by title for introduction.

ORDINANCE NO. 1597-04

AN ORDINANCE TO AMEND ORDINANCE 1560-02 REGULATING THE USE OF MOUNTAIN VIEW PARK, SETTING A SCHEDULE OF FEES FOR USE THEREOF, AND ALSO FOR REGULATING PARKING THEREIN

Council President Hompesch moved for introduction of Ordinance No. 1597-04 seconded by Councilman Mulcahy and carried by the following roll call votes: Ayes: Members Colitti, D'Angelo, Hompesch, Liana, Mulcahy and Thomasey. Nos.: None. Abstain: None.

The Borough Clerk read Ordinance No. 1598-04 by title for introduction.

ORDINANCE NO. 1598-04

AN ORDINANCE TO AMEND ORDINANCE #1523-01 ESTABLISHING FEES FOR THE ISSUANCE OF MARRIAGE CERTIFICATES, BIRTH CERTIFICATES AND DEATH CERTIFICATES BY THE REGISTRAR OF VITAL STATISTICS OF THE BOROUGH OF MIDDLESEX

Council President Hompesch moved for introduction of Ordinance No. 1598-04 seconded by Councilman Mulcahy and carried by the following roll call votes: Ayes: Members Colitti, D'Angelo, Hompesch, Liana, Mulcahy and Thomasey. Nos.: None. Abstain: None.

The Borough Clerk read Ordinance No. 1601-04 by title for introduction.

ORDINANCE NO. 1601-04

AN ORDINANCE ADOPTING A CODIFICATION AND RENUMBERING OF THE ORDINANCES OF THE BOARD OF HEALTH OF THE BOROUGH OF MIDDLESEX, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY; PROVIDING FOR THE MAINTENANCE OF SAID CODE; REPEALING AND SAVING FROM REPEAL CERTAIN ORDINANCES NOT INCLUDED THEREIN; AND ESTABLISHING A PENALTY FOR ALTERING OR TAMPERING WITH THE CODE

Council President Hompesch moved for introduction of Ordinance No. 1601-04 seconded by Councilman Mulcahy and carried by the following roll call votes: Ayes: Members Colitti, D'Angelo, Hompesch, Liana, Mulcahy and Thomasey. Nos.: None. Abstain: None.

The Borough Clerk read Ordinance No. 1602-04 by title for introduction.

ORDINANCE NO. 1602-04

AN ORDINANCE ADOPTING A CODIFICATION AND RENUMBERING OF THE ORDINANCES OF THE BOROUGH OF MIDDLESEX, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY; PROVIDING FOR THE MAINTENANCE OF SAID CODE; REPEALING AND SAVING FROM REPEAL CERTAIN ORDINANCES NOT INCLUDED THEREIN; AND ESTABLISHING A PENALTY FOR ALTERING OR TAMPERING WITH THE CODE

Council President Hompesch moved for introduction of Ordinance No. 1602-04 seconded by Councilman Mulcahy and carried by the following roll call votes: Ayes: Members Colitti, D'Angelo, Hompesch, Liana, Mulcahy and Thomasey. Nos.: None. Abstain: None.

The Borough Clerk read the following resolution:

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

Consent Agenda 2004(B)

WHEREAS, the Mayor and Council of the Borough of Middlesex has reviewed the Consent Agenda consisting of various proposed resolutions; and

WHEREAS, the Mayor and Council of the Borough of Middlesex is not desirous of removing any resolutions from the Agenda.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Middlesex, County of Middlesex, State of New Jersey that the following resolutions on the Consent Agenda are hereby approved and adopted.

Resolution #31-04 - Resolution #41-04

Councilman Hompesch moved for adoption seconded by Councilman Mulcahy carried by the following roll call votes: Ayes: Members Colitti, D'Angelo, Hompesch, Liana, Mulcahy and Thomasey. Nos.: None. Abstain: None.

The Borough Clerk read the following resolution:

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

Resolution #31-04

The Tax Collector is hereby authorized to refund an overpayment of 2004 property taxes in the amount of $344.41 on Block 188, Lot 1.A, 309 Giles Avenue. The check is to be made payable to:

Anthony F. Natale
Attorney-at Law
216 North Avenue East
Cranford, NJ 07016

The Borough Clerk read the following resolution:

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

Resolution #32-04

RESOLUTION APPOINTING LAURA THOMASEY AS REPRESENTATIVE TO THE HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE FOR 2004

WHEREAS, it is necessary for the Borough of Middlesex to appoint a representative to the Middlesex County Housing & Community Development for the year 2004; and

WHEREAS, the Borough of Middlesex is authorized to have a representative appointed to this Committee, one to be appointed by the Mayor and one to be appointed by the Governing Body; and

WHEREAS, the Mayor has appointed Charles Corcoran as his appointed representative to the Housing and Community Development Community for 2004.

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

1. The Governing Body does hereby appoint Laura Thomasey as its representative to the Middlesex County Housing & Community Development Committee.

2. The Borough Clerk is hereby authorized and directed to send a letter to the Housing & Community Development Committee advising the Committee of names, addresses and telephone numbers of the two people who will be serving as representatives for the Borough of Middlesex to the Housing & Community Development Committee for 2004.

3. This resolution shall take effect immediately.

The Borough Clerk read the following resolution:

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

Resolution #33-04

Authorizing the Mayor to execute the Declaration of Encumbrance regarding the Green Acres Program's Agreement in order to provide funding in connection with Mountainview Park.

The Borough Clerk read the following resolution:

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

Resolution #34-04

Scott Ackerman be and is hereby advanced to DPW Laborer in the Department of Public Works effective February 1, 2004 at an hourly rate of $18.21.

The Borough Clerk read the following resolution:

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

Resolution #35-04

Chris Emmons be and is hereby advanced to DPW Laborer in the Department of Public Works effective February 1, 2004 at an hourly rate of $18.21.

The Borough Clerk read the following resolution:

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

Resolution #36-04

RESOLUTION AUTHORIZING THE BOROUGH OF MIDDLESEX TO ENTER INTO A COOPERATIVE PRICING AGREEMENT FOR THE PURCHASE OF ENERGY COMMODITIES

WHEREAS, N.J.S.A. 40A:11-11(5) authorizes contracting units to enter into Cooperative Pricing Agreements; and

WHEREAS, the Electric Discount and Energy Act (N.J.S.A. 48:3-49 et seq.) and the Government Energy Aggregation Program Rules adopted by the Board of Public Utilities permit local government units to join together for the purchase of electric generation service, gas supply service, electric related services and gas related services (hereinafter referred to as "Energy"); and

WHEREAS, the County of Middlesex (hereinafter referred to as the "Lead Agency") has offered voluntary participation in a Cooperative Pricing System for the purchase of electric energy and gas supply for government facilities; and

WHEREAS, The Borough of Middlesex, County of Middlesex, State of New Jersey, desires to participate in the Middlesex County Cooperative Pricing System for the purchase of electric energy and/or gas supply for its facilities.

NOW, THEREFORE, BE IT RESOLVED on this 13th day of January, 2004, by the Borough of Middlesex, County of Middlesex, State of New Jersey, as follows:

TITLE

This resolution shall be known and may be cited as the Cooperative Pricing Resolution for Energy for the Borough of Middlesex.

AUTHORITY

Pursuant to the provisions of N.J.S.A. 40A:11-11(5), the Borough of Middlesex is hereby authorized to enter into a Cooperative Pricing Agreement with the Lead Agency for the following energy commodities for its facilities:

Electric Generation Service
Gas Supply Service

CONTRACTING AGENCY

The Lead Agency shall be responsible for complying with the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et al) and all other provisions of the revised statutes of the State of New Jersey applicable to the Middlesex County cooperative Pricing System for the purchase of Energy.

EFFECTIVE DATE

This Resolution shall take effect immediately upon passage.

The Borough Clerk read the following resolution:

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

Resolution #37-04

Authorizing the Mayor to execute the Treatment Works Approval Permit Application for the DEP regarding Subdivision #PB2003-03 for Block 80, Lot 8, Glen Gary Road for the extension of 122 linear feet of 8" PVC sanitary sewer line to service one proposed single family dwelling and one future single family dwelling.

The Borough Clerk read the following resolution:

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

Resolution #38-04

WHEREAS, Kupper Associates has provided to the Borough of Middlesex a proposal dated October 23, 2003 to provide professional engineering services for the Sanitary Sewer Improvement project; and

WHEREAS, these services include:

- Task 1 – Preparation of Planning Documents
- Task 2 – Preparation of Phase I Bid Documents
- Task 3 – Preparation of Phase II Contract Documents; and
- Task 4 – Construction Management Phase 1 and Phase 2

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. The Mayor and Council hereby approve the proposal by Kupper Associates to provide professional engineering services for the Sanitary Sewer Improvement Project for Tasks 1, 2 and 3, (which includes the CCTV inspection of the sewer line) at a cost not to exceed $140,000.

2. This resolution shall take effect immediately.

NOW FURTHER BE IT RESOLVED, that the Chief Financial Officer hereby certifies that funds are available in Ordinance No. 1590-03.

The Borough Clerk read the following resolution:

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

Resolution #39-04

The application for renewal of Towing Licenses for the year 2004 for D&J Auto Body, Dick Hart's Auto Body, Lincoln Auto Body, Tierno's Auto Body and Car Trek, Inc. have been approved by the Police Department and the Borough Clerk is hereby authorized to issue the license in consideration on the fees which have been paid.

The Borough Clerk read the following resolution:

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

Resolution #40-04

RESOLUTION OF THE BOROUGH OF MIDDLESEX MAKING APPLICATION TO THE LOCAL FINANCE BOARD PURSUANT TO N.J.S.A. 40A:2-7(d)

WHEREAS, the Borough of Middlesex, New Jersey (the "Borough") desires to make an application to the Local Finance Board for its approval of the following:

1. A waiver of down payment in connection with the final adoption of a bond ordinance providing for an appropriation of $272,000, which includes a $240,000 Open Space Recreational Grant to be received from the County of Middlesex and a $2,000 down payment for the non-grant portion, and an authorization of $270,000 for improvements and/or the development of soccer fields; and

2. A bond ordinance providing for an appropriation of $307,000 which includes a $250,000 grant to be received from the New Jersey Department of Transportation and a $3,000 down payment for the non-grant portion, and an authorization of $304,000 for the installation of new sidewalks, crosswalks and pedestrian signs at various locations throughout the Borough.

WHEREAS, the Borough believes that:

(a) it is in the public interest to accomplish such purposes;

(b) said purposes or improvements are for the health, welfare, convenience or betterment of the inhabitants of the local unit or units;

(c) the amounts to be expended for said purposes or improvements are not unreasonable or exorbitant; and

(d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the local unit or units and will not create an undue financial burden to be placed upon the local unit or units;

NOW THEREFORE BE IT RESOLVED, BY THE BOROUGH COUNCIL OF THE BOROUGH OF MIDDLESEX AS FOLLOWS:

Section 1. The application to the Local Finance Board is hereby approved and the Borough's Bond Counsel, along with other representatives of the Borough, are hereby authorized to prepare such application and to represent the Borough in matters pertaining thereto.

Section 2. The Local Finance Board is hereby respectfully requested to consider such application and to record its approval as provided by the applicable New Jersey statute.

The Borough Clerk read the following resolution:

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

Resolution #41-04

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.

The Council President read the following resolution:

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

Resolution #42-04

Councilman Hompesch made a motion to override the Mayor's veto of Ordinance No. 1593-03 entitled "An Ordinance to amend Ordinance No. 36-11 Zoning Board"

Councilman D'Angelo expressed his disturbance when the Council moved to adopt this ordinance on December 30, 2003, as he felt that the residents had voted for Mayor Dobies in November and he felt that the residents had reinstated their trust in the Mayor at that time. There have been no complaints about the mayor's appointments and he would like to know why the Council would like to override the Mayor's veto and requested that the Council should reconsider this ordinance.

Mayor Dobies read to the public his letter dated January 9, 2004 regarding proposed Ordinance 1593-03:

I am returning Ordinance No. 1593-03 "An Ordinance to Amend Ordinance 36-11 Zoning Board of Adjustment" unsigned. This ordinance was approved by the Council on 30 December 2003 and was given to me, by you, on 02 January 2004. The Middlesex Zoning Board of Adjustment was established pursuant to N.J.S.A. 409:55D-69 and gave the appointment to the Mayor of Middlesex. This ordinance was in effect longer than my 24 years as Mayor and was honored by both Democratic and Republican controlled Councils.

There are several reasons for my rejection of this ordinance that I consider unnecessary. Although the statutes left open the appointment of the members, clearly indicating this should be decided by local ordinance, this was granted the Mayor by local ordinance long before I become Mayor in 1980. Among the rationale for the amendment was that other towns do it – which is surely a weak argument for expending taxpayers funds, use of professional time and holding a special meeting on the final day of the year for this action while we face more critical items. Middlesex is a unique Borough and we should not make changes for change sake nor copy any other towns – I am sure there are also other NJ towns that grant the Mayor these appointments. In the weak Mayor-strong Council form of government the Council has the majority of the powers so the argument that they need more is also weak. The adoption of this amendment would impinge on the historical appointment powers granted the Mayor of Middlesex thereby setting precedence by eliminating the Mayor's role in the appointment.

I consider this a purely political ploy to limit the powers of the Mayor. Consider this was the last action of the previous Council President that lost his bid for Mayor, and required a meeting on the

last date of December 2003 where this was the only item on the agenda to be voted on. The only question one would have to ask my colleagues is that if the Republicans had gained the Mayor's office would they be introducing this amendment – I think not.

I would ask my Republican colleagues to consider the history and allow my veto to hold. Since I do not consider political affiliation on the majority of my appointments, and have nominated all professionals and members requested by my Republican colleagues, I will continue to work with all my colleagues on all future appointments on this Board and all other appointments.

Council President Hompesch understands the Mayor's concern and hopes that the council will continue to work together, as this ordinance only has to do with appointments to the Zoning Board. Council President Hompesch indicated that he was informed of this issue when attending a Elected Official's class in early December, and discussion ensued regarding the New Jersey state legislation effecting the selection of Planning Board members. Based upon his reading of the statutes, he indicated that in a Borough form of government the State Legislators believe that the Mayor should appoint the Planning Board and the legislative branch should determine how the Zoning Board members are selected. Council President Hompesch believes that a system of checks and balances of the Mayor and Council will provide the opportunity for individuals from both sides of the political aisle to volunteer and have their voice heard in local government. Council President Hompesch supports this ordinance and urged his fellow council members to vote yes to support this ordinance and override the Mayor's veto.

Mayor Dobies indicated that the makeup of the Zoning Board has had an equal number of republican members. The Mayor believes that this ordinance has totally eliminated the part of the Mayor and made it a councilmatic appointment. He is disappointed that this was the final act of the year 2003 and that it is the first act of the New Year. Mayor Dobies indicated that this is the first case that he has had had to impinge his powers to veto.

Councilman D'Angelo expressed his disappointment that the adoption of this ordinance had to be rushed into the last 3 weeks of the year without any public input and that within a matter of 3 weeks all the wisdoms of the years of Middlesex was erased because of the new wisdom that Council President Hompesch had learned at this class.

Councilman Hompesch moved for adoption seconded by Councilwoman Liana and carried by the following roll call votes: Ayes: Members Hompesch, Liana, Mulcahy and Thomasey. Nos.: Colitti and D'Angelo. Abstain: None.

Mayor Dobies opened the public portion of the meeting for comments or questions.

Nat Johnson, 19 Starlit Drive mentioned that he has lived in Middlesex for 41 years and has been on various boards and has never seen such outrageous operations like what has been done by this council. He indicated that the adoption of this ordinance is a move by Council to put through the "downtown area".

Bruce Sadowski, 109 Lee Drive stated that this is not a dictatorship and the Mayor should not take away the powers of the council, which is to pass legislation. Mr. Sadowski indicated that he was not aware of this until Council President Hompesch attended this class, and that in other Borough forms of government they use this balance where the Mayor would appoint the Planning Board and the council would appoint the Zoning Board.

Chet Sadowski, Cedar Avenue indicated that he was eliminated when the Mayor's campaign literature was sent out to all the veterans in town.

Angelo Porta, Runyon Avenue indicated that he served in the military and did not receive one of the mayor's campaign letters which was addressed to the veterans and that he did not miss the letter.

Seeing that there were no further comments or questions, Mayor Dobies closed the public portion of the meeting.

Councilman D'Angelo moved the approval of the December, 2003 Treasurer's Report seconded by Councilman Hompesch and carried by a unanimous vote of Council.

Councilman D'Angelo moved the approval of the December, 2003 Construction Report seconded by Councilman Mulcahy and carried by a unanimous vote of Council.

Councilwoman Thomasey tabled the approval of the December 2, 2003, December 9, 2003 and December 16, 2003 Agenda Meeting Minutes and the December 16, 2003 Public Meeting Minutes seconded by Councilman Mulcahy and carried by a unanimous vote of Council.

There being no further business to discuss, the meeting was adjourned by Councilman Mulcahy and seconded by Councilwoman Liana and carried by unanimous vote of Council.

Respectfully submitted,

Kathleen Anello, RMC
Borough Clerk