

Municipal Building
1200 Mountain Avenue

January 28, 2003

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	Bruce Sadowski
	Louis Curcio
	Colin Fowler (absent)
	Michael Hompesch
	Josephine Liana
	Garrett Mulcahy

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 7, 2003.

The Borough Clerk read Ordinance No. 1575-03 by title only saying it had been posted on the bulletin board and made available for any person who wanted a copy.

ORDINANCE NO. 1575-03

AN ORDINANCE TO REVISE THE GENERAL ORDINANCE TRAFFIC AND PARKING CHAPTER 29 – HANDICAPPED PARKING

Mr. Sadowski moved for adoption seconded by Mr. Curcio and carried by the following roll call vote: Ayes: Members Curcio, Hompesch, Liana, Mulcahy and Sadowski. 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 2003(C)

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 for individual action 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 #35-03 - Resolution #44-03

Mr. Sadowski moved for adoption seconded by Mr. Curcio and carried by the following roll call vote: Ayes: Members Curcio, Hompesch, Liana, Mulcahy and Sadowski. 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 #35-03

RESOLUTION APPOINTING WILLIAM T. COOPER, III AS MUNICIPAL PROSECUTOR FOR THE BOROUGH OF MIDDLESEX

WHEREAS, the Governing Body of the Borough of Middlesex wishes to appoint William T. Cooper, III whose office is located at 171 North Middaugh Street, Somerville, New Jersey 08876 as the Borough Prosecutor for the Borough of Middlesex for the period from January 1, 2003 to December 31, 2003.

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

1. William T. Cooper, III whose office is located at 171 North Middaugh Street, Somerville, New Jersey is hereby appointed as the Municipal Prosecutor for the Borough of Middlesex for the period from January 1, 2003 through December 31, 2003 at a fee set forth in their Agreement, a copy of which is available in the Borough Clerk's Office.
2. This contract is made without competitive bidding as a "professional service" under the provisions of the local public contracts law, because of the qualitative nature of the position.
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 #36-03

The Mayor and Council hereby accept the retirement of Kenneth DeVuyst as Captain of the Police Department effective March 1, 2003.

The Borough Clerk read the following resolution:

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

Resolution #37-03

WHEREAS, Daisy Construction Co. Inc applied for and received Building Permit No. 20020174 on 4/29/02 to erect a building at 839 Lincoln Boulevard; and

WHEREAS, Daisy Construction Co. Inc. submitted Check #1962 dated 4/29/02, payable to the Borough of Middlesex in the amount of \$1202.00 in payment of said Building Permit; and

WHEREAS, Daisy Construction Co. Inc. has requested refund of said fee since the project has been cancelled and the property has been sold; and

WHEREAS, 53-2.27 of the Uniform Construction Code provides that plan review fees which are 20% of the Building Permit fee are not refundable; and

WHEREAS, DCA Training Fees are not refundable; and

WHEREAS, the CO fee is 100% refundable; and

WHEREAS, the Building Permit fee was \$1027.00, the Training Fee was \$110.00 and the CO fee was \$65.00.

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 a check in the amount of \$886.60 in favor of Daisy Construction Co. Inc., for refund of fee for Building Permit #20020174.

The Borough Clerk read the following resolution:

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

Resolution #38-03

Resolution authorizing the Borough Engineer to go out to bid for the Sanitary Sewer Improvements on Warrenville Road.

The Borough Clerk read the following resolution:

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

Resolution #39-03

The Treasurer is hereby authorize to transfer funds to pay 2002 Legal Fees.

FROM	TO	AMOUNT
Mayor & Council O/E	Legal O/E	\$2,000

The Borough Clerk read the following resolution:

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

Resolution #40-03

THIS RESOLUTION AUTHORIZES THE SPECIAL TAX ATTORNEY FOR THE BOROUGH TO ENTER INTO A STIPULATION OF SETTLEMENT RELATIVE TO THE TAX APPEALS CAPTIONED ESA REALTY LLC VS. MIDDLESEX BOROUGH, TAX COURT OF NEW JERSEY, DOCKET NOS. 003481-2001 AND 004199-2002.

WHEREAS, ESA Realty LLC, the owner of the office condominium units known as Units C001D and C001E in Block 86, Lot 6.01 on the Middlesex Borough Tax Assessment Maps, filed an appeal of its 2001 and 2002 tax assessments in the Tax Court of New Jersey, Docket Nos.003481-2001 AND 004199-2002; and

WHEREAS, the Mayor and Council of the Borough of Middlesex met and discussed the aforesaid tax appeal with its Borough Tax Assessor and Special Tax Attorney; and

WHEREAS, an acceptable settlement of the aforesaid tax appeals have been negotiated in which the tax payer withdraws the 2001 and 2003 tax appeals in consideration for a reduction of the total tax assessment levied upon ESA Realty LLC's property located on Units C001D and C001E in Block 86, Lot 6.01; and

WHEREAS, subject to there being "no change in value," as that phrase is defined by the Freeze Act and no district wide revaluation or district wide reassessment the 2003, 2004 and 2005 total tax assessments, based upon said reduction, will be \$125,300 instead of \$171,700 for Units C001D and C001E in Block 86, Lot 6.01; and

WHEREAS, the settlement also provides that ESA Realty LLC, its successors and/or assigns, waives the right to appeal the 2003, 2004 and 2005 assessments, as adjusted and acknowledge that this settlement is entered into in part in consideration for the waiver of those rights; and

WHEREAS, the Freeze Act shall **not** apply to the Judgments to be entered by the Tax Court pursuant to the Stipulation of Settlement; and

WHEREAS, the Mayor and Council of the Borough of Middlesex leaves the allocation between the two office condominium units and the land and improvements of the aforesaid 2003, 2004 and 2005 tax assessment for Units C001D and C001E in Block 86, Lot 6.01 to the Middlesex Borough Tax Assessor's discretion with the direction that the same be set so as to be most beneficial to the Borough; and

WHEREAS, the aforesaid reductions have no general application to other properties within the Borough of Middlesex as a result of the aforesaid specific facts situation; and

WHEREAS, the Mayor and Council of the Borough of Middlesex will make this settlement with ESA Realty LLC, without prejudice to its dealings with any other Middlesex Borough taxpayer's request for tax assessment reduction;

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

1. The Middlesex Borough Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$125,300 total tax assessment for the 2003, 2004 and 2005 tax year for Units C001D and C001E in Block 86, Lot 6.01 which is

most beneficial to the Borough of Middlesex and advise the Borough Special Tax Attorney of that allocation.

2. The Borough Special Tax Attorney is hereby authorized to execute a Stipulation of Settlement relative to the tax appeal of ESA Realty LLC, Docket Nos.003481-2001 and 004199-2002, which dismisses the pending tax appeals for the 2001 and 2002 tax years, and prospectively sets the 2003, 2004 and 2005 total tax assessment at \$125,300, so long as there is no district wide revaluation or district wide reassessment, or "no change in value," as such phrase is defined by the Freeze Act; which further provides that ESA Realty LLC, its successor and/or assigns waive their right to appeal the 2003, 2004 and 2005 assessments as adjusted and acknowledge that this settlement has been entered into in part in consideration for those waivers; which further provides that the Freeze Act shall not apply to the Judgment entered pursuant to the Stipulation of Settlement; all at allocations between each of the two office condominium units, the land and improvements as established by the Middlesex Borough Tax Assessor.

3. The form of Stipulations of Settlement are annexed hereto, having been reviewed by the Mayor and Council of the Borough of Middlesex.

4. The settlement outlined above shall be without prejudice to the Borough of Middlesex's dealings with any other Borough taxpayer's request for tax assessment reductions.

The Borough Clerk read the following resolution:

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

Resolution #41-03

WHEREAS, the Borough of Middlesex and Delta Contracting Company entered into an agreement on November 6, 2000 in the amount of \$113,660 for construction of five boardwalks comprising of 6,900 square feet of boardwalk, with benches and railings, from structural plastic wood that was supplied by the Borough; and

WHEREAS, based upon various change orders the final contract price is \$106,334.03; and

WHEREAS, the Borough of Middlesex has made payments in the amount of \$94,038.56 leaving the balance due Delta at \$12,295.47.

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 approves the final change order that reflects as-built quantities and approves all project changes as stated in a letter from the Engineer, Joseph Pryor on January 7, 2003 a copy of which is attached.
2. The Governing Body hereby authorizes a final contract price of \$106,334.03 and payment of \$12,295.47 to Delta Contracting Company paid to the order of the Internal Revenue Services as per a Notice of Levy dated 10/232/02.
3. 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. 1474-99.

The Borough Clerk read the following resolution:

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

Resolution #42-03

Scott Ackerman be and is hereby advanced to DPW Laborer in the Department of Public Works effective February 1, 2003 at an hourly rate of \$16.12.

The Borough Clerk read the following resolution:

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

Resolution #43-03

Chris Emmons be and is hereby advanced to DPW Laborer in the Department of Public Works effective February 1, 2003 at an hourly rate of \$16.12.

The Borough Clerk read the following resolution:

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

Resolution #44-03

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.

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

Ed Johnson, 216 Hazelwood Avenue thanked Kathy Anello, Borough Clerk and Joseph Manning, Borough Administrator for their attendance at the January 16, 2003 Meeting of the Middlesex Borough Business and Professional Organization. In representing the Association, Mr. Johnson requested that the Recycling Center be open to the business owners from Tuesday – Friday for recycling.

Mr. Johnson also circulated to Mayor and Council an article from Time Magazine and also requested that the Governing Body take action on a local level regarding what is happening in Iraq.

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

Mr. Curcio moved for approval of the January 7, 2003 Reorganization Meeting and the January 14, 2003 Public and Agenda Meeting seconded by Mr. Sadowski and carried by a unanimous vote.

Mr. Sadowski moved the approval of Jim Rinker as a qualified driver of Engine 23 effective January 20, 2003 seconded by Mr. Curcio and carried by a unanimous vote.

Mr. Sadowski moved the approval of Brian Poltorak, Kevin Mott, Ed Winters, Jr., Andy Castaldo, Jr. and John Hein as qualified drivers of Truck 25 effective January 20, 2003 seconded by Mr. Curcio and carried by a unanimous vote.

There being no further business to discuss, the meeting was adjourned by Mr. Sadowski and seconded by Mr. Curcio and carried by unanimous vote of Council.

Respectfully submitted,

Kathleen Anello, RMC
Borough Clerk

