



Borough of Middlesex
Mayor and Council Regular Meeting
~ Minutes ~

1200 Mountain Ave
Middlesex, NJ

Gretchen McCarthy
www.middlesexboro-nj.gov

Tuesday, July 16, 2019

7:00 PM

Municipal Building

MAYOR'S STATEMENT

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

SALUTE TO FLAG

ROLL CALL

Mayor Ron DiMura
Council President John Madden
Council Member Douglas Rex
Council Member Jason Carr
Council Member Kevin Dotey

Council Member Dan Parenti -- **Absent**
Council Member Jack Mikolajczyk -- **Absent**

Also Present:

Marcia Karrow Administrator
Christopher Corsini Borough Attorney

Others Absent:

Mayor DiMura asked for a motion to add School Security to Executive Session

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kevin Dotey, Council Member
SECONDER:	John Madden, Council President
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

Mayor DiMura asked for a motion to remove Resolution 207-2019 from the Agenda on the advice of Attorney Corsini

Attorney Corsini explained that the statute allows for the Administrator to get quotes for procurement as an emergency

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jason Carr, Council Member
SECONDER:	John Madden, Council President
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

PRESENTATIONS

1. Presentation by Frank Rodgers of the Rodgers Group regarding benefits of police accreditation

Mayor DiMura introduced Police Chief Geist who spoke regarding the benefits of accreditation, how the Middlesex Police Department has been preparing for it for several years, and how, with Governing Body approval, his goal would be for the Middlesex Police Department to be accredited by 2020. Chief Geist introduced Mr. Frank Rodgers of the Rodgers Group, a retired Lieutenant Colonel and former Deputy Superintendent of the New Jersey State Police, who explained that the Rodgers Group is a public safety consulting company that has assisted 200+ municipalities in New Jersey, and others from other states, in attaining accreditation. Mr. Rodgers stated that five members of his team would write policies that are custom built to the Borough in order to meet standards and the law. Proofs would be assembled of compliance in order to assure policies are followed and the department would be walked through the process to ensure accreditation. Typically the contract is for a year to embark on this arduous process. Accreditation is recognized by all joint insurance funds in New Jersey and communities are given varying incentives to participate, usually via a reduction in insurance premiums once the department is accredited. The accreditation program is advocated for by every professional law enforcement agency in the country and is held as an example to be emulated. It is a very transparent process. Policies and business practices are put in place and compliance is demonstrated to an independent body that validates said compliance. Mr. Rodgers fielded questions from the Mayor and Council regarding accrediting bodies, reduction of insurance premiums, deductible reduction, and upfront/annual costs. Mayor DiMura thanked Mr. Rodgers for his presentation.

APPOINTMENTS

None

PROCLAMATIONS

None

ORDINANCE(S) FOR INTRODUCTION

The Borough Clerk read ordinance 1968-19 by title:

ORDINANCE 1968-19

BOND ORDINANCE REAPPROPRIATING \$344,816.68 IN EXCESS BOND PROCEEDS NOT NEEDED FOR THEIR ORIGINAL PURPOSES IN ORDER TO FINANCE THE COST OF A NEW HVAC UNIT FOR THE PUBLIC LIBRARY AND THE PREPARATION AND EXECUTION OF A COMPLETE PROGRAM OF REVALUATION OF REAL PROPERTY, AUTHORIZED IN AND BY THE BOROUGH OF MIDDLESEX, IN THE COUNTY OF MIDDLESEX, NEW JERSEY

WHEREAS, the Borough Council of the Borough of Middlesex, in the County of Middlesex, New Jersey (the "Borough") finally adopted Bond Ordinance No. 1832-13 on July

23, 2013 and Bond Ordinance No. 1855-14 on September 9, 2014 (collectively, the "Ordinances"); and

WHEREAS, following the effective dates of the Ordinances, the Borough issued bonds to fully fund same and to finance the improvements or purposes authorized therein; and

WHEREAS, the Borough has determined that the improvements to set forth in the Ordinances have either been completed in full or discontinued as a result of events occurring subsequent to the adoption of the Ordinances, as applicable; and

WHEREAS, there currently remains on deposit in the Borough capital accounts excess bond proceeds in the amount of \$344,816.68, which excess bond proceeds are allocable to such project improvements in the Ordinances (the "Excess Proceeds"), but are no longer necessary to complete such improvements or purposes authorized therein; and

WHEREAS, in accordance with its statutory powers set forth in section 39 of the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"), the Borough Council has determined that it is in the best interest of the Borough to reappropriate the Excess Proceeds to finance the cost of a new heating, ventilation and air conditioning (HVAC) unit for the Public Library, and the preparation and execution of a complete program of revaluation of real property, for which improvements or purposes bonds may be issued, thereby, decreasing the amount of additional Borough debt to finance such current capital needs; and

WHEREAS, the Borough Council now desires to reappropriate the Excess Proceeds to undertake the cost of a new HVAC unit for the Public Library and the preparation and execution of a complete program of revaluation of real property.

NOW, THEREFORE, BE IT ORDAINED 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 members thereof affirmatively concurring), AS FOLLOWS:

Section 1. It is hereby determined that the aggregate amount of \$344,816.68 of the balance of the total appropriation for capital purposes originally made available pursuant to the following Ordinances of the Borough is no longer necessary for the purposes for which the obligations previously were authorized:

<u>Amount to be Reappropriated</u>	<u>Ordinance & Purpose</u>
\$ 139,110.74	No. 1832-13 adopted July 23, 2013, providing for various capital improvements and the acquisition and installation of various equipment, as applicable.
\$ 205,705.94	No. 1855-14 adopted September 9, 2014, providing for various capital improvements and the acquisition and installation of various equipment, as applicable.
<u>\$ 344,816.68</u>	Total to be reappropriated to other capital purposes

Section 2. The appropriations for the purposes in the amounts set forth in Section 1 hereof are hereby canceled and reappropriated pursuant to N.J.S.A. 40A:2-39 to other capital purposes as set forth in Section 3 hereof.

Section 3. The aggregate amount of \$344,816.68, representing the amount referred to in Section 1 hereof, is hereby appropriated to provide for the following capital improvement purposes, together with all purposes necessary, incidental or appurtenant thereto, all as shown on and in accordance with plans, specifications or requisitions therefor on file with or through the Borough Clerk, as finally approved by the governing body of the Borough, and the estimated cost the project is as follows:

<u>Amount to be Appropriated</u>	<u>Purpose</u>
<u>\$ 344,816.68</u>	The acquisition and installation of a new HVAC unit for the Public Library and the preparation and execution of a complete program of revaluation of real property.

Section 4. 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 property or improvements which the Borough may lawfully acquire or make 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 the Local Bond Law and according to the reasonable life thereof computed from the date of said bonds authorized by this bond ordinance is 11.38 years.

(c) An aggregate amount not exceeding \$70,000.00 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the improvement or purpose herein before described.

Section 5. The capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Borough Clerk and is available there for public inspection.

Section 6. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code, of the interest on all bond proceeds reappropriated by this bond ordinance.

Section 7. This ordinance shall take effect twenty (20) days after the first publication thereof after final adoption.

RESULT:	FIRST READING [UNANIMOUS]	Next: 8/13/2019 7:00 PM
MOVER:	John Madden, Council President	
SECONDER:	Kevin Dotey, Council Member	
AYES:	Madden, Rex, Carr, Dotey	
ABSENT:	Parenti, Mikolajczyk	

The Borough Clerk read ordinance 1969-19 by title:

ORDINANCE 1969-19

AN ORDINANCE AUTHORIZING THE SALE OF A PROPERTY CONSISTING OF 0.067 ACRES KNOWN AS A PORTION OF LOT 1.02 IN BLOCK 222 ON THE MIDDLESEX BOROUGH TAX MAP AND LOCATED IN THE REAR PORTION OF THE MIDDLESEX BOROUGH POLICE DEPARTMENT HEADQUARTERS PROPERTY PURSUANT TO N.J.S.A. 40A:12-13(B)(5)

WHEREAS, the Borough is the fee simple owner of an approximately two acre parcel known as Lot 1.02 in Block 222 on the Middlesex Borough Tax Map, located near the rear of the Middlesex Borough Police Department Headquarters, which lot is less than the minimum size required for development under the municipal zoning ordinance, and the Borough wishes to sell a 0.067 acre portion of the lot which is not needed for public use (the "Property"); and

WHEREAS, there is one property which are contiguous to Lot 1.02 in Block 222, namely, Lot 18 in Block 223 owned by Christopher & Angela Jimenez of 621 Edgeworth Street, Middlesex, NJ 08846; and

WHEREAS, by virtue of the existence of this contiguous properties, the Property must be first offered for sale to the thereof pursuant to N.J.S.A. 40A:12-13.2 and N.J.S.A. 40A:12-13(b)(5); and

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Middlesex in the County of Middlesex and State of New Jersey that the Property be and is hereby offered for sale, subject to all restrictions and limitations of record or as may be found to exist on the Property, to the owners of the contiguous property to Lot 1.02 of Block 222 named hereinabove in accordance with N.J.S.A.40A:12-13.2 and pursuant to N.J.S.A. 40A:12-13(b)(5) as more specifically delineated hereinbelow:

SECTION I

Part A **Existing Facts**

1. The Borough is the fee simple owner of Lot 1.02 in Block 222 on the Middlesex Borough Tax Map, which is located in the rear portion of the property currently housing the Middlesex Borough Police Department Headquarters.

2. The lot in question, as shown on Exhibit A, is a partially wooded lot that is substantially isolated from any currently constructed street. It is located in the SCR-Senior Citizens Residential Zone and is below the minimum lot size for development therein.
3. There is one property which is contiguous to Lot 1.02 in Block 222, namely, Lot 18 in Block 223 owned by Christopher & Angela Jimenez, who reside at 621 Edgeworth Street, Middlesex, NJ 08846.
4. Pursuant to N.J.S.A. 40A:12-13.2, the owners of this contiguous property enjoys the right to prior refusal to purchase Lot 1.02 in Block 222.
5. The portion of Lot 1.02 in Block 222 as indicated in Exhibit A is not needed for public use.
6. There is no capital improvement existent on Lot 1.02 in Block 222.
7. The fair market value of Lot 1.02 in Block 222, as determined by the Borough Tax Assessor, is \$2,500.00.

Part B **Sale Pursuant To N.J.S.A. 40A: 12-13(b)(5)**

8. The Property, pursuant to N.J.S.A. 40A:12-13(b)(5), is hereby offered for sale to Christopher & Angela Jimenez as the title owners of Lot 18 in Block, as the only adjacent property owner to Lot 1.02 of Block 222, subject to the terms and conditions contained in the balance of this Part B, as set forth hereinbelow.
9. Pursuant to N.J.S.A. 40A:12-13(b)(5), "any such sale shall not be for less than the fair market value of said real Property."
10. The price for which the Property shall be sold to the contiguous landowners is \$2,500.00, which is the fair market value of the Property as set forth in paragraph 7 above.
11. This offer of sale of the Property to the contiguous landowner, as reflected in this Ordinance, shall be, pursuant to N.J.S.A. 40A: 2-13(b)(5):
 - a) This Ordinance and the Public Notice shall be posted in Middlesex Borough Hall, located at 1200 Mountain Ave, Middlesex, NJ 08846.
 - b) The Notice to sell shall be placed as an advertisement in a newspaper circulating in the Borough in which Lot 1.02 in Block 222 is situated, namely, The Courier News.
 - c) Both the posting and the advertisement shall occur within five days following the date of enactment of this Ordinance.
12. In addition, so as to ensure compliance with N.J.S.A.40A:12-13.2, the Borough shall mail a copy of this Ordinance, as enacted, to the contiguous

property owner within five days of the enactment of this Ordinance, by personal service upon each of them or by certified mail, return receipt requested.

13. An offer to purchase the Property may be made by the contiguous landowners within a period of twenty (20) days following the advertisement set forth hereinabove. Said offer shall be made for not less than the minimum price set forth in paragraph 10 above.
14. Pursuant to N.J.S.A.40A:12-13(b), the Borough, having offered the Property for private sale to the contiguous landowner, will file, with the Director of the Division of Local Government Services in the Department of Community Affairs, sworn affidavits verifying the publication of the advertisement referenced in paragraph 11(b) hereinabove.
15. The offers made by the contiguous landowners shall be accompanied by a certified check or bank check in the amount of 10% of the offer. The check shall be made payable to the Borough and held in escrow until the closing of title occurs.
16. The offer made consistent with the minimum price of \$2,500.00 and further consistent with the terms of this Ordinance, Part B, shall be accepted and a closing of title will be required to occur within 60 (sixty) days after the offer is accepted. Should a closing not occur within that time frame, for any reason related directly or indirectly to the offerer, the Borough shall have the right to terminate this sale.

SECTION II

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

SECTION III

All ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION IV

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

RESULT:	FIRST READING [UNANIMOUS]	Next: 8/13/2019 7:00 PM
MOVER:	John Madden, Council President	
SECONDER:	Douglas Rex, Council Member	
AYES:	Madden, Rex, Carr, Dotey	
ABSENT:	Parenti, Mikolajczyk	

The Borough Clerk read ordinance 1970-19 by title:

ORDINANCE 1970-19

AN ORDINANCE AMENDING CHAPTER 332 OF THE BOROUGH CODE OF THE BOROUGH OF MIDDLESEX ENTITLED "SEWERS" TO PERMIT THE ASSESSMENT OF INTEREST FOR LATE PAYMENTS

WHEREAS, the Borough Council of the Borough of Middlesex wishes to establish an ordinance for the administration and collection of unpaid sewer bills; and

BE IT ORDAINED, by the Borough Council of the Borough of Middlesex in the County of Middlesex and State of New Jersey that Chapter 332 of the Municipal Code thereof is hereby created as follows:

Section I

Chapter 332-51 entitled "Time of Payment" is hereby retitled as "Payment of Use Charge; Procedure for Unpaid Bills," amended as follows (struck through portions are to be removed; bolded and underlined portions are to be added):

- A. The user charges established and provided for herein shall be due and payable 30 days from the date of mailing of bills. Unless actual flows are provided by the user, sewer user charges for the current year shall be based upon the water consumption for the immediately preceding year.
- B. If any part of the amount due and payable in rates, rentals, connection fees or other charges remain unpaid for 30 days following the date for the payment thereof, interest upon the amount unpaid shall accrue at a rate of interest to be determined in the same manner as past-due real property taxes in the Borough.
- C. The Borough shall have and its officers shall exercise all of the power and authority conferred upon it and them by the provisions of N.J.S.A. 40A:26A-12 in such case made and provided for in the imposition of liens for unpaid bills and for the collection thereof.
- D. The Borough Council may, by resolution, authorize payment of delinquent assessments on an installment basis in accordance with N.J.S.A. 54:5-19.

Section II

All ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section III

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

Section IV

This ordinance shall take effect upon adoption and publication in the manner required by New Jersey general law but, in no event, less than 20 days after its final passage by the Borough Council, where such approval is required pursuant to N.J.S.A. 40:69A-181(b).

This Ordinance was introduced as amended.

RESULT:	FIRST READING [UNANIMOUS]	Next: 8/13/2019 7:00 PM
MOVER:	Douglas Rex, Council Member	
SECONDER:	John Madden, Council President	
AYES:	Madden, Rex, Carr, Dotey	
ABSENT:	Parenti, Mikolajczyk	

The Borough Clerk read ordinance 1971-19 by title:

ORDINANCE 1971-19

AN ORDINANCE AMENDING CHAPTER 224 IN THE BOROUGH CODE OF THE BOROUGH OF MIDDLESEX ENTITLED "FLOOD DAMAGE PREVENTION" TO CORRESPOND WITH ORDINANCE GUIDELINES AS PROPAGATED BY THE BUREAU OF FLOOD CONTROL OF NEW JERSEY'S DEPARTMENT OF ENVIRONMENTAL PROTECTION (NJDEP)

WHEREAS, the Borough Council of the Borough of Middlesex seeks to amend its Flood Damage Prevention ordinance to correspondence with ordinance guidelines as propagated by the Bureau of Flood Control of New Jersey's Department of Environmental Protection; and

BE IT ORDAINED, by the Borough Council of the Borough of Middlesex in the County of Middlesex and State of New Jersey that Chapter 224 of the Municipal Code thereof is hereby amended as follows:

Section I

Chapter 224-1 is hereby amended and shall appear in its entirety as follows:

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Mayor and Council of the Borough of Middlesex, of Middlesex County, New Jersey does ordain as follows:

Section Iid

Chapter 224-2 is hereby amended and shall appear in its entirety as follows:

a) The flood hazard areas of the Borough of Middlesex are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief,

and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

Section III

Chapter 224-3 is hereby amended and shall appear in its entirety as follows:

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- a) Protect human life and health;
- b) Minimize expenditure of public money for costly flood control projects;
- c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d) Minimize prolonged business interruptions;
- e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section IV

Chapter 224-4 is hereby amended and shall appear in its entirety as follows:

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- b) Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section V

Chapter 224-5 shall be retitled "Definitions" and is hereby amended and shall appear in its entirety as follows:

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

AH Zone- Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone

AO Zone- Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

Appeal - A request for a review of the Construction Official's interpretation of any provision of this ordinance or a request for a variance.

Area of Shallow Flooding - A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard -Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1 A30, AE, A99, or AH.

Base Flood -A flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) - The flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

Basement - Any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall - A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

Development - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

Elevated Building - A non-basement building (i) built, in the case of a building in an Area of Special Flood Hazard, to have the top of the elevated floor, elevated above the base flood elevation plus freeboard by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Erosion - The process of gradual wearing away of land masses.

Existing Manufactured Home Park or Subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a) The overflow of inland or tidal waters and/or
- b) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) - The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) - The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

Floodplain Management Regulations - Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without accumulatively increasing the water surface elevation more than 0.2 foot.

Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Highest Adjacent Grade - The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

Historic Structure - Any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved State program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in States without approved programs.

Lowest Floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements of 44 CFR Section 60.3.

Manufactured Home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Manufactured Home Subdivision - A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New Construction - Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

Recreational Vehicle - A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of Construction - (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348)) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure - A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial Improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance - A grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

Violation - The failure of a structure or other development to be fully compliant with this ordinance. A new or substantially improved structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR

§60.3(b)(5), (c)(4), (c)(10), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Section VI

Chapter 224-6 shall be retitled “Lands To Which This Ordinance Applies” and is hereby amended and shall appear in its entirety as follows:

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Middlesex, Middlesex County, New Jersey.

Section VII

Chapter 224-7 is hereby amended and shall appear in its entirety as follows:

The areas of special flood hazard for the Borough of Middlesex, Community No. 345305, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- a) A scientific and engineering report “Flood Insurance Study, Middlesex County, New Jersey (All Jurisdictions)” dated July 6, 2010.
- b) Flood Insurance Rate Map for Middlesex County, New Jersey (All Jurisdictions) as shown on index and panel numbers 34023C0028F, 34023C0009F and 34023C0017F, whose effective date is July 6, 2010.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at 1200 Mountain Avenue, Middlesex Borough, New Jersey 08846.

Section VIII

Chapter 224-8 shall be retitled “Penalties for Non-Compliance” and is hereby amended and shall appear in its entirety as follows:

No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Zoning Board, from taking such other lawful action as is necessary to prevent or remedy any violation.

Section IX

Chapter 224-9 is hereby amended and shall appear in its entirety as follows:

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section X

Chapter 224-10 is hereby amended and shall appear in its entirety as follows:

In the interpretation and application of this ordinance, all provisions shall be:

- a) Considered as minimum requirements;
- b) Liberally construed in favor of the governing body; and,
- c) Deemed neither to limit nor repeal any other powers granted under State statutes.

Section XI

Chapter 224-11 is hereby amended and shall appear in its entirety as follows:

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Borough of Middlesex, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section XII

Chapter 224-12 is hereby amended and shall appear in its entirety as follows:

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in § 224-7A. Application for a Development Permit shall be made on forms furnished by the Construction Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b) Elevation in relation to mean sea level to which any structure has been floodproofed.
- c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 224-17B(2); and
- d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Section XIII

Chapter 224-13 is hereby amended and shall appear in its entirety as follows:

The Borough's Business Administrator, or the designee thereof, is hereby appointed to administer and implement this Chapter by granting or denying development permit application in accordance with the provisions hereof.

Section XIV

Chapter 224-14 is hereby amended and shall appear in its entirety as follows:

Duties of the Local Administrator shall include, but not be limited to:

A. Permit Review

- 1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- 2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- 3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of § 224-18A are met.

B. Use Of Other Base Flood And Floodway Data

When base flood elevation and floodway data has not been provided in accordance with § 224-7A, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer § 224-17A, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and § 224-17B, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

C. Information To Be Obtained And Maintained

1. Obtain and maintain a FEMA Elevation Certificate (or equivalent) for all new or substantially improved structures, and whether or not the structure contains a basement.
2. For all new or substantially improved floodproofed structures:
 - a. verify and record the actual elevation (in relation to mean sea level); and
 - b. maintain the floodproofing certifications required in § 224-17B(2).
3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

D. Alteration Of Watercourses

1. Notify adjacent communities and the New Jersey Department of Environmental Protection, Bureau of Flood Control and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

D. Substantial Damage Review

- 1) After an event resulting in building damages, assess the damage to structures due to flood and non-flood causes.
- 2) Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the owner and the New Jersey Department of Environmental Protection, Bureau of Flood Control.
- 3) Ensure substantial improvements meet the requirements of § 224-17A, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, § 224-17B, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION and § 224-17C, SPECIFIC STANDARDS, MANUFACTURED HOMES.

E. Interpretation Of Firm Boundaries

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 224-15.

Section XV

Chapter 224-15 is hereby amended and shall appear in its entirety as follows:

A. APPEAL BOARD

- 1) The Zoning Board as established by Mayor and Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- 2) The Zoning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this ordinance.
- 3) Those aggrieved by the decision of the Zoning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey.
 - a) In passing upon such applications, the Zoning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - b) the danger that materials may be swept onto other lands to the injury of others;
 - c) the danger to life and property due to flooding or erosion damage;
 - d) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - e) the importance of the services provided by the proposed facility to the community;
 - f) the necessity to the facility of a waterfront location, where applicable;
 - g) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - h) the compatibility of the proposed use with existing and anticipated development;
 - i) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - j) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - k) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

- l) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- 4) Upon consideration of the factors of § 224-15A(4) and the purposes of this ordinance, the Zoning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- 5) The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

B. CONDITIONS FOR VARIANCES

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a)-(k) in § 224-15A(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
 - a) A showing of good and sufficient cause;
 - b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in § 224-15A(4), or conflict with existing local laws or ordinances.
6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Section XVI

Chapter 224-16 is hereby amended and shall appear in its entirety as follows:

In all areas of special flood hazards, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, is required:

A. Anchoring

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes to be placed or substantially improved shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring

may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction Materials And Methods

- 1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- 2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities

- 1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
- 3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- 4) For all new construction and substantial improvements the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Subdivision Proposals

- 1) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- 2) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- 3) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and,
- 4) Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least fifty (50) lots or five (5) acres (whichever is less).

E. Enclosure Openings

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings in at least two (2) exterior walls of each enclosed area, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped

with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

For all new construction, and substantial improvements, the owner shall execute and deliver to the Construction Official a fully completed Floodplain Venting Affidavit on a form supplied by the Construction Office certifying full compliance with this section and agreeing to maintain compliance before a Certificate of Occupancy shall be issued or reoccupying of the property,

Prior to transfer of any property the owner shall obtain an inspection for compliance with the requirements of this section and any new owner shall certify compliance and agree to maintain compliance on a form supplied by the Construction Office.

Section XVII

Chapter 224-17 is hereby amended and shall appear in its entirety as follows:

In all areas of special flood hazards where base flood elevation data have been provided as set forth in § 224-7, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in § 224-14B, USE OF OTHER BASE FLOOD DATA, the following standards are required:

A. RESIDENTIAL CONSTRUCTION

- 1) New construction and substantial improvement of any residential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities (including all electrical, heating, ventilating, air- conditioning and other service equipment) and sanitary facilities, elevated at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1,;
- 2) Require within any AO or AH zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

B. NONRESIDENTIAL CONSTRUCTION

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities as well as all electrical, heating, ventilating, air-conditioning and other service equipment:

either

- 1) Elevated at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1; and
- 2) Require within any AO or AH zone on the municipality's FIRM to elevate above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

or

- 1) Be floodproofed so that below the more restrictive, base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 6-1, the structure is watertight with walls substantially impermeable to the passage of water;
- 2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- 3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in § 224-14C(2)(b).

C. MANUFACTURED HOMES

- 1) Manufactured homes shall be anchored in accordance with § 224-16A(2).
- 2) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall:
 - a. Be consistent with the need to minimize flood damage,
 - b. Be constructed to minimize flood damage,
 - c. Have adequate drainage provided to reduce exposure to flood damage,
 - d. Be elevated on a permanent foundation such that the top of the lowest floor is at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1 and,
 - e. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

Section XVIII

Chapter 224-18 shall be retitled "Floodways" and is hereby amended and shall appear in its entirety as follows:

In all areas of special flood hazards where base flood elevation data have been provided as set forth in § 224-7, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in § 224-14B, USE OF OTHER BASE FLOOD DATA, the following standards are required:

Located within areas of special flood hazard established in § 224-7A are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- 1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- 2) If § 224-18A is satisfied, all new construction and substantial improvements must comply with Article V (§ 224-16, § 224-17 and § 224-18) PROVISIONS FOR FLOOD HAZARD REDUCTION.
- 3) In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the accumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

Section XIX

All ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section XX

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

Section XXI

This ordinance shall take effect upon adoption and publication in the manner required by New Jersey general law but, in no event, less than 20 days after its final passage by the Borough Council, where such approval is required pursuant to N.J.S.A. 40:69A-181(b).

RESULT:	FIRST READING [UNANIMOUS]	Next: 8/13/2019 7:00 PM
MOVER:	Kevin Dotey, Council Member	
SECONDER:	John Madden, Council President	
AYES:	Madden, Rex, Carr, Dotey	
ABSENT:	Parenti, Mikolajczyk	

ORDINANCE(S) FOR PUBLIC HEARING AND FINAL ADOPTION

The Borough Clerk read ordinance 1967-19 by title:

ORDINANCE 1967-19**CREATING A NEW CHAPTER 321 ENTITLED "RECREATIONAL MARIJUANA" TO BAN THE SALE, CULTIVATION, MANUFACTURING AND TESTING OF RECREATIONAL MARIJUANA WITHIN MIDDLESEX BOROUGH**

WHEREAS, there is currently a proposal under consideration by the Legislature of the State of New Jersey to legalize the recreational use of cannabis (colloquially known as "marijuana"); and

WHEREAS, the Mayor and Council of the Borough of Middlesex seeks to use the regulatory power conferred upon municipalities in the current proposed legislation to prohibit the retail sale, cultivation, manufacturing and testing of marijuana products for recreational use within the boundaries of Borough of Middlesex; and

BE IT ORDAINED, by the Borough Council of the Borough of Middlesex in the County of Middlesex and State of New Jersey that a new section entitled "Recreational Marijuana" shall be inserted into the designated as Chapter 321 of the Municipal Code of the Borough of Middlesex, County of Middlesex, State of New Jersey, at Chapter 321 and shall read as follows:

Section I

Chapter 321-1 is hereby created and entitled "Purpose" and shall read as follows:

The purpose of this Chapter is the regulation of the retail sale, cultivation, manufacturing and testing of recreational marijuana within the Borough of Middlesex, in the County of Middlesex, in accordance with the provisions of the "New Jersey Marijuana Legalization Act."

Section II

Chapter 53-2 is hereby created and entitled "Administrative Authority" and shall read as follows:

The Borough Council of the Borough of Middlesex, being the governing body of said municipality and a local government entity pursuant to the "New Jersey Marijuana Legalization Act," shall constitute the administrative authority for the regulation of recreational marijuana sale and consumption within Middlesex Borough and consistent with the statutes of the State of New Jersey.

Section III

Chapter 53-3 is hereby created and entitled "Definitions" and shall read as follows:

Marijuana Cultivation Facility shall be defined as a facility licensed to grow and cultivate marijuana and to sell marijuana cultivation facilities and to other marijuana cultivation facilities, but not to consumers.

Marijuana Product Manufacturing Facilities shall be defined as an entity licensed to purchase marijuana; manufacture, prepare and package marijuana items; and sell items to other marijuana product manufacturing facilities and to marijuana retailers, but not to consumers.

Marijuana Testing Facilities shall be defined as an independent, third-party entity meeting accreditation requirements established by the division that is licensed to analyze and certify the safety and potency of marijuana items.

Marijuana Retailer Establishments shall be defined as an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana items from marijuana product manufacturing facilities or marijuana wholesalers, and to sell marijuana and marijuana products to consumers from a retail store, which shall also be known as a dispensary.

Section IV

Chapter 53-4 is hereby created and entitled "General Prohibition" and shall read as follows:

The operation of marijuana retail establishments, marijuana cultivations facilities, marijuana product manufacturing facilities and marijuana testing facilities are hereby prohibited in the Borough of Middlesex.

Nothing in this Chapter shall prohibit the operation of Alternate Treatment Centers ("ATC") pursuant to the New Jersey Compassionate Use Medical Marijuana Act, N.J.S.A. 24:6I-1 et seq., provided that no ATC shall also hold a license as a marijuana retail establishment for the purposes of dispensing marijuana for recreational consumption.

Section V

Chapter 53-4 is hereby created and entitled "Violations and Penalties" and shall read as follows:

Any person who shall knowingly violate any of the provisions of this Part shall, upon conviction, be subject to a fine of not more than \$500 or imprisonment for a term of not more than 90 days, or both such fine and imprisonment, in the discretion of the court.

Section VI

All ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section VII

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

Section VIII

This ordinance shall take effect upon adoption and publication in the manner required by New Jersey general law.

Mayor DiMura opened the hearing on Ordinance No. 1967-19. Seeing that there was no Public Participation, Mayor DiMura closed the hearing on Ordinance No. 1067-19.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kevin Dotey, Council Member
SECONDER:	John Madden, Council President
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

ADOPTION OF MINUTES**1. Approval of the June 20, 2019 Special Meeting Minutes**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jason Carr, Council Member
SECONDER:	Douglas Rex, Council Member
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

2. Approval of the June 25, 2019 Regular & Executive Session Meeting Minutes

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jason Carr, Council Member
SECONDER:	Douglas Rex, Council Member
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

MAYOR'S REPORT

Mayor DiMura appointed Councilman Mikolajczyk to the Economic Development Committee and also appointed Councilman Dotey as Chair of the Streetscape Committee, along with Councilman Rex and Councilman Mikolajczyk as members of the Committee.

REPORTS - STANDING COMMITTEES

Finance/Taxation/Real Estate/Insurance/Public Utilities

Councilman Mikolajczyk was on vacation.

Fire/OEM/Rescue Squad

There was no report.

Recreation/Recreation Fields/Swim Pool/Community Celebrations

Council President Madden reminded all that Community Day is Saturday July 20 from 4pm to 9pm.

Public Works/Buildings & Grounds/Recycling

Councilman Parenti was on vacation.

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

1. Approval of the April - June, 2019 Zoning Report

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kevin Dotey, Council Member
SECONDER:	Douglas Rex, Council Member
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

Administration/Department of Senior Services/Legislation/Licensing

There was no report.

ADMINISTRATOR'S REPORT

Administrator Karrow discussed the following items listed below:

I. Flood Management

- i. Flood Management Ordinance Model D "Best" Ordinance
- ii. Group Elevation Certificate Program (Work Session discussion)
- iii. Standing water in Pump near American Legion
- iv. Flood Plain Management Program

II. Update on Sewer Projects:

- i. Phase I:
 - a. i-Bank (formerly EIT) funding reimbursement (still pending)
 - b. Additional work on George Street needed (closed session);
 - c. Funds remaining - recommendation still forthcoming; - no update
 - d. O&M Manual required by DEP - no update
 - ii. Phase II Funding; (no update)
 - iii. Phase IV: Sewer Bypass
- III. Update on Other Public Works Projects:
- i. Streetscape Project (design work approved on 7/16 agenda)
 - ii. South Avenue Reconstruction
- IV. Phone line issues
- VI. Video Taping of Meetings
- VII. Miscellaneous
- i. Spotted Lanternfly in Mountain View Park
 - ii. Dredging of Lake/Mosquito Control Commission
 - iii. Rec Center, Rec Policies and Rec Ordinance Updates (August 13th agenda)
 - iv. Purchasing Manual Update: no update
 - v. Revaluation Bid: no update
 - vi. Update on Mosquito Control Commission Dredging of Lake
 - vii. American Legion 100th anniversary party: Cancelled, sadly
-

PRIVILEGE OF THE FLOOR

John Erickson, 209 2nd Street, spoke regarding the Borough's "Pay-to-Play" ordinance, campaign contributions by Remington & Vernick Engineers, the response to his Open Public Records Act request taking 16 business days and is what he considers incomplete, and also spoke regarding Borough owned cellular phones.

Joe Mazza, 355 Market Street, spoke regarding troubles he and his neighbors have been experiencing due to people parking on Market Street in order to go to the swim pool, and requested that the fence at the end of Market Street be closed while the pool is open. Mr. Mazza also stated that large vehicles delivering to the swim pool are also problematic.

Rich Rutkowski, 211 Maple Street, inquired why the current Borough Engineer could not be used for the Library HVAC project.

Amy Flood, 351 Grant Avenue, inquired about the Zoning Officers report and where fines from zoning violations are placed in the budget.

Judy Lynch, 359 Market Street, also spoke regarding the swim pool traffic issues on Market Street.

Mayor DiMura addressed all questions above.

NEW BUSINESS/CONSENT AGENDA/RESOLUTIONS

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Madden, Council President
SECONDER:	Jason Carr, Council Member
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 186-2019

ACCEPTING THE RESIGNATION OF TOM LYNCH FROM THE OFFICE OF AGING

The Governing Body hereby accepts the resignation of Thomas Lynch, as a part time Senior Driver from the Office of Senior & Disabled Services effective June 24, 2019.

The Borough Clerk read the following resolution:

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

RESOLUTION 187-2019

**THE GOVERNING BODY HEREBY REJECTS ALL BIDS RECEIVED ON JUNE 6, 2019
FOR THE MOUNTAIN VIEW PARK PHASE 1-B IMPROVEMENTS PROJECT**

WHEREAS, the Borough of Middlesex authorized the receipt of bids for Mountain View Park Phase 1-B Improvements; and

WHEREAS, bids were received on June 6, 2019, and opened in public; and

WHEREAS, pursuant to N.J.S.A. 40A:11-13.2, a contracting unit may reject all bids if the lowest bid substantially exceeds the contracting unit's appropriation for the goods or services;

WHEREAS, the Borough rejects all bids received on June 6, 2019, for exceeding the contracting unit's appropriation of said improvements.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex in the County of Middlesex, State of New Jersey that: It hereby rejects all bids received for the Mountain View Park Phase 1-B Improvements due to the lowest bid substantially exceeds the contracting unit's appropriation for the goods or services.

The Borough Clerk read the following resolution:

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

RESOLUTION 188-2019

**THE GOVERNING BODY HEREBY AUTHORIZES THE DISBURSING OFFICERS TO
REFUND STREET OPENING PERMIT NO. 2018-025 IN THE AMOUNT OF \$1875 TO MR.
RAFAL DROZD**

WHEREAS, Rafal Drozd was issued a street opening permit on 5/31/18; and

WHEREAS, Rafal Drozd deposited \$2500.00 with the Borough of Middlesex to ensure proper repair and maintenance of the roadway; and

WHEREAS, said roadway at 8 June Way. was inspected by Dan Niro, Plumbing Inspector and Bob Teutsch Public Works Director, and found to have been maintained in a satisfactory manner.

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 \$1875.00 in favor of Rafal Drozd, 8 June Way., Middlesex, NJ 08846, for refund of Street Opening Permit No. 2018-025.

The Borough Clerk read the following resolution:

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

RESOLUTION 189-2019

**THE TAX COLLECTOR IS AUTHORIZED TO REFUND REDEMPTION FUNDS FOR
BLOCK 34, LOT 14**

WHEREAS, said liens have been redeemed by the owners or those persons having an interest, and the purchasers of said property are legally entitled to receive redemption funds in the following specific amounts;

WHEREAS, the interest and payments on the following Tax Title Lien Redemptions were calculated for July 16th, 2019;

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

<u>Date of Sale</u>	3/27/2018
<u>Block /Lot</u>	34/14
<u>Amount</u>	\$1765.33
<u>Premium</u>	0.00
<u>Certificate</u>	17-00001
<u>Make Check Payable To</u>	US Bank Cust for PC7 Firsttrust Bank 50 South 16 th Street Philadelphia, PA 19102

The Borough Clerk read the following resolution:

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

RESOLUTION 190-2019**RENEWAL OF JUNKYARD LICENSES FOR 2019/2020 (EXPIRING 5/31/2020) FOR THE BOROUGH OF MIDDLESEX**

The application for renewal of Junkyard Licenses filed by Absolute Auto Truck Salvage and Falgi, Inc. have been approved by the Police Department, Fire Official and Board of Health. The Borough Clerk is hereby authorized to issue the license in consideration of the fees which have been paid. These Licenses will expire on May 31, 2020.

The Borough Clerk read the following resolution:

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

RESOLUTION 191-2019**APPROVAL OF TOWING LICENSES FOR 2019/2020 (EXPIRING 5/31/2020) FOR THE BOROUGH OF MIDDLESEX**

The following applications for Towing Licenses for 2019/2020 have been approved by the Police Department and met all borough requirements, and the Borough Clerk is hereby authorized to issue the license in consideration of the fees which have been paid.

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

The Borough Clerk read the following resolution:

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

RESOLUTION 192-2019**APPROVAL OF AMUSEMENT MACHINE LICENSES FOR 2019/2020 (EXPIRE 5/31/2020) FOR THE BOROUGH OF MIDDLESEX**

The application for Amusement Machine Licenses, Pool Tables and Music Licenses, filed by the following establishments, which have been approved by the Chief of Police, be accepted, and the Borough Clerk is hereby authorized to issue the licenses upon receipt of the fees. This license is valid until May 31, 2020.

End Zone Lounge	(2) Pool Table	\$350.00
425 Bound Brook Rd.	(2) Amusement Machine	
	(1) Music Machine	

Ferraro's Pizzeria & Pub 275 Lincoln Boulevard	(1) Music Machine	\$150.00
American Legion 707 Legion Place	(1) Pool Table (1) Amusement Machine (1) Music Machine	\$350.00
Tim Kerwin's Tavern 353 Bound Brook Rd.	(5) Amusement Machines (1) Music Machine	\$350.00
Ellery's Grill 701 Lincoln Boulevard	(3) Amusement Machines (1) Music Machine	\$350.00
TOTAL		\$1550.00

The Borough Clerk read the following resolution:

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

RESOLUTION 193-2019

**THE TAX COLLECTOR IS AUTHORIZED TO REFUND REDEMPTION FUNDS FOR
BLOCK 239, LOT 33**

WHEREAS, said liens have been redeemed by the owners or those persons having an interest, and the purchasers of said property are legally entitled to receive redemption funds in the following specific amounts;

WHEREAS, the interest and payments on the following Tax Title Lien Redemptions were calculated for July 16th, 2019;

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

<u>Date of Sale</u>	12/14/2016
<u>Block /Lot</u>	239/33
<u>Amount</u>	\$50,244.07
<u>Premium</u>	\$35,000
<u>Certificate</u>	16-00004
<u>Make Check Payable To</u>	FWDSSL & Associates LP 17 W Cliff St. Somerville, NJ 08876

The Borough Clerk read the following resolution:

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

RESOLUTION 194-2019

**THE TAX COLLECTOR IS AUTHORIZED TO REFUND REDEMPTION FUNDS FOR
BLOCK 107, LOT 15**

WHEREAS, said liens have been redeemed by the owners or those persons having an interest, and the purchasers of said property are legally entitled to receive redemption funds in the following specific amounts;

WHEREAS, the interest and payments on the following Tax Title Lien Redemptions were calculated for July 16th, 2019;

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

<u>Date of Sale</u>	3/27/2018
<u>Block /Lot</u>	107/15
<u>Amount</u>	\$1187.10
<u>Premium</u>	0.00
<u>Certificate</u>	17-00003
<u>Make Check Payable To</u>	US Bank Cust for PC7
	Firsttrust Bank
	50 South 16 th Street
	Ste 2050
	Philadelphia, PA 19102

The Borough Clerk read the following resolution:

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

RESOLUTION 195-2019

**AUTHORIZING THE SALE OF PROPERTY CONSISTING OF 0.099 ACRES KNOWN AS
A PORTION OF LOT 8 IN BLOCK 326 ON THE MIDDLESEX BOROUGH TAX MAP,
LOCATED ON SENECA AVENUE TO ERIC & URSULA STENDER PURSUANT TO THE
PROVISIONS OF ORDINANCE 1965-19 FOR THE PURCHASE PRICE OF \$2,500**

WHEREAS, the Borough Council adopted an Ordinance entitled "AN ORDINANCE AUTHORIZING THE SALE OF A PROPERTY CONSISTING OF 0.099 ACRES KNOWN AS A PORTION OF LOT 8 IN BLOCK 326 ON THE MIDDLESEX BOROUGH TAX MAP AND LOCATED ON SENECA AVENUE PURSUANT TO N.J.S.A. 40A:12-13(b)(5)" on June 11, 2019; and

WHEREAS, pursuant to the terms of the Ordinance, the Borough offered the Property for private sale to the contiguous property owners by letter sent certified, return receipt requested; and

WHEREAS, the sale of the Property was also advertised in the Courier News on June 14, 2019; and

WHEREAS, the Township received only one bid from Eric & Ursula Stender in the amount of \$2,500.00 which was accompanied by a deposit of in the form of a certified check in the amount of \$250.00;

NOW, THEREFORE, BE IT RESOLVED, that the Borough attorney is authorized to take such action as required to convey the Property to Eric & Ursula Stender;

IT IS FURTHER RESOLVED, that the Mayor and Clerk are authorized and directed to sign such documents as are necessary to convey the Property to Eric & Ursula Stender for the consideration of \$2,500.

The Borough Clerk read the following resolution:

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

RESOLUTION 196-2019

**AWARDING A CONTRACT FOR THE INSTALLATION OF FLOORING FOR THE
MIDDLESEX PUBLIC LIBRARY TO ALLSTATE OFFICE INTERIORS OF
ROBBINSVILLE, NJ IN THE AMOUNT OF \$42,088.34 - *Item Removed from Consent***

WHEREAS, the Borough of Middlesex desires to award a contract for the purchase and installation of flooring at the Middlesex Public Library to an authorized vendor under a New Jersey State Contract program; and

WHEREAS, the purchase of good and services by local contracting units is authorized by the Local Public Contracts Law, N.J.S.A. 40A:11-10 et seq.; and

WHEREAS, Allstate Office Interiors of Robbinsville, New Jersey has been awarded the contact under State Contract #817454; and

WHEREAS, The Library Director and the Purchasing Agent have recommended that the Borough Council utilize this contract for purchase and installation of flooring under State Contract #817454 in the amount of \$42,088.34; and

WHEREAS, the treasurer has attested that funds are available in the amount of \$41,602.83 in the Capital Ordinance #C-04-832-000-086 and the remaining amount of \$485.51 is available in the Operating Budget.

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

1. A contract for the purchase and installation of flooring for the Middlesex Public Library be awarded to Allstate Office Interiors of Robbinsville, New Jersey in the amount of \$42,088.34.

Caroline Benson, Treasurer

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Kevin Dotey, Council Member
SECONDER:	John Madden, Council President
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 197-2019

APPROVAL TO ADVANCE PATROLMAN ANTHONY PAINCHAUD TO PATROLMAN CLASS "D" EFFECTIVE JULY 20, 2019 AT AN ANNUAL SALARY OF \$83,431

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

WHEREAS, On July 9, 2019 Chief Geist recommended Police Officer Anthony Painchaud 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 Anthony Painchaud be and is hereby advanced in grade to Patrolman Class "D" effective July 20, 2019 at an annual salary of \$83,431.

The Borough Clerk read the following resolution:

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

RESOLUTION 198-2019

AUTHORIZING BEECHWOOD HEIGHTS FIRE COMPANY #2 TO HOLD ANNUAL COIN TOSS ON OCTOBER 19, 2019 AT THE INTERSECTION OF GREENBROOK ROAD AND ROUTE 28

WHEREAS, Beechwood Heights Fire Company No. 2 has requested to hold fund raising activities within the Borough of Middlesex by conducting coin tosses within the Borough at the intersections of Greenbrook Road and Route 28 between the hours of 9:00 a.m. and 2:00 p.m.; and

WHEREAS, Beechwood Heights Fire Company No. 2 would like to conduct these coin tosses on Saturday, October 19th, 2019 with an alternate rain date of Saturday, October 26th, 2019; and

WHEREAS, Beechwood Heights Fire Company No. 2 has met all of the criteria required in Middlesex Borough Ordinance No. 1747-09, with the exception of the approval of the New Jersey Department of Transportation.

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

1. The Governing Body hereby authorizes Beechwood Heights Fire Company No. 2 conducting a coin toss on between the hours of 9:00 a.m. and 2:00 p.m. on October 19th, 2019, with an alternate rain date of October 26th, 2019, at the intersections of Greenbrook Road and Route 28, pending receipt of approval from the New Jersey Department of Transportation.

The Borough Clerk read the following resolution:

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

RESOLUTION 199-2019

APPROVAL OF PROPOSAL OF OWEN, LITTLE & ASSOCIATES FOR DESIGN, INSPECTION, AND CONSTRUCTION ADMINISTRATIVE SERVICES FOR THE 2018 BOUND BROOK ROAD STREETScape IN THE AMOUNT OF \$94,617.50

WHEREAS, the governing body received a proposal from Owen Little & Associates dated March 26, 2019 for the Design, Inspection and Construction Administrative Services for the 2018 Bound Brook Road Streetscape; and

WHEREAS, the proposal for this project includes:

1. Design \$89,617.50
2. Contract Administration \$ 5,000.00

TOTAL COST \$94,617.50

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 governing body hereby approves the proposal from Owen, Little & Associates, dated March 26, 2019, for the Design, Inspection and Construction Administration Services for the 2018 Bound Brook Road Streetscape in the total amount of \$94,617.50.
2. This resolution shall take effect immediately.

BE IT FURTHER RESOLVED, that the Treasurer hereby certifies that funds in the amount of \$94,617.50 are available in Account No. C-04-19-962-000-050.

The Borough Clerk read the following resolution:

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

RESOLUTION 200-2019**EXTENDING THE CONDITIONAL DESIGNATION OF CLAREMONT COMPANIES AS REDEVELOPER FOR PROPERTY KNOWN AS TAX BLOCK 318, LOTS 38.01 & 48, IN THE LINCOLN BOULEVARD REDEVELOPMENT AREA FOR THE DEVELOPMENT OF A WAREHOUSE PROJECT - *Item Removed from Consent***

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

WHEREAS, the Borough of Middlesex (the "Borough") is desirous of the redevelopment of this 21+/- acre site for re-use consistent with the Borough's Master Plan and the Redevelopment Plan for the Redevelopment Area, adopted on December 13, 2016 and amended March 12, 2019; and

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

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

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

WHEREAS, on September 25, 2018 The Borough designated Claremont Companies as redeveloper of the Property for a period of 120 days; and

WHEREAS, on October 23, 2018, Claremont Companies and the Borough entered into an escrow agreement, one of the conditions of the original designation; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Middlesex that it hereby extends the conditional designation as redeveloper of Claremont Companies, 49 Route 202, Far Hills, NJ 07931 for the development of Tax Block 318, Lots 38.01, and 48; located in the Lincoln Boulevard Redevelopment Area, for a warehouse project, the detail of which is subject to further refinement, for the reasons set forth herein.

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

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

2. That Claremont Companies and the Borough shall negotiate and agree upon the terms and conditions of a redevelopment agreement within the period of the conditional designation, as such period may be extended by the Borough in its sole discretion.
3. That Claremont Companies agrees to pay any and all costs incurred by the Borough from the date of the conditional designation to execution of a redevelopment agreement or termination of the redeveloper designation, as set forth herein.

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

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

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Kevin Dotey, Council Member
SECONDER:	Douglas Rex, Council Member
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 201-2019

**AWARDING THE CONTRACT FOR BIODEGRADABLE & RECYCLABLE LEAF BAGS
TO PABCO INDUSTRIES, LLC OF NEWARK, NJ**

WHEREAS, one bid was received on June 26, 2019 for Biodegradable & Recyclable Leaf Bags; and

WHEREAS, Pabco Industries, LLC from Newark, New Jersey submitted a bid as follows:

1st year - \$25,920.00
2nd year - \$31,620.00

WHEREAS, the Purchasing Agent recommends that Pabco Industries, LLC be awarded this contract for the amounts listed above, subject to the appropriation and availability of funds in the 2019 and 2020 budget.

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

1. At the recommendation of the Purchasing Agent, the Mayor and Council hereby award the bid for Biodegradable & Recyclable Leaf Bags to Pabco Industries, LLC of Newark, New Jersey for the period of 24 months, subject to the appropriation of funds in the 2019 budget and availability in 2020 budget.

NOW FURTHER BE IT RESOLVED, that the Treasurer hereby certifies funds are appropriated in the 2019 adopted budget in account number G-02-16-770-000-104 the amount of \$25,920.00 for 1st year and \$31,620.00 for 2nd year in account number G-02-16-770-000-102, subject to availability of funds.

Caroline Benson, Treasurer

The Borough Clerk read the following resolution:

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

RESOLUTION 202-2019

AUTHORIZING EXECUTION OF MEMORANDUM OF UNDERSTANDING WITH UNITED STATES DEPARTMENT OF ENERGY AND FILING OF APPLICATION FOR EARLY TRANSFER OF PROPERTY IN CONNECTION WITH THE MIDDLESEX SAMPLING PLANT PROPERTY - *Item Removed from Consent*

WHEREAS, the United States Department of Energy ("DOE") is the owner of real property known as the Middlesex Sampling Plant located at 239 Mountain Avenue, Middlesex Borough and identified as Block 318, Lot 1.01 and Block 319, Lot 45 on the Municipal Tax Map and consisting of approximately 9.6 acres of vacant, undeveloped land ("Middlesex Site"); and

WHEREAS, the Middlesex Site is located next to existing scrap metal facility located at 245 Mountain Avenue (Block 318, Lots 38.01 and 48), which property is in the process of being redeveloped by the Borough's redeveloper, Claremont Companies ("Redevelopment Site"); and

WHEREAS, the Borough wishes to acquire the Middlesex Site in order to construct a new Department of Public Works facility ("New DPW Facility") to house the Borough's equipment, vehicles and public works personnel; and

WHEREAS, the New DPW Facility will allow the Borough to vacate the existing DPW facility which is located in a residential area and will give the Borough the option to utilize the existing area for affordable housing as determined by the Borough; and

WHEREAS, in addition the Borough wishes to utilize the Middlesex Site in order to facilitate the pending redevelopment project at the Redevelopment Site by providing an access road to the Borough's redeveloper, Claremont Companies; and

WHEREAS, said access road will allow the Borough's redeveloper to proceed with the redevelopment project wherein a contaminated junkyard will be transformed into a warehouse facility resulting in approximately 200 local jobs and additional tax revenue for the benefit of the Borough and the community; and

WHEREAS, the Borough and DOE wish to enter into the attached **Memorandum of Understanding**, attached hereto as Exhibit A, which memorializes the intention of the Borough to acquire the Middlesex Site and to grant an easement to Claremont Companies for an access road across the southern portion of the Middlesex Site; and

WHEREAS, the Borough wishes to authorize the Mayor file a **Proposal to Transfer Middlesex Sampling Plant to Borough of Middlesex Pursuant to 10 CFR 770** with the DOE for the aforementioned early transfer of property, which proposal is attached hereto as Exhibit B; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Middlesex, that the Mayor is hereby authorized to said **Memorandum of Understanding**, attached hereto as Exhibit A, in substantially similar form, subject to such final changes as the Mayor may approve on the advice of the Borough professionals; and

IT IS FURTHER RESOLVED that the Mayor is hereby authorized to said **Proposal to Transfer Middlesex Sampling Plant to Borough of Middlesex Pursuant to 10 CFR 770**, attached hereto as Exhibit B, in substantially similar form, subject to such final changes as the Mayor may approve on the advice of the Borough professionals; and

IT IS FURTHER RESOLVED that the Mayor and Borough professionals are hereby authorized and directed to take any action and to execute any documents as may be necessary to effectuate this Resolution.

Mayor DiMura asked Colin Driver explain further on this Resolution. Mr. Driver explained that this Resolution would authorize the Mayor to execute the finalized Memorandum of Understanding ("MOU") and Finding of Suitability Transfer ("FOST"). The MOU will allow the Department of Energy to subdivide the property in order to allow access to the redevelopment area on the junkyard side of the property as well as providing property for relocation of the Borough Public Works building. The Department of Energy has asked that Council's commitment be demonstrated in order to move forward with the subdivision and easement so that development can proceed. The Department of Energy is eager to transfer the fully remediated property to the Borough and will maintain remediation controls. Mayor DiMura stated that this Resolution allows moving the process forward and that the development project still needs to go before the Planning Board for their decision on the project.

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	John Madden, Council President
SECONDER:	Kevin Dotey, Council Member
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 203-2019

**AMENDING RESOLUTION 122-2019 TO INSERT A NEW BLOCK NUMBER IN THE
TITLE THEREOF AND EXTENDING THE TIME TO CLOSE ON THE PROPERTY - Item**
Removed from Consent

WHEREAS, the Borough Council adopted an Ordinance entitled “AN ORDINANCE AUTHORIZING THE SALE OF A PROPERTY CONSISTING OF 0.052 ACRES KNOWN AS A PORTION OF LOT 5 IN BLOCK 38 ON THE MIDDLESEX BOROUGH TAX MAP AND LOCATED NEAR NEW STREET AT THE JUNCTURE OF FIRST STREET AND SECOND STREET PURSUANT TO N.J.S.A. 40A:12-13(b)(5)” on March 12, 2019; and

WHEREAS, the Borough Council subsequently adopted an Ordinance entitled “AUTHORIZING THE SALE OF PROPERTY CONSISTING OF 0.052 ACRES KNOWN AS A PORTION OF LOT 5 IN BLOCK 56 ON THE MIDDLESEX BOROUGH TAX MAP, LOCATED NEAR NEW STREET AT THE JUNCTURE OF FIRST STREET AND SECOND STREET TO RICHARD AND SARAH PREGO PURSUANT TO THE PROVISIONS OF ORDINANCE 1956-19 FOR THE PURCHASE PRICE OF \$2,500.00” on April 23, 2019; and

WHEREAS, the title of Resolution 122-2019 should reflect that the block number of the property is 38 rather than 56, with the block number being properly designated as Block 38 in the balance of the resolution and in Ordinance 1956-19; and

WHEREAS, in addition to the correction of this block number, a further sixty (60) days are required to close on this property; and

WHEREAS, the Mayor and Council desire to make the aforementioned amendment and extension;

NOW, THEREFORE, BE IT RESOLVED, that the title of Resolution 122-2019 is hereby amended as follows: AUTHORIZING THE SALE OF PROPERTY CONSISTING OF 0.052 ACRES KNOWN AS A PORTION OF LOT 5 IN BLOCK 38 ON THE MIDDLESEX BOROUGH TAX MAP, LOCATED NEAR NEW STREET AT THE JUNCTURE OF FIRST STREET AND SECOND STREET TO RICHARD AND SARAH PREGO PURSUANT TO THE PROVISIONS OF ORDINANCE 1956-19 FOR THE PURCHASE PRICE OF \$2,500.00;

BE IT IS FURTHER RESOLVED, that the time to conduct the closing of title on the aforementioned property shall be extended to sixty (60) days from the passage of this Resolution.

RESULT:	ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Kevin Dotey, Council Member
SECONDER:	Douglas Rex, Council Member
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 204-2019

REFUNDING OF AN ALARM REGISTRATION IN THE AMOUNT OF \$25.00 FOR MR. LAKSHMI KURUGANTI, 3 CORNWALL DRIVE, EDISON, NJ

Due to an Alarm Registration which was inadvertently processed by the Middlesex Police Department, the Treasurer is authorized to refund \$25.00 to Lakshmi Kuruganti, 3 Cornwall Drive, Edison, NJ 08820 for the refund of this residential Burglar/Fire/Medical Alarm.

NON-CONSENT AGENDA/RESOLUTIONS

The Borough Clerk read the following resolution:

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

RESOLUTION 205-2019

PAY ALL CLAIMS

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

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Madden, Council President
SECONDER:	Douglas Rex, Council Member
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 206-2019

EXECUTIVE SESSION

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

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

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

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

1. Pending/Anticipated Litigation (Tax Appeal and Sewer)

2. MCUA Contract Negotiation
3. Strategies to Protect Public Security (School Security)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jason Carr, Council Member
SECONDER:	John Madden, Council President
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 207-2019

AWARDING AND CONFIRMING EMERGENCY CONTRACT FOR ENGINEERING SERVICES, INCLUDING MECHANICAL ENGINEERING SERVICES TO REMINGTON & VERNICK, ENGINEERS FOR THE DEVELOPMENT OF SPECIFICATIONS TO REPLACE THE HVAC SYSTEM AT THE MIDDLESEX PUBLIC LIBRARY

WHEREAS, the Local Public Contracts Law permits the award of emergency contracts pursuant to N.J.S.A. 40A:11-6, subject to certain criteria; and

WHEREAS, the Middlesex Public Library was forced to close on June 26, 2019 due to a lack of air conditioning during a period of high temperature and humidity; and

WHEREAS, due to the age and lack of replacement parts, the HVAC system at the Middlesex Public Library is failing and is in dire need of replacement as soon as possible; and

WHEREAS, technical specifications need to be prepared in order to make the necessary replacement of the air condition system; and

WHEREAS, this condition constitutes an emergency affecting the immediate health, safety, and/or welfare of the Borough's many residents that utilize the Public Library for many services and programs; and

WHEREAS, the needed engineering services, including mechanical engineering services, necessary for the development of the described specifications for the repair/replacement of the HVAC system at the Middlesex Public Library are available from the firm of Remington and Vernick Engineers; and

WHEREAS, the cost for the emergency engineering services to be utilized to replace the Middlesex Public Library HVAC System is in an amount not to exceed \$32,250.00.

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

RESULT:	WITHDRAWN
----------------	------------------

The Borough Clerk read the following resolution:

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

RESOLUTION 208-2019

REJECTING ALL BIDS RECEIVED JULY 9, 2019 FOR PUBLIC RELATIONS SERVICES

WHEREAS, the Borough of Middlesex authorized the receipt of bids for Public Relations Services; and

WHEREAS, said bids were received on July 9, 2019, and opened in public; and

WHEREAS, pursuant to N.J.S.A. 40A:11-13.2, a contracting unit may reject all bids if the contracting unit requires to substantially revise the specifications for goods or services; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex in the County of Middlesex, State of New Jersey that all bids received on July 9, 2019 for the Public Relations Services are hereby rejected as the specifications require to be substantially revised.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Douglas Rex, Council Member
SECONDER:	Jason Carr, Council Member
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

The Borough Clerk read the following resolution:

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

RESOLUTION 209-2019

AUTHORIZING THE USE OF COMPETITIVE CONTRACTING FOR THE PROCUREMENT OF MARKETING, PUBLIC RELATIONS AND DESIGN CONSULTING SERVICES PURSUANT TO N.J.S.A. 40A:11-4.3

WHEREAS, the Borough of Middlesex ("Borough") desires to contract with a vendor to provide the Marketing, Public Relations, and Design Consulting Services; and

WHEREAS, pursuant to N.J.S.A. 40A:11-4.1 et seq., the Borough may use competitive contracting in lieu of public bidding for procurement of specialized goods and services, the price of which exceeds the bid threshold; and

WHEREAS, N.J.S.A. 40A:11-4.1(b)(3) permits the use of competitive contracting for the Marketing, Public Relations, and Design Consulting Services; and

WHEREAS, N.J.S.A. 40A:11-4.3(b) permits the Borough Administrator to administer the process for the purchase pursuant to the rules governing the competitive contracting process; and

WHEREAS, under the competitive contracting process, the contract for Marketing, Public Relations, and Design Consulting Services will be awarded to that entity submitting a proposal that, when evaluated, most successfully meets the stated criteria and, therefore, achieves the highest ranking, rather than based solely on the lowest price; and

WHEREAS, the Borough desires to conduct the bidding process for the aforesaid goods and services pursuant to the competitive contracting process as set forth by N.J.S.A. 40A:11-4.1 et seq.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Borough Council of the Borough of Middlesex, in the County of Middlesex, State of New Jersey, that the Borough Administrator is hereby authorized to utilize and administer the competitive contracting process as set forth in N.J.S.A. 40A:11-4.1 et seq., to procure a contract with a vendor to provide Marketing, Public Relations, and Design Consulting Services, pursuant to the rules governing the competitive contracting process.

This Resolution shall take effect immediately.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Douglas Rex, Council Member
SECONDER:	Jason Carr, Council Member
AYES:	Madden, Rex, Carr, Dotey
ABSENT:	Parenti, Mikolajczyk

AGENDA WORKSHOP ITEM

1. Baekeland Avenue Redevelopment Plan

Mayor DiMura asked Colin Driver and Paul Ricci, Borough Planner, to give background on this matter. Mr. Driver stated that on May 28 of this year, the Borough Council did designate the former Union Carbide site on Baekeland Avenue, Block 353, Lots 1.01 and 1.02, as an area in need of redevelopment. The Planning Board must now develop a redevelopment plan. The original redeveloper has sold the property to the Rockefeller Group who has proposed a 500,000 square foot warehouse facility on the site similar to what is being built by them in Piscataway. The Borough's planner has been approached to formulate a redevelopment plan for the site. One has been drafted which conforms to State statute and establishes a set of allowed uses and bulk standards. It is requested that the plan be slated for Council approval on August 13th. Once approved, a developer agreement can be entered into with the Rockefeller Group after which application to the Planning Board can be made. A copy of the draft redevelopment plan can be circulated to Council within the coming week. Prior to the next Council meeting, the planner will present the plan to the Planning Board. Barring any substantive changes by the Planning Board, Council can move forward with introduction of an ordinance to adopt the redevelopment plan. Planner Ricci spoke regarding the process and timing should any changes be needed. Mayor Di Mura asked that the governing body review the plan upon receipt and that any questions be coordinated through the Business Administrator.

2. US Army Corp. Request for Donation of Perpetual Easements

Business Administrator Karrow spoke regarding the request of the U.S. Army Corps of Engineers for two perpetual easements. One is on Clay Avenue, a paper street, for access to the brook. The other is along the brook on the Lincoln Avenue extension where a levee is being built. The Army Corps must award their next construction contract by September 30th to obtain funding and remain on schedule. Without these easements they are unable to open the bids for this until they have ownership of the property. By introducing the ordinance for the easements, a certification by the Clerk should suffice for the bid opening purposes. Consensus of Council was to move forward with an ordinance on the August 13th Council meeting agenda.

3. Group Rate Elevation Certificates

Business Administrator Karrow stated that a lot of homeowners have inquired about obtaining elevation certificate surveys in order to have their properties be removed from the flood maps. Planning Board Engineer, Najarian Associates has negotiated a reduced, group rate fee with their surveyor for residents of the Borough, provided that the residents provide their property information, access to their homes and at least 4 residents are signed up for Thursday surveying. Najarian Associates will coordinate and administer the program. Administrator Karrow will advertise this program on the website and in the new newspaper, "The Chronicle". Mayor asked that the Ms. Karrow look into doing a mailing to affected property owners.

PRIVILEGE OF THE FLOOR ON AGENDA WORKSHOP ITEMS

Amy Flood, 351 Grant Avenue, had questions regarding the Baekeland Avenue Redevelopment Plan, remediation done in the area, and the need for the road to be reconstructed. Ms. Flood also recommended that Borough professionals remain until the public portion.

Dave Polakiewicz 240 Hazelwood Avenue, also had questions regarding the size of the warehouse proposed in the Baekeland Avenue Redevelopment Area.

EXECUTIVE SESSION

1. Pending Anticipated Litigation (Tax Appeal & Sewer)
2. MCUA Contract Negotiation

ADJOURNMENT

The next Regular Meeting will be August 13, 2019

Respectfully yours,

Borough Clerk