

**Borough of Matawan
Public Session
August 7, 2012**

A regular meeting of the Borough Council of the Borough of Matawan, New Jersey, was held at the Matawan Municipal Community Center, 201 Broad Street, Matawan, New Jersey on August 7, 2012. The meeting was called to order at 7:00 PM by Mayor Buccellato presiding. Mayor Buccellato called the meeting to order, pursuant to Section 5 of the Open Public Meetings Act that adequate notice of this meeting has been provided in the notice which was published in *The Independent* on January 12, 2012, by sending notice to the *Asbury Park Press*, and by posting. Mayor Buccellato requested a roll call.

On roll call the following members responded present:

Yes: Councilwoman Gould
 Councilman Lopez
 Councilwoman Angelini
 Councilman Urbano
 Councilwoman Clifton
 Councilman Fitzsimmons

Also present was Pasquale Menna, Esq., Borough Attorney.

Mayor Buccellato asked everyone to stand for a moment of silence keeping in our thoughts the residents of Aurora, Colorado and Oak Creek, Wisconsin.

Mayor Buccellato asked everyone to stand in the Salute to the Flag.

Approval of Minutes

Mayor Buccellato requested a motion to approve the minutes of December 6, 2011. Councilman Urbano made the motion, seconded by Councilwoman Clifton. Council agreed. Motion passed.

Mayor Buccellato requested a motion to approve the minutes of December 19, 2011. Councilwoman Angelini made the motion, seconded by Councilwoman Clifton. Council agreed. Motion passed.

Mayor Buccellato requested a motion to approve the minutes of January 1, 2012. Councilwoman Angelini made the motion, seconded by Councilman Lopez. Council agreed. Motion passed.

Mayor Buccellato requested a motion to approve the minutes of January 17, 2012. Councilman Lopez made the motion, seconded by Councilwoman Angelini. Council agreed. Motion passed.

Mayor Buccellato requested a motion to approve the minutes of February 7, 2012. Councilwoman Angelini made the motion, seconded by Councilman Urbano. Council agreed. Motion passed.

Mayor Buccellato requested a motion to approve the minutes of February 21, 2012. Councilman Urbano made the motion, seconded by Councilwoman Clifton. Council agreed. Motion passed.

Mayor Buccellato requested a motion to approve the minutes of March 6, 2012. Councilwoman Clifton made the motion, seconded by Councilwoman Angelini. Council agreed. Motion passed.

Mayor Buccellato requested a motion to approve the minutes of March 20, 2012. Councilwoman Clifton made the motion, seconded by Councilwoman Angelini. Council agreed. Motion passed.

Mayor Buccellato informed there are no Workshop Items on tonight's agenda.

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Mayor Buccellato announced he is holding Resolution 12-07-40: Awarding 2012 Biennial Contract for Emergency & Maintenance Repair Services for Water & Sanitary Sewer System Repairs to B&W Construction Co.

Mayor Buccellato announced he is moving Resolution 12-08-07 through and including 12-08-10 from New Business to the Consent Agenda portion of the Agenda.

Mayor Buccellato announced the addition of Resolution 12-08-14: Certification of Planning/Zoning Board Appointment of Recording Secretary.

Old Business

Mayor Buccellato read by title Ordinance 12-12: An Ordinance Providing for Clothing Donation Bins within the Borough of Matawan, County of Monmouth, State of New Jersey. Mayor Buccellato requested a motion to open the public hearing. Councilwoman Clifton made the motion, seconded by Councilwoman Angelini. Council agreed. Motion passed. Mayor Buccellato requested comments. There were no comments. Mayor Buccellato requested a motion to close the public hearing. Councilwoman Clifton made the motion, seconded by Councilwoman Angelini. Council agreed. Motion passed. Mayor Buccellato read by title on third and final reading Ordinance 12-12: An Ordinance Providing for Clothing Donation Bins within the Borough of Matawan, County of Monmouth, State of New Jersey. Mayor Buccellato requested a motion to adopt. Councilwoman Clifton made the motion, seconded by Councilman Urbano. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Gould
Councilman Lopez
Councilwoman Angelini
Councilman Urbano
Councilwoman Clifton
Councilman Fitzsimmons

Motion passed.

ORDINANCE 12-12

***AN ORDINANCE PROVIDING FOR CLOTHING DONATION BINS WITHIN THE BOROUGH OF
MATAWAN, COUNTY OF MONMOUTH, STATE OF NEW JERSEY***

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MATAWAN, COUNTY OF MONMOUTH, STATE OF NEW JERSEY THAT PURSUANT TO N.J.S.A. 40:48-2.60 AND 40:48-2.61 et seq that regulations for the placement and use of clothing donation bins within the Borough are hereby established.

SECTION I

I. *Licensing of Clothing Donation Bins*

Notwithstanding any other provision of law to the contrary, no person shall place, use, or employ a clothing donation bin within the Borough for solicitation purposes unless all of the following requirements are met:

- a. The clothing donation bin is owned or sponsored by a organization registered pursuant to P.L. 1994, c. 16 (N.J.S.A. 45:17A-18 et seq.), any non-charitable organization, or is sponsored by any department of the Borough;*
- b. The registered organization has obtained a permit, valid for a twelve-month period, from the Borough's Zoning Officer in accordance with the following:*

In its application for such a permit, the registered organization shall indicate:

- 1. The location where the bin is currently situated or proposed to be situated;*

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2. *The manner in which the organization anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed and the method by which the proceeds of collected donations would be allocated or spent;*
3. *The name and telephone number of the bona fide office of the organization and any entity which may share or profit from any clothing or other donations collected via the bin; and*
4. *Written consent from the property owner to place the bin on its property.*

The Zoning Officer shall not grant a permit to place, use, or employ a clothing donation bin if it determines that the placement of the bin could constitute a safety hazard. Such hazards shall include, but not be limited to, the placement of a clothing donation bin within one hundred (100) yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases.

In cases when any entity other than the entity which owns the bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that clothing or other donations collected via the bin, their proceeds, or both, may be shared or given entirely to, an entity other than the entity which owns the bin, and identifying all such entities which may share or profit from such donations.

The permit number and its date of expiration shall be clearly and conspicuously displayed on the exterior of the clothing donation bin in addition to the location where that bin is located.

II. Fee

The Zoning Officer shall impose a fee for such application, in the amount of twenty-five (\$25.00) dollars annually for each bin to offset the costs involved in enforcing this section.

An expiring permit for a clothing donation bin may be renewed upon application for renewal and payment of the applicable annual fee. Such application for renewal shall contain all the information as required for the original issuance of said permit.

The owner of any clothing donation bin which is sponsored by any department of the Borough shall be required to comply with the licensure requirements hereof, but shall specifically be exempt from the fee requirement hereof.

III. Location Criteria

- a. *The bins are not to be placed in the front yard.*
- b. *A minimum ten (10) foot setback from property lines should be required.*
- c. *Bins should not be placed in any required driveways or on any unimproved lot.*
- d. *No bins permitted on residential properties.*
- e. *Whenever possible, the bins should not be placed on lots adjacent to residences; however, should the Zoning Officer determine that it is appropriate to establish a bin on such a location, it must be set back a minimum of ten (10) feet.*
- f. *Bins may be placed within a parking area, provided the Municipal Engineer determines that the space or spaces dedicated to the bin are underutilized.*

IV. Duty to Maintain and Service Bins

It shall be the duty of each registered organization issued a permit hereunder to properly maintain and service any clothing donation bin placed within the Borough so as to prevent such clothing bin from creating any nuisance, hazardous or unsafe condition.

V. Enforcement and Limitation on Licenses.

The Zoning Officer shall, upon receipt of a complaint by a local resident or any other person that a clothing donation bin is causing a nuisance, hazardous or unsafe condition, investigate such complaint and take such enforcement action as is permitted pursuant to N.J.S.A. 40:48-2.62 and N.J.S.A. 40:48-2.63. The Zoning Officer shall not be authorized to issue more than two (2) clothing donation bin permits at any given site.

VI. Violations, Penalties and Revocation of License.

Any licensee who violates any provision of this section and fails to cure such violation within forty-eight (48) hours of notice of such violation shall be subject to the following penalties, in addition to those penalties and remedies as set forth in N.J.S.A. 40:48-2.62 and 40:48-2.63:

- a. *For the first offense: \$100.00 per day.*
- b. *For the second offense: \$250.00 per day.*

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c. For the third offense: mandatory revocation of permit.

Section 2. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance shall be and the same are hereby repealed.

Section 3. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

Section 4. This ordinance shall take effect upon final passage and publication as provided by law.



Borough of Matawan
201 Broad Street, Matawan, NJ 07747
www.matawanborough.com
732-566-3898

Application for Clothing Donation Bin

Name of Registered Organization pursuant to P.L. 1994, c.16

Office Address, Telephone and Contact for Register Organization: _____

Profit _____ Non-Profit _____

Name and telephone number of any organization or entity that may share or profit from any collected items.

Location of Bin: _____

Written Consent of Property Owner to place Bin on Property: _____ (please attach)

Information must be provided that details the manner in which the organization anticipates any clothing or other donations collected via the bin would be used, sold, or disbursed and the method by which the proceeds of collected donations would be allocated or spent.

How often will bin be emptied? _____

Contact Tele. For pick-up: _____

Signature of Applicant: _____

Date: _____

Print Name: _____

Zoning Officer's Approval: _____

Date: _____

Permit will be issued upon approval and must be posted on clothing bin.

Fee: \$25.00 Annually

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Mayor Buccellato read by title Ordinance 12-13: Amending Chapter II – Administration of the Borough of Matawan Code - Checks Written with Insufficient Funds and Other Written Instruments. Mayor Buccellato requested a motion to open the public hearing. Councilman Lopez made the motion, seconded by Councilman Urbano. Council agreed. Motion passed. Mayor Buccellato requested comments. There were no comments. Mayor Buccellato requested a motion to close the public hearing. Councilwoman Clifton made the motion, seconded by Councilwoman Angelini. Council agreed. Motion passed. Mayor Buccellato read by title on third and final reading Ordinance 12-13: Amending Chapter II – Administration of the Borough of Matawan Code - Checks Written with Insufficient Funds and Other Written Instruments Mayor Buccellato requested a motion to adopt. Councilwoman Clifton made the motion, seconded by Councilwoman Angelini. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Gould
Councilman Lopez
Councilwoman Angelini
Councilman Urbano
Councilwoman Clifton
Councilman Fitzsimmons

Motion passed.

**ORDINANCE 12-13
AMENDING CHAPTER II – ADMINISTRATION OF
THE BOROUGH OF MATAWAN CODE
CHECKS WRITTEN WITH INSUFFICIENT FUNDS AND OTHER WRITTEN INSTRUMENTS**

WHEREAS, N.J.S.A. 40:5-19 has been enacted to allow a municipality the authority to impose a service charge to be added on an account where payment by check or other written instrument was returned for insufficient funds.

NOW, THEREFORE, BE IT ORDAINED, the Council of the Borough of Matawan, amends Chapter II-Administration, Section 2-71 Penalties Established for the issuance of Checks Written with Insufficient Funds and Other Written Instruments with the following:

The Chief Financial Officer, Tax Collector/Utility Collector, or any other Borough Official may require future payments to be tendered in certified check, cashier's check or cash.

BE IT FURTHER ORDAINED that a true certified copy of this Ordinance shall be forwarded to the following Borough of Matawan Departments: Administration, Clerk, Chief Financial Officer, Tax Collector, Utility Collector and Auditor.

Consent Agenda

Mayor Buccellato read by title Resolutions 12-08-02 through and including 12-08-04, and 12-08-07 through and including 12-08-10 requesting a motion to approve en masse. Councilman Urbano made the motion, seconded by Councilwoman Angelini. Mayor Buccellato requested a roll call vote. A roll call vote was taken.

Yes: Councilwoman Gould
Councilman Lopez
Councilwoman Angelini
Councilman Urbano
Councilwoman Clifton
Councilman Fitzsimmons

Motion passed.

**RESOLUTION 12-08-02
REDEMPTION OF TAX SALE CERTIFICATE
MTAG SERVICES AS CUST FOR ATCF II NEW JERSEY, LLC**

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CERTIFICATE #11-00074

WHEREAS, the Borough of Matawan Tax Collector has reported that Tax Sale Certificate #11-00074 which was sold to MTAG Services as Cust for ATCF II New Jersey, LLC, PO Box 54292, New Orleans, LA 70154-4292; and

WHEREAS, Certificate #11-00074 has been paid and fully redeemed for the property owner, Block 85, Lot 16 otherwise known as 249 Harding Blvd.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan, that they hereby authorize payment in the amount of \$11,017.05 and a Premium of \$5,000.00 to the above for the redemption of Tax Sale Certificate #11-00074.

BE IT FURTHER RESOLVED that a true certified copy of this Resolution shall be forwarded to the following Borough of Matawan Departments: Tax Collector and Treasurer.

**RESOLUTION 12-08-03
REDEMPTION OF TAX SALE CERTIFICATE
WEN LU
CERTIFICATE #11-00101**

WHEREAS, the Borough of Matawan Tax Collector has reported that Tax Sale Certificate #11-00101 which was sold to Wen Lu, 144-90 41st Ave., Apt. 515, Flushing, NY 11355; and

WHEREAS, Certificate #11-00101 has been paid and fully redeemed for the property owner, Block 120, Lot 45.06 otherwise known as 5 Claire Court.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Matawan, that they hereby authorize payment in the amount of \$968.17 and a Premium of \$500.00 to the above for the redemption of Tax Sale Certificate #11-00101.

BE IT FURTHER RESOLVED that a certified true copy of this resolution is forwarded to the Borough's Tax Collector and Treasurer.

**RESOLUTION 12-08-04
APPROVING BUSINESS RELOCATION
ABY'S MEXICAN RESTAURANT, LLC**

WHEREAS, *Aby's Mexican Restaurant, LLC*, (restaurant) was previously approved as a business operating in the Borough of Matawan; and

WHEREAS, *Aby's Mexican Restaurant, LLC* has notified the Borough of Matawan of its relocating from 141 Main Street to 32 Main Street, Units C and D, effective October 1, 2012; and

WHEREAS, this business is an approved use in its new location.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan that they hereby approve the following business license:

Business: *Aby's Mexican Restaurant, LLC*
32 Main Street
Matawan, New Jersey 07747

Applicant: *Leonor M. Martinez*
4 Barnes Stree
Keyport, New Jersey 07735

**RESOLUTION 12-08-07
AUTHORIZATION TO SIGN ON BEHALF OF THE BOROUGH OF MATAWAN
AGREEMENT BETWEEN
HUTCHINS, FARRELL, MEYER & ALLISON, P.A. AS BOROUGH AUDITOR FOR
THE BOROUGH OF MATAWAN**

WHEREAS, there exists the need for a Municipal Auditor in the Borough of Matawan, County of Monmouth; and

WHEREAS, the anticipated term of this contract is for a one-year period to expire December 31, 2012;

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and

WHEREAS, funds are or will be available for this purpose; and

WHEREAS, Robert W. Allison, CPA, RMA, of the firm Hutchins, Farrell, Meyer & Allison, PA, has submitted a proposal indicating they will provide the Municipal Auditor services; and

WHEREAS, that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

WHEREAS, the cost to provide auditing and accounting services to the Borough of Matawan will be as follows:

- | | |
|--|--------------------|
| • Perform the audit of the Borough’s financial statements for the year ended December 31, 2012 and prepare the 2012 Annual Debt Statement and Unaudited Annual Financial Statement | \$44,500.00 |
| • Review and assist in the preparation of the Borough’s 2011 Budget | \$ 3,000.00 |
| • LOSAP Audit | <u>\$ 1,000.00</u> |
| TOTAL | \$48,500.00 |

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Borough of Matawan authorizes the Mayor to enter into a contract with Hutchins, Farrell, Meyer & Allison, PA as described herein.

CERTIFICATION AS TO AVAILABLE FUNDING

I, Monica Antista, Chief Financial Officer of the Borough of Matawan do hereby certify that as of the date of this certification funds are available from the, 2-01-20-135-200 (\$26,500.00), 2-0126-291-200 (\$3,000.00), 2-09-55-500-200 (\$10,500.00), 2-01-43-260-200 (\$1,000.00) and 2-09-55-500-800 (\$10,500.00) Budget of the Borough of Matawan to Robert W. Allison, CPA, RMA, of Hutchins, Farrell, Meyer & Allison, PA as Municipal Auditor for the Borough of Matawan in an amount not to exceed \$50,000.00.

This certification is based solely on the information encumbered into the financial records of the borough by the appropriate using division as of this date and relies on the completeness of financial records.

Chief Financial Officer

(Signature on File)

Monica Antista, CMFO

Dated: August 7, 2012

RESOLUTION 12-08-08

**AUTHORIZATION TO SIGN ON BEHALF OF THE BOROUGH OF MATAWAN
AGREEMENT BETWEEN THE MENNA LAW FIRM, LLC, AS BOROUGH ATTORNEY FOR
THE BOROUGH OF MATAWAN**

WHEREAS, the Borough of Matawan requires the need for legal services; and

WHEREAS, pursuant to Resolution 12-01-02 The Menna Law Firm, LLC, was designated as the Borough Attorney for the Borough of Matawan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan that the Mayor be and is hereby authorized to sign the Contract for Borough Attorney between the Menna Law Firm, LLC on behalf of the Borough of Matawan.

CERTIFICATION AS TO AVAILABLE FUNDING

I, Monica Antista, Chief Financial Officer of the Borough of Matawan do hereby certify that as of the date of this certification funds are available from the 2-01-20-155-200 (\$14,261.28), 2-09-55-500-200 (\$1,869.36) and 2-09-55-500-800 (\$1,869.36) Budget of the Borough of Matawan to The Menna Law Firm, LLC for the Borough of Matawan in an amount not to exceed Eighteen Thousand Dollars and No Cents per annum (\$18,000.00).

This certification is based solely on the information encumbered into the financial records of the borough

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by the appropriate using division as of this date and relies on the completeness of financial records.

Chief Financial Officer

(Signature on File)

*Monica Antista, CMFO
Dated: August 7, 2012*

**RESOLUTION 12-08-09
AUTHORIZATION TO SIGN ON BEHALF OF THE BOROUGH OF MATAWAN
AGREEMENT BETWEEN CLEARY GIACOBBE ALFIERI JACOBS, LLC, AS
BOROUGH LABOR ATTORNEY FOR THE BOROUGH OF MATAWAN**

WHEREAS, the Borough of Matawan requires the need for legal services; and

WHEREAS, pursuant to Resolution 12-01-15 Cleary Giacobbe Alfieri Jacobs, LLC. was designated as the Borough Labor Attorney for the Borough of Matawan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan that the Mayor be and is hereby authorized to sign the Contract for Borough Labor Attorney between the Cleary Giacobbe Alfieri Jacobs, LLC. on behalf of the Borough of Matawan.

CERTIFICATION AS TO AVAILABLE FUNDING

I, Monica Antista, Chief Financial Officer of the Borough of Matawan do hereby certify that as of the date of this certification funds are available from the 2-01-20-155-200 Budget of the Borough of Matawan to the firm of Cleary Giacobbe Alfieri Jacobs, LLC. for the Borough of Matawan in an amount not to exceed \$5,000.00.

This certification is based solely on the information encumbered into the financial records of the borough by the appropriate using division as of this date and relies on the completeness of financial records.

Chief Financial Officer

(Signature on File)

*Monica Antista, CMFO
Dated: August 7, 2012*

**RESOLUTION 12-08-10
AUTHORIZATION TO SIGN ON BEHALF OF THE BOROUGH OF MATAWAN
AGREEMENT BETWEEN GIBBONS P.C., AS BOROUGH BOND ATTORNEY FOR
THE BOROUGH OF MATAWAN**

WHEREAS, the Borough of Matawan requires the need for legal services; and

WHEREAS, pursuant to Resolution 12-01-14 Gibbons P.C., was designated as the Borough Bond Attorney for the Borough of Matawan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan that the Mayor be and is hereby authorized to sign the Contract for Borough Bond Attorney between the Gibbons P.C. on behalf of the Borough of Matawan.

New Business

Mayor Buccellato read by title Resolution 12-08-05: Authorizing the Waiver of Fees St. James AME Zion Church. Mayor Buccellato requested a motion. Councilwoman Clifton made the motion, seconded by Councilman Urbano. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Gould
Councilman Lopez
Councilwoman Angelini
Councilman Urbano
Councilwoman Clifton

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Councilman Fitzsimmons

Motion passed.

**RESOLUTION 12-08-05
AUTHORIZING THE WAIVER OF FEES
ST. JAMES AME ZION CHURCH**

WHEREAS, the St. James AME Zion Church has applied to the Borough of Matawan for the use of Gravelly Brook Park for their annual church picnic on August 26, 2012; and,

WHEREAS, the St. James AME Zion Church has provided all the necessary paperwork as required by ordinance; and

WHEREAS, the St. James AME Zion Church has requested the Council to waive the one time charge of \$125.00 per day for the use of Gravelly Brook Park.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Matawan, that they hereby authorize the waiver of the \$125.00 for the St. James AME Zion Church's annual picnic to be held on August 26, 2012.

Mayor Buccellato read by title Resolution 12-08-06: Qualified for Credit under the LOSAP Program for the Year 2011. Mayor Buccellato requested a motion. Councilman Lopez made the motion, seconded by Councilwoman Clifton. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Gould
Councilman Lopez
Councilwoman Angelini
Councilman Urbano
Councilwoman Clifton
Councilman Fitzsimmons

Motion passed.

**RESOLUTION 12-08-06
QUALIFIED FOR CREDIT UNDER THE
LOSAP PROGRAM FOR THE YEAR
2011**

WHEREAS Ordinance #03-18 of the Borough of Matawan implemented the Length of Service Award Program (LOSAP) for the Matawan Fire Department and was passed by voters by a referendum on November 4, 2003; and

WHEREAS pursuant to NJS 40A:14-191, emergency service organizations participating in a Length of Service Award Program (LOSAP) shall annually certify to the sponsoring agency a list of all volunteer members who have qualified for credit under the LOSAP program for the previous year; and

WHEREAS the Governing Body has received and reviewed such certified list from the Matawan Fire Department.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Matawan as follows:

1. *Per the certified list received, the following Matawan Fire Department members are hereby approved to receive the 2011 LOSAP award:*

*James Archibald
Freddy Benjamin
Brian Bernath
Bradley Bland
James Duffy
Vincent Ferrante, Jr.*

*Raymond Bassford
Peter Berliner
Charles Bernath
Francis Burke
James Duffy
Patrick Fitzmaurice*

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*Peter George, Sr.
Brian Kopf
Martin Li Pera
Richard Michitsch
Leroy Sickels, Jr.
Stephen Tatarka
Ronald Thompson
Daniel Wisniewski*

*Leslie Gillman
Christopher Lambros
Andrew Marsala
Tammy Michitsch
Shawn Solan
John Taylor
Zoltan Varsanyi
Robert Ziegler*

The amount each qualified member will receive for the 2011 LOSAP award is \$1,150.00.

*Brian Bernath
Richard Michitsch
Zoltan Varsanyi*

*Christopher Lambros
John Taylor*

The amount each qualified member will receive for the 2011 LOSAP award is \$750.00

*James Archibald
Freddy Benjamin
Bradley Bland
Brian Kopf
Robert Ziegler*

*Ray Bassford
Peter Berliner
Vincent Ferrante, Jr.
Andrew Marsala*

The amount each qualified Member will receive for the 2011 LOSAP award is \$500.00

*Charles Bernath
James Duffy
Patrick Fitzmaurice
Leslie Gillman
Tammy Michitsch
Shawan Solan
Ronald Thompson*

*Francis Burke
James Duffy
Peter George, Sr.
Martin Li Pera
Leroy Sickels, Jr.
Steven Tatarka
Daniel Wisniewski*

3. *The certified list of members shall be posted at the office of the Municipal Clerk of the Borough of Matawan and at the Matawan Fire Department for a period of 30 days to allow sufficient time for membership review.*
4. *Appeals shall be mailed to the Municipal Clerk of the Borough of Matawan, 201 Broad Street, Matawan, NJ 07747, and must be received within 30 days of the posting date of the approved certified list.*

Mayor Buccellato read by title Resolution 12-08-11: Authorizing the Waiver of Fees Matawan Day Food Vendors. Councilman Lopez expressed concerns over a misunderstanding in 2011 between the Fire Department and Michael Moyers of the Matawan-Aberdeen Chamber of Commerce. Councilwoman Clifton assured him this will not occur in 2012. Mayor Buccellato requested a motion. Councilwoman Clifton made the motion, seconded by Councilman Urbano. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Gould
Councilman Lopez
Councilwoman Angelini
Councilman Urbano
Councilwoman Clifton
Councilman Fitzsimmons

Motion passed.

**RESOLUTION 12-08-11
AUTHORIZING THE WAIVER OF FEES
MATAWAN DAY FOOD VENDORS**

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WHEREAS, Matawan Day has been celebrated for many years in the Borough of Matawan; and,

WHEREAS, Moyers Insurance Agency in association the Recreation Department of the Borough of Matawan are sponsoring this year's Matawan Day; and

WHEREAS, the Moyers Insurance Agency and the Recreation Department of the Borough of Matawan have requested the Council of the Borough of Matawan, as an expression of support and encouragement, waive the \$50.00 Health Department fee for the Matawan Day food vendors.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Matawan do hereby waive the \$50.00 Health Department fee for the Matawan Day food vendors.

Mayor Buccellato read by title Resolution 12-08-12: Renewal of 2012-2013 ABC Liquor Licenses. Mayor Buccellato requested a motion. Councilwoman Clifton made the motion, seconded by Councilwoman Angelini. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Gould
Councilman Lopez
Councilwoman Angelini
Councilman Urbano
Councilwoman Clifton
Councilman Fitzsimmons

Motion passed.

**RESOLUTION 12-08-12
RENEWAL OF 2012-2013 ABC LIQUOR LICENSES**

BE IT RESOLVED by The Borough Council of the Borough of Matawan that the following liquor licenses be renewed, subject however to the rules, regulations, receipt of Tax Clearance Certificates, statutes and ordinances affecting the same, said licenses to expire June 30, 2012.

LICENSE # NAME STREET ADDRESS CITY ST ZIP

Plenary Retail Distribution License

1329-33-011-003 Gamma Enterprises, Inc. 845 Hwy 34 Matawan NJ 07747

Mayor Buccellato read by title Ordinance 12-14: An Ordinance Adding a Chapter to the Revised General Ordinances of the Borough of Matawan, County of Monmouth, State of New Jersey. Mayor Buccellato requested a motion to introduce. Councilwoman Angelini made the motion, seconded by Councilwoman Clifton. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Gould
Councilwoman Angelini
Councilman Lopez
Councilman Urbano
Councilwoman Clifton
Councilman Fitzsimmons

Motion passed.

**ORDINANCE 12-14
AN ORDINANCE ADDING A CHAPTER TO THE
REVISED GENERAL ORDINANCES OF THE
BOROUGH OF MATAWAN, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY**

BE IT ORDAINED by the Governing Body of the Borough of Matawan that the following new chapter is hereby

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adopted as follows and is to substitute the current Ordinance 4-9 MASSAGE PARLORS; MASSEURS AND MASSEUSES.

1. General Provisions

1.1 Purpose.

The purpose of this Ordinance is to regulate the operation of therapeutic massage establishments in order to promote the public health, safety, and general welfare.

1.2 Severability.

In the event that any section or portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such declaration shall be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

2. Definitions

2.1 Disqualifying Criminal Conviction.

Any conviction for any criminal offense punishable by imprisonment for any period of time, whether or not the sentence was imposed or served, but not including any conviction which is shown to have been set aside on appeal or for which a pardon, certificate of rehabilitation, or the equivalent under the laws of sentencing jurisdiction has been granted, or which is not rationally related to the purpose of licensing massage establishments.

2.2 Massage

Massage therapy is a manual therapy that manipulates a person's muscles and tissues, which also affects the nervous system to provide relief from stress, muscle tension, muscle pain, stiffness, joint aches and pain, headaches, increasing circulation, helps recovery before and after joint surgery and the list goes limitless.

2.3 Therapeutic Massage Establishment

Any business, including but not limited to sole proprietorship, in which the business operation consists of providing or making available massage in the Borough of Matawan for consideration or with the expectation of receiving consideration or any gratuity whether or not the business has a fixed place of business within the limits of the Borough.

2.4 Massage Therapist

Any person who performs massage for consideration or gratuity or with the expectation of receiving consideration or any gratuity.

2.5 Patron

Any person who receives a massage.

2.6 Person

Any individual, partnership, corporation, or other entity.

2.7 Recognized School

Any school or institution of learning which has for its purpose the teaching of the theory, method, profession and work of massage and is recognized or certified by the State of New Jersey or any other state. Schools offering a correspondence course not requiring actual attendance of class shall not be deemed a Recognized School.

3. Exemptions

3.1 The following shall be exempt from this Ordinance, if duly licensed by and while practicing in accordance with the laws of the State of New Jersey: Physicians and surgeons (medical doctors and doctors of osteopathy) Physicians' Assistants, Nurses, Chiropractors, Physical Therapists, Barbers, Cosmetologists, Beauticians, and other health and hygiene professionals.

4. Massage Tables

4.1 All therapeutic massages shall be administered on a massage table or chair, treatment table, or treatment mat.

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5. Maintenance and Cleaning

5.1 Every person who conducts or operates a therapeutic massage establishment shall keep the same at all times in a clean and sanitary condition. All instruments, supplies and devices of any kind, or parts thereof, that come into contact with the human body shall be kept clean by a modern and approved method of cleaning.

5.2 All sheets and towels provided patrons in massage facilities shall be clean and laundered after each use and stored in a sanitary manner.

5.3 Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the facility is in operation. Bathtubs or showers shall be thoroughly cleaned after each use.

6. Prohibited Activities

6.1 No massage therapist shall administer a massage to a patron whose genitals are exposed.

6.2 No massage therapist shall administer or agree to administer a massage to the genitals or anus of a patron.

6.3 No massage therapist shall administer a massage unless he or she is fully clothed with non-transparent clothing of the type customarily worn by massage therapists while administering a massage.

6.4 No alcoholic beverages or intoxicating liquor or non-intoxicating beer shall be sold, nor the consumption thereof, shall be permitted on any premises licensed pursuant to this ordinance.

7. Closing Hours

7.1 No massage establishments shall be kept open for massage purposes between the hours of 10 p.m. and 7 a.m., provided that any massage begun before 10 p.m. may be completed.

8. Supervision

8.1 At all times when open for business, the licensed establishment shall have upon the premises a licensed massage therapist or person who possesses a combination massage establishment/massage therapist license who shall be available to supervise the operation of the establishment and assure that no violations of this Ordinance occur.

9. List of employees

9.1 The establishment shall keep a written list of the names and current addresses of all employees, both on duty and off duty. Such list shall be shown to the Chief of Police, the Police Department's authorized representative, the Borough Clerk, or the Clerk's representative, upon request.

9.2 All massage therapists shall be clean and wear clean clothes. Provisions for a separate massage therapist/employee dressing room for each sex must be available on the premises with individual lockers for each massage therapist and employee. Doors to such dressing rooms shall open inward.

10. License Required

10.1 Massage Establishment License

No person shall operate a massage establishment without a valid massage establishment license issued by the Borough of Matawan. A separate license shall be required for each such establishment.

10.2 Massage Therapist License

No person shall work as a massage therapist without a valid massage therapist license issued by the Borough of Matawan.

10.3 Licensee under this section shall designate one massage therapist licensed by the Borough of Matawan as the supervisor for licensee.

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11. Licenses Displayed

11.1 A valid therapeutic massage establishment license shall be displayed at all times in an open and conspicuous place in the therapeutic massage establishment for which it was issued.

11.2 A valid massage therapist license must be readily available to be produced immediately if demanded of the licensee.

12. Standards for Denial

12.1 A license application under this Ordinance shall be denied to any of the following persons:

- A. Therapeutic Massage Establishment License
 - 1. a corporation not registered to do business in the State of New Jersey;
 - 2. a corporation if any principal officer thereof or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction within the immediately preceding five (5) years; or
 - 3. an applicant other than a corporation if such applicant or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction, within the immediately preceding five (5) years.
- B. Massage Therapist
 - 1. to an applicant who has a disqualifying criminal conviction at any time during the five (5) years immediately preceding application; or
 - 2. to an applicant who is not at least eighteen (18) years of age.

12.2 The Borough Clerk and Police Department shall make and keep a written record of every decision to deny an Application for any license hereunder.

13. Grounds for Suspension or Revocation

13.1 Any license may be suspended or revoked upon a determination that the licensee:

- A. failed to notify the Borough Clerk of any change in material facts set forth in the Application for such license; or
- B. violated any provision of this Ordinance.

13.2 In addition to the provisions of subsection 13.1, either a Therapeutic Massage Establishment license or massage therapist license may be suspended or revoked upon a determination that the licensee:

- A. permitted any person to perform massage without a valid license to do so;
- B. permitted or allowed an employee, massage therapist or to violate any provision of this Ordinance on the premises of the establishment or in the course of conduct of the business of the establishment.

14. Application for Therapeutic Massage Establishment and Massage Therapist Licenses

14.1 Any person desiring a license pursuant to this ordinance shall file a written, signed application with the Borough Clerk on a form to be furnished by the Borough Clerk. An application for a massage therapist license or a conditional massage therapist license shall be accompanied by a signed 2 inch x 2 inch photograph of the applicant taken within thirty (30) days of the application.

15. Basic Proficiency

15.1 Each applicant for a massage therapist license or therapeutic massage establishment license shall show proof of basic proficiency in the field of massage therapy which may be satisfied by passing the examination and other requirements established by the State of New Jersey. If at the time this ordinance is passed, no State licensing provisions exist then the following minimum requirements shall be met for licensing in the Borough of Matawan:

- A. evidence of completion of a formal training course in massage therapy given by a recognized school;
- B. evidence of one hundred (100) hours of on-the-job training in massage therapy performed in the presence of a person holding a valid massage therapist license issued by the Borough of Matawan or another municipality with similar requirements;
- C. evidence of continuous practice as a massage therapist for at least one (1) year, accompanied by the written recommendation of at least three (3) persons holding a valid massage therapy license issued

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- by the Borough of Matawan or other municipality, which shall state that said person has personally received a massage from the applicant that was administered in a skilled and professional manner; or*
- D. *evidence of successful completion of the certifying exam given by American Massage Therapy Association.*

16. Obtaining License by Fraud

16.1 *No person shall make any false, untruthful, or fraudulent statement, either written or oral, or in any way conceal any material fact, or give or use any fictitious name in order to secure or aid in securing a license required by this Ordinance. All names, including but not limited to maiden name, ever used by the applicant must be noted on the application.*

16.2 *Any license so secured shall be void.*

17. Use of License

17.1 *No person shall make use of, in any manner, to his or her own or another's benefit any license which has not been duly issued to him or her in accordance with this Ordinance.*

18. Compliance of Existing Therapists and Massage Establishments

18.1 *Any person presently operating as a massage therapist and/or operating a massage establishment in Borough of Matawan as defined herein on the effective date of this Ordinance shall comply with the terms of this Ordinance upon renewal of their existing license.*

19. Application Process for New Licenses and Renewals

19.1 *A new license under this ordinance may be issued by the Borough Clerk only if the Borough Clerk and Police Department is satisfied that the application meets all of the requirements of this ordinance. If the Borough Clerk denies an application, the Borough Clerk shall issue a written decision stating the reason for not granting the license.*

19.2 *An existing license may be renewed by the Borough Clerk, provided that the holder of the existing license makes application for renewal on or before December 31 of each year. If the holder applies for renewal on or before December 31, the existing license shall remain in effect until final action on the renewal application. Otherwise, the existing license shall expire on December 31 and an application for a new license must be filed. The Borough Clerk may renew a license only if the Borough Clerk is satisfied that the application meets all the requirements of this ordinance.*

19.3 *Applicants who are denied a license by the Borough Clerk may appeal the Borough Clerk's decision within thirty (30) days to the Borough Council. The Borough Council, after public hearing, notice of which shall be given at least seven (7) days in advance by publication in a newspaper having a circulation in the Borough, shall issue a decision on the appeal.*

19.4 *The Borough Council shall not take final action on an application it has received, pursuant to Section 19.3, for a new license (including an application for a renewal license filed after December 31) until the Borough Clerk has received and reviewed a criminal background check performed by the Police Department on the applicant and any persons having a relationship to the applicant described in Section 3 of this Ordinance.*

19.5 *Massage facility licenses and massage therapist business licenses are not transferable and such authority as a license confers shall be conferred only on the location or person identified therein.*

19.6 *Fees paid and licenses obtained pursuant to this ordinance shall be in addition to and not in lieu of any other fees or licenses required to be paid or obtained pursuant to this ordinance or any other ordinances of the Borough of Matawan.*

20. Term of License

20.1 *Licenses issued pursuant to this Ordinance shall be for a term of no more than one year and shall expire*

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annually on December 31 of each year.

21. Inspections, immediate right of entry

21.1 The Matawan Police Department or County Health officials may from time to time inspect a licensed massage facility to determine compliance with any provisions of this ordinance. It shall be unlawful for any person holding a massage facility business license, a massage therapist business license or an employee of such licensee to refuse such inspection officer immediate access to the premises or to hinder such officer in any manner; such refusal or hindrance on the part of any license holder or employee shall be grounds for the immediate revocation or suspension of any relevant massage therapist or massage facility business license.

22. Application Fees

22.1 The fees for establishment or therapists licenses issued under this Ordinance shall be established by the Borough Council. Applicants should contact the Borough Clerk for the current fee.

22.2 Application fees may be in addition to licensing fees and the applicant should contact the Borough Clerk regarding these or other required fees.

22.3 The fees are payable at the time of application and are non-refundable.

23. Penalty

23.1 The violation of any provision of this Ordinance shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the Borough may enjoin or abate any violation of this Ordinance by appropriate action.

Mayor Buccellato read by title Resolution 12-08-13: Payment of Bills. Mayor Buccellato requested a motion. Councilman Fitzsimmons made the motion, seconded by Councilman Lopez. Mayor Buccellato requested a roll call. A roll call vote was taken.

- Yes: Councilwoman Gould
Councilman Lopez
Councilwoman Angelini
Councilman Urbano
Councilwoman Clifton
Councilman Fitzsimmons

Motion passed.

**RESOLUTION 12-08-13
PAYMENT OF BILLS**

BE IT RESOLVED by the Mayor and Council of the Borough of Matawan, New Jersey. That the following numbered vouchers be paid to the persons therein respectively and hereinafter named, for the amounts set opposite their respective names, and endorsed and approved on said vouchers and that warrants be issued therefore, directed to the Borough Collector signed by the Mayor and attested by the Borough Clerk as required by law.

Current	\$3,869,839.19
Water & Sewer	\$66,793.38
Borough Capital	\$30,512.48
Water Capital	\$156,465.03
Grant	\$3,731.68
Borough Trust	\$18,496.73
Developers Escrow Account	\$2,541.23
Dog Tax Trust	\$52.80
Railroad Parking Trust	\$11,521.00
Recreation Trust	\$14,027.50
Unemployment Trust	\$71.52
Total	\$4,174,052.54

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BE IT FURTHER RESOLVED that a true certified copy of this Resolution shall be forwarded to the following Borough of Matawan Departments: Chief Financial Officer as well as the Borough Auditor.

Mayor Buccellato read by title Resolution 12-08-14: Planning/Zoning Board Recording Secretary. Mayor Buccellato requested a motion. Councilwoman Angelini made the motion, seconded by Councilman Urbano. Mayor Buccellato requested a roll call. A roll call vote was taken.

Yes: Councilwoman Gould
Councilman Lopez
Councilwoman Angelini
Councilman Urbano
Councilwoman Clifton
Councilman Fitzsimmons

Motion passed.

RESOLUTION 12-08-14

WHEREAS, a Salary Resolution of Statutory officials was adopted by the Governing Body on April 17, 2012, that included a Salary Ordinance for employees; and

WHEREAS, the Unified Planning/Zoning Board had appointed a Secretary for its administrative functions. and

NOW, THEREFORE, BE IT RESOLVED that the Resolution of April 17, 2012 be and is herewith amended to include the appointment of Nancy Palmero as Secretary for said Board at a salary of \$200.00 per meeting, which appointment is retroactive to April 1, 2012.

Councilman Fitzsimmons requested the May 31 and June 30, 2012 Treasurer’s Reports be added to the record.

Report of the Treasurer
To the Mayor and Council of the Borough of Matawan
Bank Balances as of May 31, 2012

Current Account	TD Bank	\$2,049,338.97
Tax Collector Trust Fund	TD Bank	\$ 0.00
Water & Sewer Account	TD Bank	\$ 565,836.97
Borough Capital Account	TD Bank	\$ 737,866.76
Utility Capital Account	TD Bank	\$1,283,878.29
Borough Trust Account	TD Bank	\$ 507,893.36
Boro Trust Summary – TD Bank As of: May 31, 2012	Cash Balances	
Fire Safety	\$27,807.91	
Fire Prevention/Dedicated Penalty	-\$2,748.77	
Escrow	\$111,153.60	
Tax Redemptions	\$36,665.93	
POAA	\$924.44	
Donation	\$32,742.49	
Premiums	\$255,300.00	
Off Duty Police	\$38,788.60	
Public Defender	\$7,259.16	
Total	\$507,893.36	
Dog Tax Trust Account	TD Bank	\$2,865.33
Unemployment Insurance Account	TD Bank	\$4,238.39
Recreation Special Account	TD Bank	\$54,000.22
Recreation Trust Summary –TD Bank	Cash Balances	

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As of: May 31, 2012

Turkey Trot	\$24,404.76
Summer Recreation	\$20,270.95
Summer Recreation Trips	-\$2,181.68
Matawan Day	-\$762.30
Basketball Tournament	-\$156.81
Canoe Rentals	-\$916.97
Men's Over 30 Basketball	\$1,804.00
NNO Vender	\$0.00
Yoga/Kickboxing	\$709.00
Fireworks Donations	\$1,108.94
Capital Improvements	\$9,720.33
Total	\$54,000.22

Accutrack Developers Escrow Acct	TD Bank	\$263,807.41
Law Enforcement Account	TD Bank	\$7,440.54
Railroad Parking Lot Trust	TD Bank	\$393,720.93
Total		<u>\$5,870,887.17</u>

Respectfully,
(Signature on File)
Monica Antista

Report of the Treasurer
To the Mayor and Council of the Borough of Matawan
Bank Balances as of June 30, 2012

Current Account	TD Bank	\$321,215.41
Tax Collector Trust Fund	TD Bank	\$0.00
Water & Sewer Account	TD Bank	\$524,913.41
Borough Capital Account	TD Bank	\$677,344.25
Utility Capital Account	TD Bank	\$885,897.88
Borough Trust Account	TD Bank	\$545,455.95

Boro Trust Summary – TD Bank
As of: June 30, 2012

Fire Safety	\$27,807.91
Fire Prevention/Dedicated Penalty	-\$3,148.77
Escrow	\$102,721.83
Tax Redemptions	\$77,944.30
POAA	\$954.44
Donation	\$32,742.49
Premiums	\$255,200.00
Off Duty Police	\$43,924.59
Public Defender	\$7,309.16
Total	\$545,455.95

Dog Tax Trust Account	TD Bank	\$2,898.93
Unemployment Insurance Account	TD Bank	\$4,238.39
Recreation Special Account	TD Bank	\$61,346.12

Recreation Trust Summary –TD Bank
As of: June 30, 2012

Turkey Trot	\$24,404.76
Summer Recreation	\$27,438.85
Summer Recreation Trips	-\$2,183.68
Matawan Day	-\$762.30
Basketball Tournament	-\$156.81
Canoe Rentals	-\$736.97
Men's Over 30 Basketball	\$1,804.00
NNO Vender	\$0.00
Yoga/Kickboxing	\$709.00

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Fireworks Donations	\$1,108.94	
Capital Improvements	\$9,720.33	
Total	\$61,346.12	
Accutrack Developers Escrow Acct	TD Bank	\$371,692.80
Law Enforcement Account	TD Bank	\$7,441.24
Railroad Parking Lot Trust	TD Bank	\$415,943.58
Total		<u>\$3,836,387.96</u>

Respectfully,
(Signature on File)
Monica Antista

Mayor Buccellato directed attention to a painting of the Ryers House on Main Street donated to the Borough from George Weston, 316 Harding Road, Fair Haven, New Jersey. Mayor Buccellato requested Council approval to turn the painting over to the Historic Sites Commission for restoration and framing. Council agreed.

Privilege of the Floor

Mayor Buccellato opened the Privilege of the Floor.

Kenneth Cassidy, 88 Freneau Avenue, Matawan. Mr. Cassidy is Chairman of the Planning/Zoning Board. Mr. Cassidy asked if Resolution 12-08-14 will interfere with the Board making future appointments. Mr. Menna replied, no. The Board appoints its own professionals by law. The Board passed a Resolution appointing its Recording Secretary. Mr. Menna states there is no legal need for Resolution 12-08-14.

Though Jeremiah E. Hourihan is absent from the audience tonight, Mayor Buccellato related his birthday wishes.

Raymond Bassford, 8 Spring Street, Matawan. Mr. Bassford clarified the Fire Department was not denied from participating in last year's Matawan Day but Washington Engine withdrew its application after some derogatory remarks were made by Michael Moyers who at the time was acting on behalf of the Matawan-Aberdeen Chamber of Commerce. The Fire Department will submit an application for 2012. Councilwoman Clifton asked Mr. Bassford to apply with the Recreation Director, with copy to herself, to avoid any problems for 2012.

Mayor Buccellato expressed his thanks to the Borough of Matawan Police and Fire Departments informing on Sunday, August 5, between 7:30 PM to 5:00 AM, after a lightning storm struck a pole the Departments remained on site until repairs had been completed.

Mayor Buccellato closed the Privilege of the Floor.

At 7:24 PM Mayor Buccellato requested a motion to move back into Executive Session. No formal action will be taken. Councilman Lopez made the motion, seconded by Councilwoman Angelini. Council agreed. Motion passed.

Adjournment

Mayor Buccellato requested a motion to adjourn. Councilman Lopez made the motion, seconded by Councilwoman Angelini. Council agreed. Motion passed.

Meeting adjourned at 8:00 PM.

Jean B. Montfort, RMC
Municipal Clerk