

Merchantville, NJ November 24, 2008

A regular meeting of Borough Council was held at 7:30 PM, Monday, November 24, 2008. Mayor Frank M. North presided. Pledge of Allegiance and Silent Prayer were observed. Announcement was made that the meeting had been advertised in accordance with the regulations prescribed by the "Open Public Meetings Act".

ROLL CALL:

Council Present: Alloway, Fields, Volkert, Waldron, Perno and Brunton
Borough Clerk Denise Brouse and Tim Higgins were present.

COAH UPDATE was given by Mike Wisnowsky of Ragan Design Group, regarding 3rd round criteria for affordable housing requirements. Do we want to participate? COAH is requiring every Municipality to file a new plan by December 31st even though the changes to the rules have not been confirmed. Governor didn't extend the due date, therefore, it is very difficult to complete by December 31st

After the COAH update, Council voted on a motion of Mr. Brunton and second of Mr. Alloway not to go forward with the COAH application.

PUBLIC

Will consider left turn of Centre Street, No left turn 7:00– 9:00 AM and 2:30 – 6:00 PM

APPROVAL OF MINUTES-On the motion of Mr. Volkert and a second of Mr. Perno, (Mr. Alloway abstained) Council approved the July 14, 2008 regular meeting minutes.

NEW BUSINESS: INTRODUCE ORDINANCES

08-11 DETERMINE POSITIONS ELIGIBLE FOR DEFINED CONTRIBUTION RETIREMENT PROGRAM

08-12 ORDINANCE FOR NJEIT SEWER CONVEYANCE

08-11

**ORDINANCE OF THE BOROUGH OF
MERCHANTVILLE, COUNTY OF CAMDEN AND STATE
OF NEW JERSEY DETERMINING POSITIONS
ELIGIBLE FOR THE DEFINED CONTRIBUTION
RETIREMENT PROGRAM**

WHEREAS, the State Legislature recently adopted Chapter 92 of the Laws of 2007 (N.J.S.A. 43:15C-1 et seq.) to create the Defined Contribution Retirement Program to provide retirement benefits to various county and municipal officials; and,

WHEREAS, N.J.S.A. 43:15C-2 requires the governing body of each county, municipality, and other local entity to adopt, as appropriate, either a resolution or ordinance to determine the positions that are substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs, and for which officials appointed to such positions shall be eligible for and shall participate in the Defined Contribution Retirement Program, subject to the provisions of law; and,

WHEREAS, the Mayor and Borough Council of the Borough of Merchantville has considered the guidelines issues by the Local Finance Board;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Merchantville that, pursuant to N.J.S.A. 43:15C-2, the following positions are deemed to be eligible for and shall participate in the Defined Contribution Retirement Program:

- a. Borough Solicitor;
- b. Borough Engineer;
- c. Members of Merchantville Planning Board;

BE IT FURTHER ORDAINED that individuals serving in the following positions are exempt from Defined Contribution Retirement Program membership, pursuant to N.J.S.A. 43:15C-2:

- a. Certified Health Officer;
- b. Tax Collector;
- c. Chief Financial Officer;
- d. Construction Code Official;
- e. Qualified Purchasing Agent;
- f. Tax Assessor;
- g. Municipal Planner;
- h. Registered Municipal Clerk;
- i. Licensed Uniform Subcode Inspector;
- j. Principal Public Works Manager.

BE IT FURTHER ORDAINED that:

- a. This Ordinance shall be implemented, construed and subject to the aforesaid Chapter 92 of the Laws of 2007 (N.J.S. 43:15C-1 et seq.) as amended from time to time, and any regulations or guidance documents from the Local Finance Board or the Division of Pensions and Benefits.
- b. Should any part or parts of this Ordinance be held to be invalid by any competent court of law, such invalidity shall only affect the part or parts held to be invalid, and all other parts shall remain in effect.
- c. A copy of this Ordinance shall be filed with the Director of the Division of Pensions & Benefits of the New Jersey Department of the Treasury.
- d. This Ordinance shall take effect immediately upon its passage and publication according to law.

ORDINANCE 08-12

A BOND ORDINANCE AUTHORIZING IMPROVEMENTS TO THE SANITARY SEWER SYSTEM IN THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN, NEW JERSEY; APPROPRIATING THE SUM OF \$1,845,000 THEREFORE; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN, NEW JERSEY, IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$1,845,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING

BE IT ORDAINED by the Borough Council of the Borough of Merchantville, County of Camden, New Jersey (not less than two-thirds of all the members thereof affirmatively concurring), pursuant to the provisions of the Local Bond Law, constituting Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), as follows:

Section 1. The purposes described in Section 7 hereof are hereby authorized as general improvements to be made or acquired by the Borough of Merchantville, County of Camden, New Jersey ("Borough").

Section 2. It is hereby found, determined and declared as follows:

- (a) the estimated amount to be raised by the Borough from all sources for the purposes stated in Section 7 hereof is \$1,845,000; and
- (b) the estimated amount of bonds or bond anticipation notes to be issued for the purposes stated in Section 7 hereof is \$1,845,000;

Section 3. The sum of \$1,845,000, to be raised by the issuance of bonds or bond anticipation notes is hereby appropriated for the purposes stated in this bond ordinance ("Bond Ordinance").

Section 4. The issuance of negotiable bonds of the Borough in an amount not to exceed \$1,845,000 to finance the costs of the purposes set forth in Section 7 hereof, is hereby authorized. Said bonds shall be sold in accordance with the requirements of the Local Bond Law. All or a portion of the bonds authorized to be issued hereunder may evidence one (1) or more loans from the New Jersey Environmental Infrastructure Trust and/or the New Jersey Department of Environmental Protection.

Section 5. In order to temporarily finance the purposes described in Section 7 hereof, the issuance of bond anticipation notes of the Borough in an amount not to exceed \$1,845,000 is hereby authorized. Pursuant to the Local Bond Law, the Chief Financial Officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver the same to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their date to delivery thereof. The Chief Financial Officer is hereby directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this Bond Ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 6. The amount of the proceeds of the obligations authorized by this Bond Ordinance which may be used for the payment of interest on such obligations, accounting, engineering, legal fees and other items as provided in Section 20 of the Local Bond Law, *N.J.S.A. 40A:2-20*, shall not exceed the sum of \$185,000.

Section 7. The improvements hereby authorized and the purposes for which said obligations are to be issued; the estimated costs of each said purpose; the amount of down payment for each said purpose; the maximum amount of obligations to be issued for each said purpose and the period of usefulness of each said purpose within the limitations of the Local Bond Law are as follows:

<u>Purpose/Improvement</u>	<u>Estimated Total Cost</u>	<u>Down Pay ment</u>	<u>Amount of Obligations</u>	<u>Period of Usefulness</u>
A Various Improvements to the Borough's Sanitary Sewer System, including the Rehabilitation, Reconstruction and/or Replacement of Sewerage Conveyance Lines and Manholes throughout the Borough, together with the acquisition of all materials and equipment and completion of all work necessary project necessary therefore or related thereto all as more particularly described in the information prepared by the Borough's Consulting Engineer, on file and available for inspection in the office of the Borough Clerk.	\$1,845,000	\$0	\$1,845,000	40 years

Section 8. Grants or other monies received from any governmental entity, if any, will be applied to the payment of, or repayment of obligations issued to finance, the costs of the purposes described in Section 7. above.

Section 9. The supplemental debt statement provided for in Section 9 of the Local Bond Law, *N.J.S.A. 40A:2-10*, was duly filed in the office of the Borough Clerk prior to the passage of this Bond Ordinance on first reading and a complete executed duplicate original thereof has been filed in the Office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. The supplemental debt statement shows that the gross debt of the Borough, as defined in Section 43 of the Local Bond Law, *N.J.S.A. 40A:2-43*, is increased by this Bond Ordinance by \$1,845,000 and that the obligations authorized by this Bond Ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 10. The full faith and credit of the Borough are irrevocably pledged to the punctual payment of the principal of and interest on the bonds or bond anticipation notes authorized by this Bond Ordinance, and to the extent payment is not otherwise provided, the Borough shall levy *ad valorem* taxes on all taxable real property without limitation as to rate or amount for the payment thereof.

Section 11. The Capital Budget is hereby amended to conform with the provisions of this Bond Ordinance to the extent of any inconsistency therewith, and the resolution 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 available for inspection.

Section 12. The Borough hereby declares its intent to reimburse itself from the proceeds of the bonds or bond anticipation notes authorized by this Bond Ordinance pursuant to Income Tax Regulation Section 1.150-2(e), promulgated under the Internal Revenue Code of 1986, as amended ("Code"), for "original expenditures", as defined in Income Tax Regulation Section 1.150-2(c)(2), made by the Borough prior to the issuance of such bonds or bond anticipation notes.

Section 13. The Borough hereby covenants as follows:

(a) it shall take all actions necessary to ensure that the interest paid on the bonds or bond anticipation notes authorized by the Bond Ordinance is exempt from the gross income of the owners thereof for federal income taxation purposes, and will not become a specific item of tax preference pursuant to Section 57(a)(5) of the Code;

(b) it will not make any use of the proceeds of the bonds or bond anticipation notes or do or suffer any other action that would cause the bonds or bond anticipation notes to be "arbitrage bonds" as such term is defined in Section 148(a) of the Code and the Regulations promulgated thereunder;

(c) it shall calculate or cause to be calculated and pay, when due, the rebatable arbitrage with respect to the "gross proceeds" (as such term is used in Section 148(f) of the Code) of the bonds or bond anticipation notes;

(d) it shall timely file with the Internal Revenue Service, such information report or reports as may be required by Sections 148(f) and 149(e) of the Code; and

(e) it shall take no action that would cause the bonds or bond anticipation notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

Section 14. The improvements authorized hereby are not current expenses and are improvements that the Borough may lawfully make. No part of the cost of the improvements authorized hereby has been or shall be specially assessed on any property specially benefited thereby.

Section 15. All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 16. In accordance with the Local Bond Law, this Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final passage.

RESOLUTIONS: On the motion of Mr. Perno and second of Mr. Volkert, Council approved the following resolutions by consent agenda:

R08-125

RESOLUTION OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN AND STATE OF NEW JERSEY AUTHORIZING THE REFUND OF DUPLICATE OR OVERPAYMENTSEWER PAYMENTS

BE IT RESOLVED by the Borough Council of the Borough of Merchantville that warrants be drawn to the parties listed below in the designated amount representing a duplicate or overpayments sewer payment as follows:

<u>BLOCK/LOT</u>	<u>NAME & ADDRESS</u>	<u>AMOUNT</u>
9/2	Malik & Sons 606 W. Maple Ave	\$5,017.16

BE IT FURTHER RESOLVED THAT, all parties have advised that they would like to have a refund rather than applying this payment to subsequent property taxes.

R08-126

RESOLUTION OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN AND STATE OF NEW JERSEY AMENDING THE CAPITAL BUDGET

WHEREAS, the Borough of Merchantville, County of Camden desires to amend the 2008 Capital Budget by inserting thereon or correcting the items therein as shown in such budget for the following reasons:

Amending and adding projects to the 2008 Capital Budget.

NOW, THEREFORE, BE IT RESOLVED, by the Borough of Merchantville, County of Camden that the following changes be made to the Capital Budget of the year 2008:

**AMENDMENT TO CAPITAL BUDGET OF THE BOROUGH OF MERCHANTVILLE
COUNTY OF CAMDEN, NEW JERSEY**

Project Schedule for 2008
Method of Financing

<u>Project</u>	<u>Appropriated</u>	<u>Downpayment</u>	<u>Bonds & Notes Authorized</u>
Improvements to the Sanitary Sewer System	\$1,845,000.00	-0-	
\$1,845,000.00			

It is hereby certified that this is a true copy of a resolution amending the capital budget adopted by the governing body on the 24th day of November, 2008.

ANNOUNCEMENTS:

PRIVATE SESSION: On the motion of Mr. Alloway and second of Mr. Volkert, council voted to adjourn to private session regarding matters of personal and possible litigation

ADJOURNMENT: On the motion of Mr. Volkert and second of Mrs. Fields, the meeting was adjourned.

DENISE L. BROUSE

DENISE BROUSE

BOROUGH CLERK
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