

**MINUTES OF A REGULAR MEETING OF THE MAYOR AND BOROUGH
COUNCIL OF THE BOROUGH OF AUDUBON PARK, IN THE COUNTY OF
CAMDEN, NEW JERSEY, HELD MARCH 5, 2012 IN THE MUNICIPAL
BUILDING AT 7:00 PM.**

A regular meeting of the Mayor and Borough Council of the Borough of Audubon Park was convened in the Municipal Building, 20 Road C, 2nd Floor, Audubon Park, NJ on Monday, March 5, 2012, at 7:00 PM.

Mayor Pennock requested all stand for the flag salute.

Mayor Pennock announced that Chapter 231, Public Law 1975 requires adequate notice of this meeting be provided. This was done by placing Annual Notice in the Courier-Post and Retrospect Newspapers and by posting on the bulletin board in the Municipal Building.

ROLL CALL: Councilman Beeman, Councilman Delengowski, Councilwoman Jones, Councilman Passon. Councilwoman Hook (excused) and Councilwoman Lewis were absent (excused). Stuart Platt, Esquire was also present.

Motion made by Councilman Passon to approve the minutes of the Regular Meeting held on Monday, February 6, 2012 and the minutes of the Working Session held on Monday, February 20, 2012. Seconded by Councilman Beeman. All ayes.

ORDINANCES:

SECOND READING OF ORDINANCE #2012-01 –ORDINANCE OF THE BOROUGH OF AUDUBON PARK, COUNTY OF CAMDEN, AND STATE OF NEW JERSEY, REPEALING ORDINANCE NO. 9, ENTITLED “AN ORDINANCE REGULATING THE BURNING OF TRASH AND OTHER OPEN FIRES IN THE BOROUGH OF AUDUBON PARK” and REPLACING IT WITH ORDINANCE 2012-01 ENTITLED “AN ORDINANCE GOVERNING OPEN BURNING AND OUTDOOR BURNING IN THE BOROUGH OF AUDUBON PARK”

Motion made by Councilman Beeman to open the public hearing at 7:00 PM for Ordinance #2012-01. Seconded by Councilman Passon. All ayes.

With no comments from the public, Councilman Beeman made a motion to close the public hearing at 7:01 PM. Seconded by Councilwoman Jones. All ayes.

Motion made by Councilman Beeman to adopt Ordinance #2012-01. Seconded by Councilman Passon. Roll call vote: Councilman Beeman-yes, Councilman Delengowski-yes, Councilwoman Jones-yes, and Councilman Passon-yes.

SECOND READING OF ORDINANCE #2012-02, AMENDED ORDINANCE OF THE BOROUGH OF AUDUBON PARK, COUNTY OF CAMDEN, AND STATE OF NEW JERSEY, DESIGNATING HANDICAPPED PARKING SPACES IN THE BOROUGH OF AUDUBON PARK

Motion made by Councilman Beeman to open the public hearing at 7:02 PM for Ordinance #2012-02. Seconded by Councilwoman Jones. All ayes.

With no comments from the public, Councilman Beeman made a motion to close the public hearing at 7:02 PM. Seconded by Councilman Passon. All ayes.

Motion made by Councilman Delengowski to adopt Ordinance #2012-02. Seconded by Councilman Beeman. Roll call vote: Councilman Beeman-yes, Councilman Delengowski-yes, Councilwoman Jones-yes, and Councilman Passon-yes.

ORDINANCE NO. 2012-03 - YEAR 2012 – ORDINANCE TO EXCEED THE MUNICIPAL BUDGET COST OF LIVING ALLOWANCE AND TO ESTABLISH A CAP BANK WHEN THE COLA IS EQUAL TO OR GREATER THAN 2.5% (N.J.S.A. 40A:4-45.14)

MOTION MADE BY COUNCILMAN BEEMAN TO INTRODUCE ORDINANCE #2012-03 BY TITLE ONLY, SECONDED BY COUNCILMAN PASSON. Public hearing is scheduled for April 2, 2012 at 7 PM. Roll call vote: Councilman Beeman-yes, Councilman Delengowski-yes, Councilwoman Jones-yes, and Councilman Passon-yes.

RESOLUTIONS:

RESOLUTION 2012:22

**BILL RESOLUTION (PAYMENT OF CLAIMS)
(March 5, 2012)**

BE IT RESOLVED, by the Borough Council of the Borough of Audubon Park, County of Camden, State of New Jersey, that the claims for payment detailed in the attached voucher list are hereby approved.

Motion made by Councilman Beeman to adopt Resolution #2012:22, Bill Resolution (Payment of Claims). Seconded by Councilwoman Jones. Roll call vote: Councilman Beeman-yes, Councilman Delengowski-yes, Councilwoman Jones-yes, and Councilman Passon-yes.

BOROUGH OF AUDUBON PARK, NEW JERSEY

RESOLUTION NO. 2012:23

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF AUDUBON PARK, IN THE COUNTY OF CAMDEN, NEW JERSEY AUTHORIZING THE ISSUANCE AND SALE OF TAX ANTICIPATION NOTES OF THE BOROUGH OF AUDUBON PARK IN THE PRINCIPAL AMOUNT OF UP TO \$50,000; MAKING CERTAIN COVENANTS TO EFFECT AND MAINTAIN THE EXEMPTION OF INTEREST ON SAID NOTES FROM FEDERAL INCOME TAXATION; AND AUTHORIZING SUCH FURTHER ACTIONS AND MAKING SUCH DETERMINATIONS AS MAY BE NECESSARY OR APPROPRIATE TO EFFECTUATE THE ISSUANCE AND SALE OF THE NOTES

BACKGROUND

WHEREAS, the Borough of Audubon Park, in the County of Camden, New Jersey ("Borough") is authorized, pursuant to Section 64 of the Local Budget Law, Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Budget Law"), *N.J.S.A. 40A:4-64*, to borrow money in any fiscal year through the issuance of its negotiable notes in anticipation of the receipt by the Borough of taxes and other revenues for such fiscal year; and

WHEREAS, the cash flow forecast prepared with respect to the budget requirements of the Borough, a copy of which is attached hereto as Exhibit "A" and made a part hereof, indicates that the Borough will experience a cash flow deficit pending the receipt of taxes and other revenues; and

WHEREAS, the Borough desires to authorize the issuance and sale of tax anticipation notes of the Borough to provide funds necessary to meet the projected cash flow deficit.

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF AUDUBON PARK, IN THE COUNTY OF CAMDEN, NEW JERSEY (NOTHING LESS THAN TWO-THIRDS OF THE MEMBERS THEREOF AFFIRMATIVELY CONCURRING), AS FOLLOWS:

Section 1. The estimate of taxes and other revenues of the Borough to be received and the expenditures to be made, as presented to this meeting, is hereby accepted.

Section 2. In accordance with Section 66 of the Local Budget Law, *N.J.S.A.40A:4-66*, the Chief Financial Officer has certified that the net borrowing power of the Borough is \$373,180.25. The Chief Financial Officer's certification, a copy of which is attached hereto as Exhibit "B" and made a part hereof as if set forth at length herein, has been filed in the office of the Borough Clerk as required by Section 66 of the Local Budget Law, *N.J.S.A. 40A:4-66*.

Section 3. Pursuant to the Local Budget Law, the issuance of up to \$50,000, principal amount, of tax anticipation notes of the Borough, is hereby authorized and approved ("Notes").

Section 4. Each Note to be issued hereunder shall be designated "Tax Anticipation Note of 2012, Series A", shall refer by date of adoption to the resolution pursuant to which it is issued, shall recite that it is issued in anticipation of the collection of taxes, shall be dated the date of delivery thereof, shall mature within 120 days of the end of the current fiscal year, shall not be subject to redemption prior to maturity, shall be in the denomination of \$10,000 or more, and shall be in the form permitted by the Local Budget Law and as Bond Counsel shall approve.

Section 5. The Chief Financial Officer, with the assistance of Parker McCay P.A., Bond Counsel, is hereby authorized and directed to award and sell the Notes at public or private sale, in such amount as may be determined, at a price not less than par, plus accrued interest, and to deliver the same to the purchaser thereof, upon receipt of the purchase price for the Notes.

Section 6. The Notes shall be executed in the name of the Borough by the manual or facsimile signatures of the Mayor and Chief Financial Officer, and the corporate seal of the Borough shall be affixed, imprinted or reproduced thereon, and attested by the manual signature of the Borough Clerk.

Section 7. The proceeds from the sale of the Notes shall be applied only to the purposes provided for in the Borough's current budget or for which taxes are levied or to be levied for the current fiscal year and shall not be applied to any other purpose.

Section 8. The power and obligation of the Borough to pay the principal of and interest on the Notes shall be unlimited, and the Borough, to the extent payment is not otherwise paid is obligated to levy *ad valorem* taxes upon all taxable real property within the Borough for the payment of the principal of and interest on the Notes without limitation as to rate or amount.

Section 9. The Chief Financial Officer is hereby authorized and directed to report, in writing, to the Borough Council at the meeting next succeeding the date of the sale of the Notes, the amount, description, interest rate, maturity date of the Notes sold, the price obtained and the name of the purchaser of the Notes.

Section 10. The Borough hereby covenants that it will not make any use of the proceeds of the Notes or do or suffer any other action that would cause: (i) the Notes to be "arbitrage bonds" as such term is defined in Section 148(a) of the Internal Revenue Code of 1986, as amended ("Code"), and the Regulations promulgated thereunder; (ii) the interest on the Notes to be included in the gross income of the owners thereof for federal income taxation purposes; or (iii) the interest on the Notes to be treated as an item of tax preference under Section 57(a)(5) of the Code.

Section 11. The Borough hereby covenants as follows: (i) it shall timely file, or cause to be filed, 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 (ii) it shall take no action that would cause the Notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

Section 12. The Borough hereby designates the Notes as "qualified tax-exempt obligations" as defined in and for the purposes of Section 265(b)(3) of the Code. For purposes of this designation, the Borough hereby represents that it reasonably anticipates that the amount of tax-exempt obligations to be issued by the Borough during the period from January 1, 2012 to December 31, 2012, and the amount of obligations designated as "qualified tax-exempt obligations" by it, will not exceed \$10,000,000 when added to the aggregate principal amount of the Notes.

For purposes of this Section 12, the following obligations are not taken into account in determining the aggregate principal amount of tax-exempt obligations issued by the Borough: (i) a private activity bond as defined in Section 141 of the Code (other than a qualified 501(c)(3) bond, as defined in Section 145 of the Code); and (ii) any obligation issued to refund any other tax-exempt obligation (other than to advance refund within the meaning of Section 149(d)(5) of the Code) as provided in Section 265(b)(3)(c) of the Code.

Section 13. To the extent not otherwise exempt, the Borough hereby covenants that it shall make, or cause to be made, the rebate required by Section 148(f) of the Code in the manner described in Treasury Regulation Sections 1.148-1 through 1.148-11, 1.148-11A, 1.149(b)-1, 1.149(d)-1, 1.149(d)-1A, 1.149(g)-1, 1.150-1, 1.150-1A and 1.150-2, as such regulations and statutory provisions may be modified insofar as they apply to the Notes.

Section 14. All actions heretofore taken and documents prepared or executed by or on behalf of the Borough by the Mayor, Chief Financial Officer, Borough Clerk, other Borough officials or by the Borough's professional advisors, in connection with the issuance and sale of the Notes are hereby ratified, confirmed, approved and adopted.

Section 15. The Mayor, Chief Financial Officer and Clerk are hereby authorized and directed to determine all matters and execute all documents and instruments in connection with the Notes not determined or otherwise directed to be executed by the Local Budget Law, or by this or any subsequent resolution, and the signature of the Mayor, Chief

Financial Officer or Borough Clerk on such documents or instruments shall be conclusive as to such determinations.

Section 16. All other resolutions, or parts thereof, inconsistent herewith are hereby rescinded and repealed to the extent of any such inconsistency.

Section 17. This Resolution shall take effect immediately upon adoption this 5th day of March, 2012.

Motion made by Councilman Beeman to adopt Resolution #2012:23. Seconded by Councilwoman Jones. Roll call vote: Councilman Beeman-yes, Councilman Delengowski-yes, Councilwoman Jones-yes, and Councilman Passon-yes.

RESOLUTION OF AUDIT 2012:24

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the year 2011 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Findings and Questioned Costs" or "Findings and Recommendations"; and

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Findings and Questioned Costs" or "Findings and Recommendations", as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the governing body to the penalty provisions of R.S. 52:27BB-52 – to wit:

R.S. 52:27BB-52 – A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his/her office.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Audubon Park, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Motion made by Councilman Beeman to adopt Resolution #2012:24, Report of Audit. Seconded by Councilman Delengowski. Roll call vote: Councilman Beeman-yes, Councilman Delengowski-yes, Councilwoman Jones-yes, and Councilman Passon-yes.

OTHER BUSINESS:

RESOLUTION #2012:25

BE IT RESOLVED that the following statements of revenues and appropriations (\$889,475.35) shall constitute the Municipal Budget for the year 2012: and

BE IT FURTHER RESOLVED that said budget be published in The Retrospect on March 9, 2012.

The Governing Body of the Borough of Audubon Park does hereby approve the following budget for the year 2012.

Notice is hereby given that the Budget and Tax Resolution was approved by the Borough Council of the Borough of Audubon Park, County of Camden on March 5, 2012. A hearing on the Budget and Tax Resolution will be held at the Borough Hall on Monday, April 2, 2012 at 7:00 p.m. at which time and place objections to said Budget and Tax Resolution for the year 2012 may be presented by taxpayers or other interested persons.

Motion made by Councilman Beeman to Introduce Resolution #2012:25, Budget Resolution. Seconded by Councilman Beeman. Councilman Beeman-yes, Councilman Delengowski-yes, Councilwoman Jones-yes, and Councilman Passon-yes.

REPORTS:

Vital Statistics – February 2012 0-births, 0-deaths, and 1 marriage

OPEN TO THE PUBLIC AT 7:10 PM:

Barbara Frantz, 3 Peacock Road – Ms. Frantz inquired as to whether any members of the governing body had a discussion with SCUCS regarding a fence being put up between the Riviera Area and Audubon Park. Ms. Frantz also inquired as to tipping fees.

CLOSED TO THE PUBLIC AT 7:15 PM

Motion made by Councilman Beeman to adjourn the meeting at 7:15 PM. Seconded by Councilwoman Jones. All ayes.

