

**BOROUGH OF MIDDLESEX
SPECIAL MEETING MINUTES
MARCH 29, 2016**

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 the Special Meeting Notice of March 15, 2016 and was forwarded to the Star Ledger, Courier News and Home News, and posted on the Middlesex Borough Website and at the Municipal Building.

SALUTE TO THE FLAG

ROLL CALL

Mayor	Ron DiMura
Council President	Sean Kaplan
	Stephen Greco
	Patrick Corley
	John Madden
	Bob Schueler
	Jack Mikolajczyk

Attorney: Aravind Aithal

Mayor's Comments:

At our Public Meeting in February I heard input from the members of the business community concerning the sewer ordinance. The main issues were (1) the surcharge is going back down to zero, (2) making sure everybody has same threshold, and (3) do we have a plan. So what I am proposing tonight is fair. The lower users will still have a 25% reduction. The bigger users will have an increase. We no longer can kick that can down the road. This is important thing to be done to improve our infrastructure. We will than start to see our cost flows and other parts go down. If we don't do this, we are putting the community in jeopardy. This is not just about the businesses but about the community and fixing the infrastructure. If we keep on kicking that can down the road we're going to have a major breakdown and then we're all going to be complaining about the cost because we have no plan and will have to do it on an emergency basis. Again what is being proposed tonight is fair. The lower users based on what you were billed last year will still have a 25% reduction. Bigger uses will have increases because they are the one's putting pressure on the system. This is a user charge and it's going to supplement our sewers. The revised proposed amendment to the sewer ordinance is listed below. Any user who discharges more than 120,000 gallons of domestic sanitary waste water per year will be charged as follows:

Tier	Gallons/Year	Rate Per Gallon (100's)
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I	1-120,000	N/A
II	120,001-1,000,000	0.699 (from 120,001 gallon of use)
III	1,000,001-5,000,000	0.510 (from 120,001 gallon of use)
IV	5,000,001-20,000,001 up	0.475 (from 120,001 gallon of use)
V	20,000,001 up	0.400 (from 120,001 gallon of use)

In addition to the prevailing MCUA rates applicable (from 120,001 gallons of use), the user charges shall be due and payable semiannually on May 1 and November 1 of each year. Unless actual flows are provided by user, sewer user charges for the current year shall be based upon the water consumption for the immediately preceding year.

Estimated Annual Sewer Costs

Including Flow, Annual Operations and Expenses, Maintenance and Improvements

MCUA Flow Fees	\$1,300,000
Piscataway Fees	300,000
Annual Operation and Expenses	500,000
Estimated Maintenance and Improvements	1,000,000
TOTAL	\$3,100,000

Annual Revenue Breakdown

Total Revenue from Residential:	\$1,860,184	60%
Total Revenue from Commercial, Industrial & Apartments:	\$1,239,816	40%

Majority of the council members were in favor of the ordinance with the exception of Councilman Madden who would like to see (1) The usage dropped to 80,000 gallons because at 120,000 gallons you're only getting 323 households out of the 4,200. Councilman Madden feels it would be more prudent to have more of the households participate or have an additional charge for capital improvements and or service fee. (2) Also the rate structure should be in 1,000 gallons. It's easier for all of the residents to measure in 1,000 gallon increments, and (3) It would foster conservation. A full consensus of the Council was to introduce this on tonight's meeting.

The Borough Clerk read Ordinance No. 1889-16 for introduction.

ORDINANCE NO. 1889-16

AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF MIDDLESEX, COUNTY OF MIDDLESEX, NEW JERSEY, CHAPTER 332 SEWERS, ARTICLES II, III & IV

WHEREAS, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce ordinances to manage regulate and control the finances and property of the municipality; and

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Middlesex, County of Middlesex, State of New Jersey as follows:

SECTION ONE. The Code of the Borough of Middlesex, Middlesex County, New Jersey is hereby amended to the following:

Subsection § 332-33 shall be amended as follows:

Any person, firm or corporation violating any provision of this article shall, upon conviction thereof, be punished by a fine of not exceeding \$500 or imprisonment not exceeding 30 days for each offense or both; and each day such violation shall be continued shall be deemed and taken to be a separate and distinct offense.

Subsection § 332-38 B shall be amended as follows:

- (1) Pursuant to provisions of N.J.S.A. 40A:26A-11, the fee to connect to a public sanitary sewer for developments approved after the effective date hereof is established as follows:
 - (a) Single-family residential use. Each single-family dwelling shall be charged a \$750 connection fee per dwelling for all new connections to the sanitary sewer system.
 - (b) Multifamily residential use. Each apartment, condominium or townhouse unit shall be charged a \$1,000 connection fee for each new dwelling unit. A new dwelling unit shall be defined as having its own kitchen facilities.
 - (c) Commercial use. Each commercial use shall be charged a minimum connection fee of \$1,500 for each new 400 gallons estimated annual daily average flow or fraction thereof as determined by the Borough Engineer based upon data and information supplied to the Borough by the applicant and the results of any investigation by the Borough into actual meter reads or other available information regarding the estimated annual daily average flow for the proposed use. In no event shall the connection fee for any commercial use be calculated at less than .0125 gallons per day for each square foot of occupancy.
 - (d) Industrial use. For any change of use of a property, and any change in occupancy, each industrial use shall be charged a minimum connection fee of \$2,000 for every 400 gallons estimated annual daily average flow or fraction thereof as determined by the Borough Engineer based upon data and information supplied to the Borough by the applicant and the results of any investigation by the Borough into actual meter reads or other available information regarding the estimated annual daily average flow for the proposed use. In no event shall the connection fee for any commercial use be calculated at less than .0125 gallons per day for each square foot of occupancy.

(g) Developments receiving final approvals prior to May 1, 2016 shall be subject to the connection fees under Ord. No. 1567.

Subsection § 332-39 shall be amended as follows:

Any person, firm or corporation violating any provision of this article shall, upon conviction thereof, be punished by a fine not exceeding \$500 or imprisonment not exceeding 30 days for each offense, or both.

Subsection § 332-41 B shall be amended as follows:

“Industrial and commercial” includes users, except residential users introducing less than 120,000 gallons per annum (gpa) of domestic sanitary wastes, regardless of the discharge volume.

Subsection § 332-41 C shall be amended as follows:

“Residential” includes single and multifamily dwellings comprised of two or more individual residential units on any single tax lot, including garden apartments, which introduce no more than an aggregate of 120,000 gallons per annum (gpa) of domestic sanitary wastes.

Subsection § 332-41 D. (1) through and including D. (9) shall be deleted in its entirety.

Subsection § 332-42 shall be amended as follows:

Tax exempt and industrial and commercial users introducing more than 120,000 gallons per annum of waste water discharge shall be invoiced directly for their use of the sewage treatment system. Sewer user charges shall continue to be charged to all users through ad valorem taxes rather than through direct sewer use charges for the first 120,000 gallons per annum of waste water discharged introduced. Thereafter, charges under § 332-43 hereunder shall be in addition to the amounts charged under their ad valorem taxes.

Subsection § 332-43 C. (4) shall be amended as follows:

(4) Unless actual metered waste water discharge is available, sewer user charges hereunder shall be based upon the water flow for the immediately preceding year. The first 120,000 gallons of waste water discharge per annum for all users shall not be subject to the service charge hereunder, except that any user that exceeds 120,000 gallons of waste water discharge in any calendar year shall be subject to the sewer charge hereunder for all waste water discharge. All users which discharge more than 120,000 gallons of domestic sanitary waste water per annum, in addition to the prevailing MCUA rates applicable to non-residential users for BOD, SS and CI, shall be charged a service charge for flow as follows:

(a) Service charge for flow.

Tier:	Gallons/Year	Rate Per Gallon (100s)
I	1-120,000	N/A
II	120,001 – 1,000,000	0.699

III	1,000,001 – 5,000,000	0.510
IV	5,000,001 – 20,000,000	0.475
V	20,000,001 +	0.400

(b) Except as provided in § 332-41, as may be amended, all structures or properties which discharge more than 120,000 gallons of domestic sanitary wastewater per annum shall be charged the rates charged by the Middlesex County Utilities Authority for BOD, SS and Cl, above, and a service charge for flow categorized as section 4(a), above, for the flow amount exceeding 120,000 gallons per annum.

(c) **DELETED IN ITS ENTIRETY.**

Subsection § 332-44 shall be amended as follows:

Any dispute as to the billing or charges so determined by § 332-43 as to the amount of the bill or the calculation thereof may be appealed as follows:

- A. To a panel of the Borough of Middlesex made up of the Borough Engineer, the Borough’s Engineering Consultant, a Representative of the Department of Public Works appointed by the Mayor, a Resident of the Borough appointed by the Mayor, a Business Owner appointed by the Mayor, where such business is located in the Borough of Middlesex and the Mayor or his/her designee.
- B. Said appeal shall be in writing, and shall include, in sufficient detail, the relief sought and the evidence, information or documents to support the relief sought. Relief shall be granted if a minimum of four (4) members of the panel agree upon such relief. The decision of the panel shall be final and binding.
- C. All appeals must be filed within one hundred eighty (180) days of dispatch of such billing or charge sought to be appealed.
- D. No appeal shall be considered by the panel, and an appeal shall not be considered as filed, unless payment of the entire sewer bill, including any disputed amounts, is made and received by the Borough in full.
- E. Any disputed amounts successfully appealed shall be applied as credit to future sewer bills.

Subsection § 332-45 shall be amended as follows:

Whenever actual readings of sewage flow are available, those readings shall be used in determining flow charges. All industrial users shall be monitored for actual flow. Where actual readings of sewage flow are unavailable, flow will be estimated by any of the following ways:

- A. By taking 100% of the average water flow and/or other meter reading for the immediately preceding year. Credit for water not discharged into the sanitary sewer may be given to the user by the Borough if the user presents proof satisfactory to the Borough which established the amount of water not discharged.

- B. The volume of sewage and/or waste from each user may be determined by meters paid for and installed by users and records combined with municipal and/or private company water records or from estimates of measurements made by representatives of the municipality.

Subsection § 332-48 shall be amended as follows:

Any user objecting to any estimate of flow or strength hereunder shall have the option, at its own expense and cost, of installing metering equipment and sampling devices on its discharge lines to record actual flow and strength readings. The metering equipment used its installation and the location of installation and method of sampling shall all be subject to review and approval by the Borough of Middlesex or its designated representative. On an annual basis, the Borough of Middlesex, or its designated representative shall confirm the certified meter reading or sampling results by means of an on-site inspection. Any user electing to install metering equipment and/or sampling devices shall pay an annual inspection fee to the Borough of Middlesex in the amount of \$100, which amount shall be added to any fees and charges under § 332-43, hereunder. In the event metering equipment or sampling devices are installed, such readings of actual flow and strength readings shall only become applicable for purposes of determining any charges under § 332-43 when one full calendar year of metering and/or sampling have been collected. By way of example, if a user installs such equipment or devices in July 2016, the charges under § 332-43 shall be based upon metering and samplings collected during the entirety of year 2017, which amounts are billed and payable in 2018. Nothing herein shall prohibit a user from appealing or disputing billing or charges as permitted under § 332-44, hereunder.

Subsection § 332-51 shall be amended as follows:

The user charges established and provided for herein shall be due and payable semiannually on May 1 and November 1 of each year. Unless actual flows are provided by user, sewer user charges for the current year shall be based upon the water consumption for the immediately preceding year.

Subsection § 332-63 shall be amended as follows:

Any person, firm or corporation violating any provision of this article shall, upon conviction thereof, be punished by a fine not exceeding \$500. Each day such violation shall have occurred or has continued shall be deemed and taken to be a separate and distinct offense.

SECTION TWO. The effective date of these changes shall be January 1, 2016 upon adoption of this Amendment to the Ordinance and shall apply to all sewer user charges under Article III, commencing with the calculated usage, flow and/or charges reflected in billings to users dispatched thereafter.

SECTION THREE. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in such conflict or inconsistent.

SECTION FOUR. This Ordinance may be renumbered for codification purposes.

SECTION FIVE. In the event that any section, part or provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

SECTION SIX. This Ordinance shall take effect after passage and publication as provided by law.

Councilman Schueler made a motion for introduction of Ordinance No. 1889-16 seconded by Councilman Greco and carried by the following roll call vote: Ayes: Greco, Kaplan, Corley, Madden, Schueler, and Mikolajczyk. No: None. Abstain: None.

PUBLIC COMMENTS

Mayor DiMura opened the public portion of the meeting for any comments.

Richard Malt, 309 D Street and 201 Lincoln Blvd. – After reviewing the ordinance Mr. Malt felt that we've come a long way. His concern was that we keep the revenue to sewer infrastructure. Also he questioned whether the money could be kept from year to year in the budget.

Mayor stated that there would be a separate line item for sewer infrastructure and the money in that line item would stay in there unless needed to use for approved sewer infrastructure improvements.

Mr. Malt also asked what the Borough to do with the residents who have wells. He felt they should be charged at the 140,000 gallons. Mayor noted that this needs to be reviewed but they could always put a meter on the well if they choose.

John Ellery, 701 Lincoln Blvd. – Mr. Ellery agreed with Mr. Malt regarding getting the amendment to sewer ordinance completed and asked if there would be any credits for the last couple of years. Mayor DiMura said that no the Borough would not go back any give any credits.

Richard Malt, 309 D Street and 201 Lincoln Blvd. remarked that he disagrees with Subsection 332-44 (E) "Any disputed amounts successfully appealed shall be applied as credit to future sewer bills." Mr. Malt stated first you have to pay the whole bill before you appeal it. If the owner wins the appeal, he feels the owner should be entitled to a cash refund.

Mayor DiMura asked the council members how they feel about amending the ordinance and a majority of the council as well as the Mayor agreed to allow for a cash refund. Councilman Mikolajczyk also requested that we reduce the 180 days of which all appeals are to be filed to 90 days.

Attorney Aithal stated that the ordinance would need to be amended to reflect the changes.

Councilman Schueler made a motion to amend Ordinance 1889-16 reflecting the changes below seconded by Councilman Mikolajczyk and carried by the following roll call vote: Ayes: Greco, Kaplan, Corley, Madden, Schueler, and Mikolajczyk. No: None. Abstain: None.

Subsection 332-44 (C) be changed to read "All appeals must be filed within ninety (90) days of dispatch of such bill or charge sought to be appealed."

Subsection 332-44 (E) **BE DELETED IN ITS ENTIRETY.**

Seeing no further public participation, the Mayor closed the public portion of the meeting.

ADJOURNMENT

Councilman Schueler made a motion to adjourn the Special Meeting seconded by Councilman Greco and carried by a unanimous vote of members present.

PROPOSED SEWER AMENDMENTS

- 1. Middlesex Borough Slip Lining Summary - This estimate is based on the slip lining projects identified by our sewer department. The estimated cost of the project is \$3.7 Million.**
- 2. Middlesex Borough Removal and Replacement of Sewer Mains - This estimate is based on roads identified by our sewer department. The estimated cost for this project is \$1.8 Million.**
- 3. Middlesex South Avenue Pump Station - Construction of a new pump station and force main on South Avenue in order to eliminate the interconnection with the Township of Piscataway. The estimated cost for this project is \$4.3 Million.**
- 4. Middlesex Rehabilitation of two Pump Stations - The removal and replacement of the Louis Avenue and Green Brook Road Lift Stations. The NJDEP identified these stations in need of emergency backup and bypass connections. The stations are more than 30 years old. The estimated cost for this project is \$1.1 Million.**

Total Estimates: \$10.9 Million

Estimated Annual Sewer Costs

Including Flow, O&E, Maintenance and Improvements

Option#1

MCUA Flow Fees	\$1,300,000
Piscataway Fees	\$300,000
Annual Operation and Expenses	\$150,000
Estimated Maintenance and Improvements	\$1,000,000
Total:	\$2,750,000

Option#2

MCUA Flow Fees	\$1,300,000
Piscataway Fees	\$300,000
Annual Operation and Expenses	\$150,000
Estimated Maintenance and Improvements	\$750,000
Total:	\$2,500,000

Option#3

MCUA Flow Fees	\$1,300,000
Piscataway Fees	\$300,000
Annual Operation and Expenses	\$150,000
Estimated Maintenance and Improvements	\$500,000
Total:	\$2,250,000

Highlights of the Proposed Amendments

to the Sewer Ordinance

Connection Fees:

Use	Old	New
Single Family Residential	\$400.00	\$1000.00
Multi-Family Residential	\$400.00	\$1000.00/unit
Commercial	\$800.00	\$3000.00
Industrial	\$1000.00	\$5000.00

Sewer Use Charge

Any user which discharges more than 40,000 gallons of domestic sanitary waste water per quarter will be charged as follows:

Tier	Gallons/ Quarter	Rate Per Gallon (100's)
I	1 - 40,000	N/A
II	40,001 -125,000	0.401 (from 1 st gallon of use)
m	125,001 - 250,000	0.435 (from 1 st gallon of use)
IV	250,000 + (max. amount of 11,250,000)	0.475 (from 1 st gallon of use)

In addition to the prevailing MCUA rates applicable

All users shall receive a credit for the charges which are included in their ad valorem taxes.

Appeals Process

- A. To a panel of the Borough of Middlesex made up of the Borough Engineer or the Borough's Engineering Consultant, a Representative of the Department of Public Works, appointed by the Mayor, a Resident of the Borough appointed by the Mayor, a Business Owner, appointed by the Mayor, where such business is located in the Borough of Middlesex and the Mayor or his/her designee.
- B. Said appeal shall be in writing, and shall include, in sufficient detail, the relief sought and the evidence, information or documents to support the relief sought. Relief shall be granted if a minimum of four (4) members of the panel agree upon such relief. The decision of the panel shall be final and binding.
- C. All appeals must be filed within ninety (90) days of dispatch of such billing or charge sought to be appealed.
- D. No appeal shall be considered by the panel, and an appeal shall not be considered as filed, unless payment of the entire sewer bill, including any disputed amounts, is made and received by the Borough in full.
- E. Any disputed amounts successfully appealed shall be applied as credit to future sewer bills.

The user charges shall be due and payable semiannually on April 1 and October 1 of each year. Unless actual flows are provided by user, sewer user charges for the current year shall be based upon the water consumption for the immediately preceding year.

Middlesex Borough's Taxable Values

<u>Residential and Vacant Land:</u>	\$395,876,100 79.9%
<u>Commercial, Industrial & Apartments:</u>	\$99,537,000 20.1%
<u>Total Tax Value:</u>	\$495,413,100 100%

Sewer Revenues Needed Annually

Approximate Annual Revenues from sewer surcharge:	\$1,000,000
Additional Revenues generated through taxation:	\$1,750,000 (option#1)
	\$1,500,000 (option#2)
	\$1,225,000 (option#3)

Annual Revenue Breakdown

Approximate Revenue from Sewer Surcharge

<u>Residential and Vacant Land:</u>	\$93,000
<u>Commercial, Industrial & Apartments:</u>	\$907,000
Total:	\$1,000,000

Approximate Revenue from Taxation

<u>Residential and Vacant Land:</u>	\$1,398,250
<u>Commercial, Industrial & Apartments:</u>	\$351,750
Total:	\$1,750,000

<u>Total Revenue from Residential and Vacant Land:</u>	\$1,491,250	54%
<u>Total Revenue from Commercial, Industrial & Apartments:</u>	\$1,258,750	46%

Approximate Flow Percentages

<u>Residential and Vacant Land:</u>	63%
<u>Commercial, Industrial & Apartments:</u>	37%

Examples

User	2015	Projected 2016	Decrease
Bar & Rest.	\$2674.44	\$1755.02	35% decrease
Restaurant #1	\$3079.82	\$2026.32	34% decrease
Restaurant#2	\$5727.70	\$3962.80	30% decrease
Cleaners	\$5362.06	\$4528.38	30% decrease
Industrial	\$3299.69	\$2566.39	22% decrease
Industrial	\$1483.32	\$1183.96	20% decrease
Auto Repair Shop	\$1457.50	\$1118.45	23% decrease

The majority of the users in Tiers 2 & 3 will see a decrease in 2016.

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The majority of the users in Tier 4 will see an increase in 2016.