

**BOROUGH OF MIDDLESEX
SPECIAL MEETING MINUTES
APRIL 19, 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 April 6, 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	Absent (stuck in traffic)
	Patrick Corley	
	John Madden	
	Bob Schueler	
	Jack Mikolajczyk	
Attorney:	Aravind Aithal	

PUBLIC HEARING

The Borough Clerk read Ordinance No. 1889-16 by title saying it had been posted on the bulletin board and made available for any person who wanted a copy.

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 Cl, 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 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.

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 adoption of Ordinance No. 1889-16 seconded by Councilman Mikolajczyk and carried by the following roll call vote: Ayes: Kaplan, Corley, Madden, Schueler, and Mikolajczyk. No: None. Abstain: None.

PUBLIC COMMENTS

Mayor DiMura opened the public portion of the meeting for any comments. Seeing no public participation, the Mayor closed the public portion of the meeting.

Mayor DiMura stated that this ordinance is a work in progress. It gives us the opportunity to get things done and move it forward. Mayor DiMura thanked the business community for working with the Governing Body.

ADJOURNMENT

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