

## Minutes from the August 2, 2011 Special Public Meeting of the South Plainfield Mayor and Council

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The meeting was called to order at 7:00pm by Mayor Anesh in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6, with adequate notice of this meeting of the Borough Council being provided to the borough's two official newspapers and also published on the Borough's website.

Clerk Graf called the roll. Present were Council Members: Barletta, Bengivenga, Buteas, McConville, and Rusnak. Mr. Salerno was absent.

After the Pledge of Allegiance, the Invocation was offered by Councilman McConville.

The Mayor opened the meeting to the Public for comments on Agenda items only. There were no comments offered.

Mayor Anesh called for Ordinance # 1938 for introduction:

Ms. Graf read Ordinance # 1938 by title only as follows:

#1938 entitled: A Bond Ordinance providing for road improvements for New Market Avenue Phase II in and by the Borough of South Plainfield, in the County of Middlesex, New Jersey, appropriating \$350,000 therefor and authorizing the issuance of \$50,000 bonds or notes of the borough to finance part of the cost thereof.

Mr. McConville made a motion to approve Ordinance # 1938 on first reading, seconded by Mr. Bengivenga.

**YES: Barletta, Bengivenga, Buteas, McConville, Rusnak**

**ABSENT: Salerno**

**Motion Carried**

Mr. Bengivenga made a motion to approve Resolutions 11-209, 11-210 and 11-211, seconded by Ms. Buteas.

#11-209

**WHEREAS**, a need has been determined for School Crossing Guard services for the 2011 – 2012 school year; and

**WHEREAS**, sealed bids for School Crossing Guard Services were received and publicly opened on July 21, 2009; and

**WHEREAS**, DMS Systems, Inc., 50 Lewis Avenue, Jersey City, New Jersey 07306. was determined to be the lowest qualified bidder, at a cost of \$14.99 per guard per hour and a one year agreement was executed for the period July 1, 2009 through June 30, 2010; and

**WHEREAS**, in accordance with the Local Public Contracts Law, N.J.S.A. 40A: 11-15, said agreement may be extended for two (2) one-year terms; and

**WHEREAS**, said contract was renewed from July 1, 2010 through June 30, 2011 by approval of Resolution #10-160; and

**WHEREAS**, the Borough of South Plainfield and DMS Systems mutually agree to renew the contract agreement for one additional one year period at the same cost hourly rate of \$14.99; and

**WHEREAS**, the Borough reserves the right to adjust locations and/or personnel as needed; and

**WHEREAS**, funds for said purpose will be made available in the CY 2011 budget.

**NOW THEREFORE BE IT RESOLVED** by the Governing Body of the Borough of South Plainfield that authorization is hereby given to renew a contract for School Crossing Guard services for the Borough of South Plainfield to DMS Systems, Inc., 50 Lewis Avenue, Jersey

City, New Jersey 07306. at an hourly rate of \$14.99 per guard per hour, and a total cost not to exceed \$372,000.00 for the period July 1, 2011 through June 30, 2012.

**FURTHER BE IT RESOLVED** that the Mayor and Municipal Clerk are hereby authorized to execute the necessary agreement with DMS Systems, Inc.

#11-210

**WHEREAS**, the taxpayer, Veluchamy, LLC., (ATaxpayer@) has appealed the real estate tax assessment on its property located at 800 Montrose Avenue, also known as Block 447, Lot 1, for the tax years 2009, 2010 and 2011, in the Tax Court of the State of New Jersey, Docket Nos. 006721-2009, 006739-2010, -2011; and

**WHEREAS**, the Borough appraiser opined that the property was over assessed for the 2010 and 2011 years under appeal and that in his opinion the assessments should be adjusted to a total tax assessment of \$1,563,300 in 2010 (true value opinion of \$4,526,000 x average ratio of 34.54%); and a total tax assessment of \$1,403,200 in 2011 (true value opinion of \$4,000,000 x average ratio of 35.08%); and

**WHEREAS**, the taxpayer agreed to settle the tax appeals by agreeing to withdraw the 2009 and 2010 tax year appeals, and accept a reduction of the 2011 assessment from \$1,677,900 for that year (which equates to an equalized value of \$4,783,000 X average ratio of 35.08%) to a reduced total tax assessment of \$1,413,800 (which equates to an equalized value of \$4,030,200 X average ratio of 35.08%); and by agreeing that the 2012 assessment be set to reflect an equalized value of \$3,800,000 times the 2012 average ratio; and

**WHEREAS**, the parties agreed that in consideration of the settlement, either party shall have the right to file a tax appeal for the 2012 tax year solely for the purpose of implementing, enforcing and/or confirming the agreed upon assessment, and that this agreement shall be binding upon any assignees, tenants and successors in interests with regard to the subject property, and that except for this limited right to appeal, Taxpayer, its successors and/or assignees waive the right to seek a further reduction in the 2012 assessment, and that Taxpayer warrants to the Borough that the property has not been sold and is not currently being marketed for sale for an equalized value in excess of the proposed frozen 2012 assessment, and that no sale of the property is currently pending or anticipated to close for an equalized value in excess of the proposed 2012 assessment; and

**WHEREAS**, the Borough appraiser, Russell Sterling, MAI, recommended the settlement be approved because his preliminary opinions that the Borough was not able to defend the existing assessments, the opinions of the Borough appraiser being incorporated in to a memorandum a copy of which has been reviewed by the Mayor and Council, and therefore, this proposed settlement is reasonable and reflects the correct market values for the property which was over assessed for all three years under appeal; and

**WHEREAS**, the Stipulation of Settlement is annexed hereto and incorporated herein by this reference and has been reviewed and approved by the Borough Council; and

**WHEREAS**, the taxpayer agreed to waive statutory interest pursuant to N.J.S.A. 54:3-27.2 and no such interest shall be paid; and

**WHEREAS**, the taxpayer agrees to accept credits in lieu of refunds at the discretion of the Borough Tax Collector; and

**WHEREAS**, the Borough Appraiser, Tax Assessor and Attorney have reviewed and recommend the settlement to the Borough Council; and

**WHEREAS**, the aforesaid reductions in assessment have no general application to other properties within the Borough of South Plainfield as a result of the aforesaid specific fact situation; and

**WHEREAS**, the Borough Council leaves the allocation between land and improvements of the aforesaid tax assessment reductions to the Borough's Assessor's discretion with the direction that the same be set so as to be most beneficial to the Borough; and

**WHEREAS**, the Borough Council makes this settlement with the taxpayer without prejudice to its dealings with any other Borough taxpayers' request for tax assessment reduction.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Borough Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey, as follows:

1. The Borough Tax Assessor is hereby directed to establish allocation between land and improvements of a \$264,100 total tax assessment reduction for the 2011 tax year for Block 447, Lot 1, which are most beneficial to the Borough and advise the Borough Attorney of that allocation.

2. The Borough Tax Assessor is hereby directed to establish an assessment allocation between land and improvements reflecting a true value of \$3,800,000 for the 2012 tax year for Block 447, Lot 1, which is most beneficial to the Borough and advise the Borough Attorney of that allocation

3. The Borough Attorney is hereby authorized to execute Stipulations of Settlement, copies of which are annexed hereto, relative to the tax appeals of Veluchamy, LLC., vs. Borough of South Plainfield, Docket Nos. 006721-2009, 006739-2010, -2011; which result in the withdrawal of the taxpayer's 2009 and 2010 tax year appeals, and a reduction in the 2011 total tax assessment on block 447, Lot 1 from \$1,677,900 to a reduced total tax assessment of \$1,413,800 in 2011; and which further provides that the Property's 2012 total tax assessment shall be set to reflect a true value of \$3,800,000 times the 2012 average ratio; and which further provides that either party shall have the right to file a tax appeal for the 2012 tax year solely for the purpose of implementing, enforcing and/or confirming the agreed upon frozen assessment; and which further provides that this agreement shall be binding upon any assignees, tenants and successors in interests with regard to the subject property; and which further provides that Taxpayer, its successors and/or assignees waive the right to seek a further reduction in the 2012 assessment; and which further provides that Taxpayer warrants to the Borough that the property has not been sold and is not currently being marketed for sale for an equalized value in excess of the proposed 2012 assessment and that no sale of the property is currently pending or anticipated to close for an equalized value in excess of the proposed 2012 assessment; which further provides that the Taxpayer agreed to waive statutory interest pursuant to N.J.S.A. 54:3-27.2 and no such interest shall be paid; and which further provides that the taxpayer agrees to accept credits in lieu of refunds at the discretion of the Borough Tax Collector.

4. The allocation between the land and improvements as established by the Borough Tax Assessor shall be set forth in said Stipulations of Settlement.

5. The settlement outlined above shall be without prejudice to the Borough of South Plainfield's dealings with any other Borough taxpayers' request for tax assessment reductions.

#11-211

authorization is hereby given to waive the Fire Permit fee of \$42.00 for the South Plainfield High School Boosters of the Musical Arts who will be selling hot dogs and soda on Monday September 5<sup>th</sup> 2011 after the Labor Day Parade.

Prior to the vote, Ms. Buteas asked for details on the crossing guard contract. Mr. Cullen confirmed the detail for the contract renewal are the same as 2010. Ms. Buteas also asked for the details on Resolution # 11-210. Mr. Rizzo reviewed the settlement terms.

**YES: Barletta, Bengivenga, Buteas, McConville, Rusnak**

**ABSENT: Salerno**

Mr. McConville announced the Public Celebrations Committee's selection for the 2011 Honorary Grand Marshall for the Labor Day Parade. The committee decided to honor three individuals – Trista Moretti, Mike Santoro and Joe Belardo

With no further business and no public comments, Mr. Bengivenga made a motion to adjourn, seconded by Mr. Rusnak.

Respectfully Submitted,

Joann L. Graf, RMC  
Municipal Clerk