

## **Minutes from the December 5, 2011 Public Meeting of the South Plainfield Mayor and Council**

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The meeting was called to order at 7:15pm 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: Bengivenga, Buteas, Frank, McConville, Salerno and Rusnak.

After the Pledge of Allegiance, the Invocation was offered by the Police Chaplain, the Reverend Charles Mingle.

Mr. Bengivenga read a brief biography on each of the two officers being promoted, Sergeant Daniel Noonan and Officer Daniel Hoppe after which he made a motion to approve Resolutions 11-304, seconded by Mr. Rusnak as follows:

**WHEREAS**, a vacancy exists within the South Plainfield Police Department for the position of Police Lieutenant due to the retirement of Lt. Paul Wylam; and

**WHEREAS**, Daniel Noonan is currently employed by the Borough of South Plainfield as a Sergeant with the Police Department and qualifies for promotion to Lieutenant; and

**WHEREAS**, with the promotion of Sergeant Noonan to Lieutenant, the Department will also need to promote an officer to the rank of Sergeant; and

**WHEREAS**, Police Chief James Parker has recommended that Sergeant Daniel Noonan be promoted to the Police Lieutenant position and that Police Officer Daniel Hoppe be promoted to the rank of Sergeant;

**NOW, THEREFORE**, the following promotions within the South Plainfield Police Department are hereby approved by the governing body of the Borough of South Plainfield, effective January 1, 2012 at the salary set forth in the borough's salary ordinance.

- i. Sergeant Daniel Noonan to the rank of Lieutenant
- ii. Officer Daniel Hoppe to the rank of Sergeant

**YES: Bengivenga, Buteas, Frank, McConville, Salerno, Rusnak**

The Oath of Office was administered to Lieutenant Noonan and Sergeant Hoppe by Councilman Bengivenga.

Ms. Graf read Resolution # 11-305 aloud after which Mr. Bengivenga made a motion to approve Resolutions 11-305, seconded by Mr. Rusnak as follows:

**WHEREAS**, a need exists to hire four new police officers for the South Plainfield Police Department to fill the vacancies left by recent retirements; and

**WHEREAS**, based on the current certification list, background investigations and interviews, Police Chief James Parker has recommended the appointment of the following four (4) candidates as Police Officers for the borough police force:

- a. Christopher Reid
- b. Christopher Robles
- c. Brian Zielinski
- d. Michael Sikanowicz

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Borough Council of the Borough of South Plainfield that the four candidates listed above are hereby appointed to the position of police officer within the South Plainfield Police Department, effective this date, at an annual salary of \$49,900.00, in accordance with the terms of the 2011 – 2014 PBA 100 bargaining agreement.

**YES: Bengivenga, Buteas, Frank, McConville, Salerno, Rusnak      Motion Carried**

The Oath of Office was administered to the new Police Officers by Councilman Bengivenga.

Chief James Parker and the members of the governing body each offered their congratulations and best wishes to all of the Officers sworn in this evening.

Mr. Bengivenga made a motion to approve the minutes of Agenda, Public and Executive meetings of November 21, 2011; seconded by Mr. Rusnak.

**YES: Bengivenga, Buteas, Frank, McConville, Salerno, Rusnak      Motion Carried**

The Mayor opened the meeting to the Public for comments on Agenda items only.

Paul McCullen of Walnut Street5 asked for clarification on Ordinances 1940 – the amount of the increase; on 1941 – questioned the cost since it is a county road and 1943 – how much is the actual cost of property acquisitions. Administrator Cullen responded to each of the questions raised.

Nancy Grennier asked if the work on New Durham and Corporate involved a traffic light.

Frank Mikorski of Regency Place asked if Ordinances # 1941 & 1942 and Resolution # 11-308 were related and was told yes they are. He stated that Marge Ackerman’s appointment was an excellent decision. He was puzzled by the tax settlement with Oak Tree Associates and questioned how a 2012 assessment could be set already. Mr. Mikorski also commented on a chart he received that detailed the tax breakdown in dollars and was particularly interested in the amount of tax paid for Open space.

The Mayor closed the public portion and called for Ordinance # 1940.

Ms. Graf read Ordinance # 1940 by title only for Public Hearing and final adoption as follows:

**#1940 entitled:** An Ordinance Amending Chapter 157 of the Code of the Borough of South Plainfield entitled “Sewers”

**Schedule A  
Annual Sewer Rental - 2012  
(Effective for bill periods beginning January 1, 2012)**

This Schedule A hereby establishes three (3) sewer user classes under this ordinance as follows:

- (1) Residential structures
  - (1A) Residential structures .....\$320.00 per service unit
  - (1B) Residential structures reduced rate: .....\$160.00 per service unit.

All recipients of the \$250.00 real property tax deduction granted in accordance with the provisions of P.L. 1963, C. 172 (R.S. 54:4-8.41) shall be given a deduction in the sewer rental rate that will result in a net annual rate not exceeding \$160.00.

- (2) Commercial users

Minimum annual sewer service unit user charge for any Commercial user connected to the Borough Sanitary Sewer System shall be five hundred and ninety dollars (\$590.00). The following rates are for actual consumption in 100 cubic feet of water used per information supplied by the water company(ies).

(2A)	Class 1 .....	\$6.89000
(2B)	Class 2 .....	\$8.25100
(2C)	Class 3 .....	\$10.14000
(2D)	Class 4 .....	\$5.79600
(2E)	Class 5 .....	\$5.57500
(2F)	Class 6 .....	\$5.57900
(2G)	Class 7 .....	\$7.12000
(2H)	Class 8 .....	\$6.93200
(2I)	Class 9 .....	\$7.23500

(3) Industrial Establishment Users

(3A) Monitored Industrial establishments:

Notwithstanding any rates set forth herein to the contrary, in no case shall the charge for Monitored Industrial users be less than the charge for an equal volume of flow as otherwise would be determined utilizing the commercial establishments rate set forth in Commercial User (2C) Class 3 rate \$10.140 or for a minimum annual user charge of five hundred dollars and ninety (\$590.00), whichever is higher. In addition to the loading and flow charges, the Monitored Industrial User shall pay for the cost of sampling and laboratory testing of the wastewater.

(3A)	Flow Million Gallons .....	\$3,750.00
(3B)	BODperTon.....	\$868.85
(3C)	SSperTon.....	\$1,115.00
(3D)	Chlorine Demand per CWT .....	\$91.65

(3B) Unmonitored Industrial User .....\$11.110 per 100 cubic feet

(4) Sample collection fees and laboratory analysis fees paid by the Borough shall be a pass-through cost to the User being monitored and shall be included on the next bill.

(5) Application for a Certificate of Use for sanitary sewer review shall be through the Borough Building Department. The fee shall be \$100.00 for an application of a change of building use. This fee is in addition to the current Building Department Review Fee.

All other fees and provisions of this Article shall remain in full force and effect.

This amendment becomes effective after final adoption and advertisement in accordance with the law.

Mr. Bengivenga made a motion to adopt Ordinance # 1940, seconded by Mr. Rusnak.

As this is a final reading, Mayor Anesh opened a public hearing on the ordinance.

No comments were offered so Mayor Anesh closed the public hearing and called for a roll call vote:

**YES: Bengivenga, Frank, McConville, Rusnak**

**NO: Buteas, Salerno**

**Motion Carried**

Ms. Graf read Ordinance # 1941 by title only on for Public Hearing and final adoption as follows:

**#1941 entitled:** Bond Ordinance providing for various capital improvements of the Borough of South Plainfield, in the County of Middlesex, New Jersey, appropriating the aggregate amount of \$164,000 therefor and authorizing the issuance of \$155,000 bonds or notes of the Borough to finance part of the cost thereof.

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Borough of South Plainfield, in the County of Middlesex, New Jersey (the "Borough") as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective

sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$164,000, including the aggregate sum of \$9,000 as the several down payments for the improvements or purposes required by the Local Bond Law. The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the several down payments, negotiable bonds are hereby authorized to be issued in the principal amount of \$155,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	<u>Appropriation and Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds or Notes</u>	<u>Period of Usefulness</u>
a) The acquisition of equipment for the Department of Public Works, consisting of a wood chipper and lawn mowing equipment, including all related costs and expenditures incidental thereto.	\$53,000	\$50,000	15 years
b) Improvements to New Brunswick Avenue curbs and sidewalks, including all work and materials necessary therefor and incidental thereto.	<u>\$111,000</u>	<u>\$105,000</u>	10 years
TOTALS	<u>\$164,000</u>	<u>\$155,000</u>	

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the down payment for each purpose.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial

officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements that the Borough may lawfully undertake as general improvements, and no part of the costs thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 11.61 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate 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. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$155,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$5,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated costs indicated herein for the purposes or improvements.

Section 7. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the

obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Mr. Bengivenga made a motion to adopt Ordinance # 1941, seconded by Mr. Rusnak.

As this is a final reading, Mayor Anesh opened a public hearing on the ordinance.

No comments were offered so Mayor Anesh closed the public hearing and called for a roll call vote:

**YES: Bengivenga, Buteas, Frank, McConville, Salerno and Rusnak**

Ms. Graf read Ordinance # 1942 by title only for Public Hearing and final adoption as follows:

**#1942 entitled:** Bond Ordinance providing for the acquisition of a sewer jet truck for the sewer utility in and by the Borough of South Plainfield, in the County of Middlesex, New Jersey, appropriating \$300,000 therefor and authorizing the issuance of \$300,000 bonds or notes of the Borough to finance part of the cost thereof.

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of South Plainfield, in the County of Middlesex, New Jersey (the "Borough"). For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$300,000. No down payment is required as the purpose authorized herein is deemed self-liquidating and the obligations authorized herein are deductible from the gross debt of the Borough, as more fully explained in Section 6(e) of this bond ordinance.

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds are hereby authorized to be issued in the principal amount of \$300,000 pursuant to the

Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the acquisition of a sewer jet truck for the Sewer Utility, including all related costs and expenditures incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the 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 notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a self-liquidating purpose of a municipal public utility. No part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 5 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate 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. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$300,000, but that the net debt of the Borough determined as provided in the Local Bond Law is not increased by this bond ordinance. The obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$2,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

(e) This bond ordinance authorizes obligations of the Borough solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for a purpose that is deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

Section 7. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.



Mr. made a motion to adopt Ordinance # 1942, seconded by Mr. .

As this is a final reading, Mayor Anesh opened a public hearing on the ordinance.

No comments were offered so Mayor Anesh closed the public hearing and called for a roll call vote:

**YES: Bengivenga, Buteas, Frank, McConville, Salerno and Rusnak                      Motion Carried**

Ms. Graf read Ordinance # 1943 by title only for introduction on first reading as follows:

**#1943 entitled:** Bond Ordinance providing for various road improvements and the acquisition of road easements in and by the Borough of South Plainfield, in the County of Middlesex, New Jersey, appropriating \$680,000 therefor and authorizing the issuance of \$645,000 bonds or notes of the Borough to finance part of the cost thereof.

Mr. Bengivenga made a motion to approved Ordinance # 1943 on first reading, seconded by Mr. McConville.

**YES: Bengivenga, Frank, McConville, Salerno and Rusnak                      Motion Carried**  
**ABSTAIN: Buteas**

Ms. Buteas asked to have Resolution # 11-311 separated for an individual vote.

Mr. Bengivenga made a motion to approve Resolutions 11-306 through 11-316, excluding #11-311, seconded by Mr. Rusnak, which all begin with **BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF SOUTH PLAINFIELD, NEW JERSEY, THAT:**

**#11-306**

the Chief Financial Officer is hereby authorized to issue a refund check in the amount of \$100.00 to Suna Ghanim for the return of a Social Affairs Permit fee previously paid for on behalf of St. Stephen's Orthodox Church.

**#11-307**

**WHEREAS**, the Tax Collector advises that the following taxpayers and/or their agents have overpaid their taxes and have requested refunds:

**Block 437; Lot 2.01 Qual: C0002**  
**Frank A. Approvato**  
**1204 Rush Street**  
**South Plainfield, NJ 07080**  
**\$2,144.87**

**NOW THEREFORE BE IT RESOLVED** by the Governing Body of the Borough of South Plainfield that the Chief Financial Officer is hereby authorized to issue a check(s) in the amount(s) as mentioned above.

**#11-308**

the Municipal Clerk is hereby authorized to solicit bids for a Brush Chipper and a Combination Catch Basin –Sewer Cleaner Truck (Jet-vac Truck) for the Department of Public Works.

**#11-309**

**WHEREAS**, the Tax Collector advises that the following taxpayers and/or their agents have overpaid their taxes and have requested refunds:

**Block 315; Lot 71**  
**John & Leslie Grimes**  
**152 Camden Avenue**  
**South Plainfield, NJ 07080**  
**\$1,503.52**

**NOW THEREFORE BE IT RESOLVED** by the Governing Body of the Borough of South Plainfield that the Chief Financial Officer is hereby authorized to issue a check(s) in the amount(s) as mentioned above.

**#11-310**

**WHEREAS**, property known as Lot 1, in Township Block 74, more commonly known as 2224 Woodland Avenue in South Plainfield, NJ is owned by Emil Robert Dispensa; and

**WHEREAS**, Emil Robert Dispensa , who had qualified as a one hundred percent **Disabled Veteran** under the provision of the N.J.S.A. 54:4-3.30, causing his property to be exempt from taxation at the local level commencing on **December 1, 2009** as verified by the Tax Assessor; and

**WHEREAS**, the Tax Bills for the four quarters of Calendar Year 2010 were generated from the 2009 Assessor's Tax Lists, as required under regulations promulgated by the New Jersey Division of Local Government Services in The Department of Community Affairs pursuant to N.J.S.A. 54:4-64, thus presenting this property owner with tax bills for 2010, while the property is correctly classified as being Tax Exempt for the same period;

**NOW THEREFORE BE IT RESOLVED**, that the Tax Collector be, and she hereby is, authorized and directed to cancel and refund monies levied for all four quarters of the year 2010 in the amount of **\$4,983.98**; and

**BE IT FURTHER RESOLVED**, that the Tax Collector be, and she hereby is, authorized and directed to cancel and refund monies levied for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> quarters of the year 2011 in the amount of **\$3,585.71**; and

**BE IT FURTHER RESOLVED**, that the Tax Collector be, and she hereby is, authorized and directed to cancel monies levied for the 4th quarter of the year 2011 in the amount of **\$1,360.58**, on the property known and designated as Lot 1 in Township Block 74.

**#11-312**

**WHEREAS**, CY2011 was adopted by the Governing Body of the Borough of South Plainfield on the 25<sup>th</sup> day of July, 2011; and

**WHEREAS** it is desired of the Governing body to amend said adopted capital budget section.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of South Plainfield, County of Middlesex, that the amendment(s) to the adopted capital budget section of the 2011 Budget be made as follows :

Projects:

1. New Brunswick Avenue improvements	\$111,000.00	General Improvement
2. Wood Chipper & Lawn equipment	\$ 53,000.00	General Improvement
3. Jet Vac Truck	\$300,000.00	SewerUtility Improvement

Capital Improvement Fund: \$ 6,000.00 for Project # 1  
\$ 3,000.00 for Project # 2

Total Debt Authorized: \$455,000.00

**BE IT FURTHER RESOLVED** that two (2) certified copies of this resolution be filed forthwith in the Office of the Director of Local Government Services.

**#11-313**

**WHEREAS**, the Local Public Contracts Law of the State of New Jersey (NJSA 40A:11-1 et seq.) establishes standards and procedures for the purchase of goods and services which are to be paid with public funds; and

**WHEREAS**, it has been determined a need exists to purchase two portable hose appliances for the South Plainfield Fire Dept; and

**WHEREAS**, NJSA 40A:11-6.1 requires the solicitation of quotations for purchases estimated to be in excess of \$2,640.00 or more but less than \$17,500.00; and

**WHEREAS**, quotes were received from:

- |                      |            |
|----------------------|------------|
| 1. NJ Fire Equipment | \$4,580.00 |
| 2. Absolute Fire     | \$4,988.00 |
| 3. Continental Fire  | \$7,392.00 |

**WHEREAS**, the availability of funds for this purpose have been certified by the Chief Financial Officer using funds from a Port Authority grant award; and

**WHEREAS**, it is the recommendation of the Fire Chief and the Borough Administrator that the award of contract to NJ Fire Equipment of Green Brook, NJ, at a cost not to exceed \$4,580.00

**NOW THEREFORE BE IT RESOLVED** that the purchase of two portable hose appliances from NJ Fire Equipment of Green Brook, NJ is hereby approved with funds from a \$5,000 Port Authority grant award, at a cost not to exceed \$4,580.00.

**#11-314**

**WHEREAS**, the taxpayer, Oak Tree Associates c/o Denholtz Associates. (ATaxpayer@) has appealed the real estate tax assessment on its properties located at 900 Oak Tree Ave and 904-910 Oak Tree Ave, also known as Block 253, Lot 1.01 and Block 253, Lot 1.02 for the tax years 2009, 2010 and 2011, in the Tax Court of the State of New Jersey, Docket Nos. 003187-2009, 005313-2010 and 003933-2011; and

**WHEREAS**, the Borough appraiser opined that the property was over assessed in the 2011 year under appeal and that in his opinion the 2011 assessment should be adjusted to a total tax assessment of \$7,277,600 in 2011 (true value opinion of \$20,745,600 x average ratio of 35.08); and

**WHEREAS**, the taxpayer agreed to settle the tax appeals by withdrawing the 2009 and 2010 appeals and accepting reductions of the total tax assessments in 2011 to a total aggregate tax assessment of both Lots of \$7,295,700 (true value of \$20,797,300 x average ratio of 35.08%); and by agreeing that the 2012 assessments be set to reflect an aggregate equalized value of the two lots \$19,343,800 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 assessments in 2011, 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 will accept credits to be exhausted commencing with the first quarterly payment due after Judgment in lieu of refunds and agreed to waive interest due on any overpayment pursuant to N.J.S.A. 54:3-27.2 provided that the credit is applied within sixty (60) days from the date of final judgment; and

**WHEREAS**, the Borough Tax Assessor and the Attorney for the Borough 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 \$155,000 total tax assessment reduction for the 2011 tax year for

Block 253, Lots 1.01 & 1.02, which is most beneficial to the Borough and advise the Borough Attorney of that allocation.

2. The Borough Tax Assessor is hereby directed to establish a assessment allocations between land and improvements reflecting an aggregate true value of \$19,343,800 for the 2012 tax year for Block 253, Lots 1.01 & 1.02, which is most beneficial to the Borough and advise the Borough Attorney of that allocation
3. The Borough Attorney is hereby authorized to execute the Stipulation of Settlement, a copy of which is annexed hereto, relative to the tax appeals of Oak Tree Associates c/o Denholtz Associates vs. Borough of South Plainfield, Docket Nos. 003187-2009, 005313-2010 and 003933-2011; 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 the properties from \$7,450,700 to \$7,295,700; and which further provides that the Property's 2012 total tax assessment shall be set to reflect a true value of \$19,343,800 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 will accept credits in lieu of refunds at the discretion of the Borough Tax Collector which will be exhausted commencing with the first quarterly payment due after Judgment; and which further provides that the taxpayer agreed to waive interest due on any overpayment pursuant to N.J.S.A. 54:3-27.2 provided that the credit is applied within sixty (60) days from the date of final judgment;
4. 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.

**#11-315**

**WHEREAS**, the Middlesex County Prosecutor's Office has provided a funding opportunity to the Borough of South Plainfield for the purpose of upgrading local law enforcement capabilities in the South Plainfield Police Dept; and

**WHEREAS**, the governing body of the Borough of South Plainfield wishes to enter into an inter-local agreement with the County of Middlesex in order to participate in this valuable program; and

**WHEREAS**, funding for this program is being made available through the Prosecutor's County Law Enforcement Trust Account (PCLETA);

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of South Plainfield that authorization is hereby given for the Mayor and Municipal Clerk to execute the Inter-local Services Agreement with Middlesex County for participation in the County Prosecutor's local law enforcement capabilities upgrade program, funded through Prosecutor's County Law Enforcement Trust Account (PCLETA).

**#11-316**

**WHEREAS**, in accordance with N.J.S.A. 40A:4-58 permits appropriation transfers during the last two months of the fiscal year, for the purposes specified and in excess of sums appropriated in the Budget; and

**WHEREAS**, such transfers must be approved by a vote of not less than two-thirds of the full membership of the governing body;

**NOW, THEREFORE, BE IT RESOLVED** that the following transfers be approved in accordance with State Statute:

**BOROUGH of SOUTH PLAINFIELD  
TRANSFERS – 2011**

***CURRENT FUND***

<b>FROM:</b>			<u><b>AMOUNT</b></u>
1-01-20-145-000-101	Collection of Taxes	S&W	3,000.00
1-01-23-220-000-621	Group Insurance	O & E	100,000.00
1-01-25-240-001-301	Police	O & E	5,000.00
1-01-31-440-001-541	Telephone	O & E	5,000.00
1-01-36-472-000-675	SSI	Statutory	22,000.00
<b>Total FROM:</b>			<u><u><b>135,000.00</b></u></u>

<b>TO:</b>			<u><b>AMOUNT</b></u>
1-01-20-100-000-101	Administration	S&W	500.00
1-01-20-100-000-403	Administration	O & E	3,000.00
1-01-20-130-000-519	Finance	O & E	5,000.00
1-01-20-140-000-225	Computer	O & E	5,000.00
1-01-20-150-000-101	Assessing	S&W	5,000.00
1-01-20-150-000-221	Assessing	O & E	5,000.00
1-01-25-240-001-102	Police	S&W	15,000.00
1-01-25-250-000-204	911	O & E	9,000.00
1-01-25-265-001-201	Fire Department	O & E	9,000.00
1-01-25-265-002-204	Fire Official	O & E	2,000.00
1-01-26-310-000-441	Public Building & Grounds	O & E	2,000.00
1-01-26-315-000-401	Vehicle Maintenance	O & E	9,500.00
1-01-27-345-001-101	Public Assistance	S&W	4,000.00
1-01-28-370-002-102	Office on Aging	S&W	6,000.00
1-01-28-370-002-501	Office on Aging	O & E	1,000.00
1-01-30-410-001-535	Municipal Support	O & E	2,000.00
1-01-30-415-001-101	Accumulated Leave	O & E	25,000.00
1-01-30-420-000-235	Celebration & Events	O & E	1,000.00
1-01-31-420-001-555	Electric	O & E	

			5,000.00
1-01-31-435-002-555	Street Lights	O & E	5,000.00
1-01-37-480-000-225	Judgements	O & E	3,000.00
1-01-38-481-000-225	Tax Appeals	O & E	8,000.00
1-01-31-445-001-581	Water	O & E	5,000.00
<b>Total TO:</b>			<b><u>135,000.00</u></b>

**SEWER UTILITY  
FROM:**

			<b><u>AMOUNT</u></b>
1-07-55-515-002-101	Salaries	S&W	2,000.00
<b>Total FROM:</b>			<b><u>2,000.00</u></b>

			<b><u>AMOUNT</u></b>
1-07-55-515-002-235	Other Expenses	O&E	2,000.00
<b>Total TO:</b>			<b><u>2,000.00</u></b>

**#11-317**

**WHEREAS**, a Special Ruling has been approved by the Office of the Attorney General, Division of ABC, pursuant to N.J.S.A. 33:1-12.39, permitting the South Plainfield Borough Council to consider the renewal of License # 1222-33-005-006 for Steak and Ale of New Jersey, Inc.; and

**WHEREAS**, an application for renewal of the retail liquor licenses for 2011-2012 has been submitted by Steak and Ale of New Jersey, Inc.; and

**WHEREAS**, no objections to said renewals have been filed; and

**WHEREAS**, the proper Borough and State fees have been paid by all applicants.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of South Plainfield that Steak and Ale of New Jersey, Inc. be granted renewal of their liquor License # 1222-33-005-006 for 2011 – 2012.

**BE IT FURTHER RESOLVED** that the Municipal Clerk is authorized to issue the 2011-2012 liquor license to the above named licensee.

**YES: Bengivenga, Buteas, Frank, McConville, Salerno, Rusnak      Motion Carried**

Mr. made a motion to approve Resolution # 11-311, seconded by as follows:

**#11-311**

Margaret Ackerman is hereby hired to serve as part time Director of Social Services at a salary of \$8,400.00 per year and is also hired as the borough’s Coordinator of the Domestic Violence Team at a salary of \$5,384.00 effective January 1, 2012.

**YES: Bengivenga, Frank, McConville, Salerno and Rusnak      Motion Carried**  
**ABSTAIN: Buteas**

Mr. Bengivenga made a motion to accept the Correspondence as listed below, seconded by Ms. Buteas.

1. Recycling Report – October 2011
2. PARSAs Agenda, Minutes & Flow Chart
3. Environmental Commission Minutes – October 12, 2011
4. Middlesex County – Notice of Transfer of Surplus Land in Sayreville
5. Township of Edison – Notice of Zoning change per Edison Master Plan review
6. Code Enforcement Report – November 2011

**YES: Bengivenga, Buteas, Frank, McConville, Salerno, Rusnak      Motion Carried**

Mr. McConville made a motion to approve the Bills List as summarized below, seconded by Ms. Buteas.

Current Fund - \$600,738.56  
 Sewer Utility Operating Fund - \$928.74  
 Pool Utility Operating Fund – \$13,472.50  
 General Capital - \$164,517.63  
 Grant Fund - \$56,736.19  
 Treasurers Trust - \$9,807.99  
**TOTAL OF ALL FUNDS - \$846,201.61**

**YES: Bengivenga, Buteas, Frank, McConville, Salerno, Rusnak      Motion Carried**

**REPORTS:**

Mr. Rizzo: Progress

Mr. Cullen: Progress

Mr. Miller: Reported that a meeting among Moon Builders and the residents who complained at the public hearing for the release of the contractor’s performance bond would be held on Tuesday afternoon to address the complaints and come to an agreement. He also reported that the paving of a section of Oxford Ave has been completed.

Ms. Graf: Progress

Mr. Salerno: Progress

Mr. Frank: Reported on the Flag Raising ceremony at Monument Park this past weekend.

Mr. Bengivenga: Progress

Mr. McConville: Offered comments and congratulations to the 2011 Cappy Award Recipient Bill Ashnault.

Ms. Buteas: Also offered her congratulation to Bill Ashnault and thanked him for his tremendous record of community service over the years. She also invited the public to participate in the Breakfast with Santa on Saturday, Dec. 10 at the Senior Center. Ms. Buteas wished Councilman Barletta’s son a speedy recovery.

Mr. Rusnak: Reported that residents may now access their property tax information on the borough website and they may also make payments on line electronically.



Mr. White commented on the success of the annual UNICO pig roast. He congratulated Bill Ashnault on his selection as this year's Cappy Award Recipient. He also congratulated DPW Foreman Rich Ritchie on his upcoming retirement.

Mayor Anesh: On the occasion of the promotion of two officers and the addition of four new officers, the Mayor congratulated Police Chief James Parker for a great job, acknowledging the department's success and hard work in spite of the smaller force.

Mr. Rusnak announced that anyone interested in serving on a Borough Board or Commission can access an application on the borough website and send it to the Clerk's office by Dec. 16<sup>th</sup>.

Mayor Anesh opened the meeting for public comments in accordance with N.J.S.A. 10:4-12.

Business Association President Nancy Grennier reminded people about the Fire Dept.'s Project Santa program. She also announced the business Asso.'s annual holiday party.

With no further public comment, Mayor Anesh closed the public comment portion of the meeting and the Council moved into Executive session at 8:10pm.

On the Council's return, Mayor Anesh announced that there was no further action required and he called for a motion to adjourn.

Mr. Bengivenga made a motion to adjourn at 8:30pm; seconded by Mr. Rusnak and approved unanimously.

Respectfully Submitted,

Joann L. Graf, RMC  
Municipal Clerk