

**SOUTH PLAINFIELD BOROUGH
BOROUGH COUNCIL MEETING MINUTES
MARCH 3, 2014 7:05 P.M.
PUBLIC MEETING**

CALL TO ORDER: Mayor Anesh called the meeting to order at 7:05 p.m. Mayor Anesh read the sunshine statement and announced that same is being held pursuant to the Open Public Meetings Act of 1974 and all provisions of that Act have been met with adequate notice of this meeting having been provided to the Borough's two official newspapers and also published on the Borough's website.

The roll call was administered by Clerk Antonides as follows:

COUNCIL	Present	Absent	Late
Councilman Bengivenga	X		
Councilman Diana	X		
Councilman Richkus	X		
Councilman Rusnak	X		
Councilman White	X		
Council President Barletta	X		
Mayor Anesh	X		
ALSO PRESENT			
Administrator Cullen	X		
Clerk Antonides	X		
Attorney Paul Rizzo	X		
Engineer Miller	X		

Flag Salute: was led by Mayor Anesh and Councilman Bengivenga led the invocation.

Proclamation: "Purple Day" for Epilepsy Awareness, March 26, 2014
National Nutrition Month – March, 2014

Mayor Anesh read the proclamations in full and presented the Epilepsy Awareness proclamation to Council President Barletta whose son suffers from seizures due to epilepsy. Council President Barletta thanked the Mayor and Council for this proclamation and for supporting Epilepsy Awareness then went on to describe some of the situations his son has encountered having epilepsy.

Approve Council Minutes:

February 18, 2014 – Agenda
February 18, 2014 – Public
February 18, 2014 – CDBG Special Hearing

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga		x	x				
Councilman Diana			x				
Councilman Richkus							x
Councilman Rusnak			x				
Councilman White	x		x				
Council President Barletta			x				
		VOTE:	5	0			
Mayor Anesh – TIE ONLY							

Public Comment For Agenda Items Only:

Mayor Anesh opened the floor for public comment.

With no comments from the public, Mayor Anesh closed the floor.

RESOLUTIONS:

At this time, Mayor Anesh said wanted to make a few comments pertaining to resolution #14-96 in that he feels Councilman Diana incorrectly stated his position. Mayor Anesh said fighting tax appeals throughout the Borough does not mean we will take them all to court and thought he made that pretty clear at the last meeting but will reiterate it one more time. If we have professional Appraisers, Attorneys, and a Tax Assessor all telling us that this is the best we are going to do for a particular case, he is not going to advise this Council and in turn hopes this Council would not take the unnecessary and dangerous action of going to court just so you can say that we are tuff on tax appeals. Mayor Anesh said that he believes if you hire the right professionals, you build a case, and you look at the market as well as all the other circumstances; that's being tuff on these tax appeals. By going to court, you are opening up the Borough to additional liability. Going to court does not mean you are going to win. You may think in the eyes of some that it makes you appear tougher on tax appeals if you are fighting them to the bitter end, but what you are really doing is wasting tax payers money and putting the Borough at greater risk than need be. Mayor Anesh said that is position and will always be his position.

Councilman Diana said that he is not advocating for taking every tax appeal and fighting to the bitter end. Councilman Diana said he takes issue with the Borough having not fought any tax appeals and that somewhat sticks in his craw especially that there has not been one suitable to take to trial of which seems unlikely to him.

Council President Barletta said it is his understanding that in certain circumstances if we do take these to court we may wind up paying more than what the anticipated settlement would be, which is the reason why we don't always take these to court.

Councilman Diana said that he works with litigation almost every day in which there are cases in his firm that are not suitable to take to trial, most of them in fact do settle. It is however good practice that every once in a while you take one to trial just to prove that you can do that and are willing to take that step. Councilman Diana then said he is not sure if the Borough has done that here. Bob Jones brought up during conversation an article that he read that talks about frivolous tax appeals and how some have been brought up on sanctions and that in of itself seems to him to suggest that there has to be some tax appeals that could be worth fighting to the bitter end. Councilman Diana then said he agrees with the Mayors position that it would be irresponsible to do it for the sake of doing it but has to image with the sheer volume of appeals that we've encountered over the last several years that there had to be a handful that could have been taken to a trial. Councilman Diana said that is his position.

Mayor Anesh asked Mr. Rizzo Esq. to prepare a report so we can determine just how many of these we have fought over the years and how many have been withdrawn because of those actions. Councilman Rusnak said that as of last week there were 14 years that were withheld. Paul said he will have Marty Allen Esq. prepare said report. Mr. Rizzo said he wanted to point out that when you speak of fighting to the end he assumes we are talking about tax court. But you need to bear in mind that with the volume we have, most of these go to County Tax Board hearings and they are contested and mostly resolved at these County Tax Board hearings by a

determination and do not go further than that. Mr. Rizzo said you need to distinguish between the two. There has been volume that has been contested and has had hearings; at the County Board level. So when we talk about volume it is not that they all go to tax court and all of them are being tried in tax court. Many of them are being tried before the County and thus the County makes the decision. Mayor Anesh asked Councilman Diana what figure he is looking for. Councilman Diana said he thinks he is referring to the ones taken to tax court then said he understands the process and thanked Paul. Councilman Diana said it is strange to him that not one has gone to tax court. Mr. Rizzo said he would need to check with Marty Allen Esq. on that for the facts as to not misquote.

Councilman Bengivenga clarified further by saying that the tax appeals are heard at the County and mostly all resolved at that level. Council President Barletta said that is why we have the professionals to advise us to not take them to court. Council President Barletta questioned Councilman Diana's reasoning for insisting on taking a handful of tax appeals to trial just for the sake of doing it. As the Mayor said we have one of the best Tax Attorney's in the state representing us for tax appeals, we have our Tax Assessor who evaluates them all, we have our Appraisers.

Mayor Anesh said there has not been one case that has come before him while he was on Council or as Mayor in which our professionals have said you know what, we can do better – let's go to tax court. Had that been said, then we would bring it to tax court. You can't just bring a tax appeal to tax court anyway. There is a whole process it goes through. Mr. Rizzo said his firm represents over 25 municipalities and his tax attorneys are not in court every day trying cases because in this economy it doesn't make sense. The tax attorneys are saying that the appraisers are saying it is indefensible, the Tax Assessor says it is indefensible, Mr. Rizzo said he looks at and knows it to be indefensible and can't try a case when everyone involved is telling him it is indefensible. It is not just South Plainfield and not unique to just this Borough, it is statewide. Mayor Anesh said that is his point; if we are getting the advice from all the professionals involved that it is indefensible why we are going to take it to court. The intent is to get the best possible outcome for the Borough.

Councilman Bengivenga pointed out that we hired a special tax appeal attorney just for this very reason; to see if there any worthy appeals to bring to trial. Mayor Anesh said that is exactly right.

Mayor Anesh told Councilman Diana we can differ on what the process should be but he doesn't see the purpose of throwing away money when the word "indefensible" resonates with him. Councilman Diana said it certainly is not the first and certainly won't be the last time we have a difference of opinion.

Councilman White said he wanted to point out that Councilman Diana said earlier that he did not have the facts as to how many tax appeals we fought and have gone to court. but yet he sits here and says that none have gone to court. Councilman White said we want to be clear on the facts and that is why Mr. Rizzo will be advising us in that regard. Councilman Diana apologized and said that was a presumption on his part and will follow up with Mr. Cullen.

(Note: Resolution #14-96 is shown in full below in numerical order of the resolution numbers)

**RESOLUTION 14-87
AUTHORIZING A REFUND OF \$56.00 TO KAY ROBERTS FOR A SENIOR TRIP TO SANDS**

BE IT RESOLVED, by the Borough Council of the Borough of South Plainfield that it hereby authorizes the \$56.00 refund for a trip to Sands in Atlantic City sponsored by the Senior Center to:

Kay Roberts
6411 Regis Place
Sarasota, FL 34241

BE IT FURTHER RESOLVED, by the Borough Council of the Borough of South Plainfield that the Finance Office hereby has approval to release the aforementioned refunds.

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

**RESOLUTION 14-88
AUTHORIZING A REFUND OF THE ROOM RENTAL SECURITY DEPOSIT FOR THE SENIOR CENTER TO LISA ABATE OF 701 FRANKLIN AVENUE IN THE AMOUNT OF \$100.00**

BE IT RESOLVED, by the Borough Council of the Borough of South Plainfield that it hereby authorizes the \$100.00 refund for a security deposit for the Senior Center room rental to the following:

Lisa Abate
701 Franklin Avenue
South Plainfield, NJ 07080

BE IT FURTHER RESOLVED, by the Borough Council of the Borough of South Plainfield that the Finance Office hereby has approval to release the aforementioned refunds.

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

**RESOLUTION 14-89
AUTHORIZING THE RENTAL OF A JOHN DEERE LOADER FROM JESCO INC. FOR THE DPW IN AN AMOUNT NOT TO EXCEED \$6300.00**

BE IT RESOLVED by the Borough Council of the Borough of South Plainfield, County of Middlesex, in the State of New Jersey, that it hereby authorizes the rental of a John Deere Loader from Jesco Inc. for the DPW in an amount not to exceed \$6,300.00

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the following:

1. Glenn Cullen, CFO
2. Amy Antonides, Municipal Clerk
3. DPW

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

RESOLUTION #14-90

AUTHORIZING THE AGREEMENT BETWEEN THE NJ TRANSIT CORPORATION AND THE BOROUGH OF SOUTH PLAINFIELD AND THE COUNTY CO-SPONSOR (MIDDLESEX COUNTY) FOR THE INSTALLATION AND MAINTENANCE OF A BUS SHELTER ON NEW HADLEY ROAD IN THE BOROUGH OF SOUTH PLAINFIELD, NEW JERSEY

WHEREAS NJ Transit has funds for the purchase of bus shelters throughout the State of New Jersey; and

WHEREAS, the Governing Body of a municipality in New Jersey or the Board of Chosen Freeholders of a County may apply to the New Jersey Transit Corporation for the purchase and installation of bus shelters at legally designated bus stops; and

WHEREAS, the Borough of South Plainfield, in the interest of promoting public transportation, conservation of energy, traffic safety, and for the convenience of the public, endorses the concept of providing bus shelters within its jurisdiction.

NOW, THEREFORE, be it resolved, that the application is made by the Borough of South Plainfield to the New Jersey Transit Corporation for the purchase and installation of one (1) bus shelter as set forth in Exhibit A, made a part hereof.

BE IT FURTHER RESOLVED that the Mayor and Municipal Clerk of the Borough of South Plainfield are hereby authorized to execute an Agreement with NJ Transit to arrange for the purchase and installation of said bus shelter.

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

RESOLUTION 2014-91

AUTHORIZING A 2014 TEMPORARY BUDGET AMENDMENT OF \$500,000.00 IN THE CURRENT FUND

WHEREAS, N.J.S.A. 40a:4-19 Local Budget Act provides that where any contracts, commitments or payments are to be made prior to the final adoption of the budget, temporary appropriations should be made for the purposes and amounts required in the manner and time therein provided, and

WHEREAS, the date of this resolution is prior to the adoption of the FY 2014 Budget, and

WHEREAS, the temporary budget set forth below does not exceed twenty six and one quarter percent of the total appropriations in the previous year's budget (exclusive of any appropriations made for Debt Service, Capital Improvements Fund and Public Assistance).

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Borough of South Plainfield that the temporary appropriations are hereby amended to add the following amounts and that a certified copy of this resolution is transmitted to the Chief Financial Officer.

CURRENT FUND				AMOUNT
4-01-20-100-000-101	Administration		S&W	10,000.00
4-01-20-145-000-101	Tax Collection		S&W	10,000.00
4-01-20-145-000-255	Tax Collection		O&E	5,000.00
4-01-25-240-001-101	Police		S&W	90,000.00
4-01-25-240-001-401	Police		O&E	10,000.00
4-01-26-290-001-101	Public Works Administration		S&W	10,000.00
4-01-26-290-002-102	Road Repairs & Maintenance		S&W	10,000.00
4-01-26-290-003-102	Snow		S&W	45,000.00
4-01-26-290-003-321	Snow		O&E	90,000.00
4-01-26-310-000-101	Public Buildings & Grounds		S&W	10,000.00
4-01-26-315-000-101	Vehicles Maintenance		S&W	10,000.00
4-01-28-370-001-403	Recreation		O&E	10,000.00
4-01-28-370-002-101	Office on Aging		S&W	10,000.00
4-01-29-390-000-235	Library		O&E	150,000.00
4-01-36-472-000-675	SSI		Statutory	20,000.00
4-01-37-480-000-225	Judgements		O&E	10,000.00
Total CURRENT FUND				500,000.00

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

RESOLUTION No. 14-92
AUTHORIZING 2013 APPROPRIATION TRANSFERS IN THE AMOUNT OF \$31,000.00 FOR THE
CURRENT FUND PURSUANT TO N.J.S.A. 40A:4-58

WHEREAS, in accordance with N.J.S.A. 40A:4-58 permits appropriation transfers during the last two months of the fiscal year and the first three 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 aforementioned transfers be approved.

CURRENT FUND							
FROM:							AMOUNT
3-01-20-150-000-221	Assessing		O&E				2,000.00
3-01-23-210-000-655	Insurance		O&E				5,000.00
3-01-25-240-001-101	Police		S&W				2,500.00
3-01-31-435-002-555	Street Lights		O&E				15,000.00
3-01-31-440-001-541	Telephone		O&E				2,000.00
3-01-31-445-001-581	Water		O&E				2,000.00
3-01-32-465-001-545	Landfill		O&E				2,500.00
Total FROM:							31,000.00
TO:							AMOUNT
3-01-26-290-002-435	Road Repairs		O&E				21,000.00
3-01-30-410-001-685	LOSAP		O&E				10,000.00
Total TO:							31,000.00

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

RESOLUTION 14-93

AUTHORIZING THE SERVICES OF NATIONAL WATER MAIN CLEANING CO. TO CLEAN THE SEWERS ON SPICER AVENUE IN AN AMOUNT NOT TO EXCEED \$3,720.47

BE IT RESOLVED by the Borough Council of the Borough of South Plainfield, County of Middlesex, in the State of New Jersey, that it hereby authorizes the services of National Water Main Cleaning Co. to clean the sewers on Spicer Avenue in an amount not to exceed \$3,720.47.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the following:

1. Glenn Cullen, CFO
2. Amy Antonides, Municipal Clerk
3. DPW

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

RESOLUTION 14-94
AUTHORIZING THE PURCHASE OF ICE CONTROL SAND FROM KLK TRUCKING COMPANY INC. IN AN AMOUNT NOT TO EXCEED \$8,000.00

BE IT RESOLVED by the Borough Council of the Borough of South Plainfield, County of Middlesex, in the State of New Jersey, that it hereby authorizes the purchase of ice control sand from KLK Trucking Company Inc. in an amount not to exceed \$8,000.00.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the following:

1. Glenn Cullen, CFO
2. Amy Antonides, Municipal Clerk
3. DPW

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

RESOLUTION 14-95
AUTHORIZING THE AWARD OF A PROJECT TO INSTALL AUTOMATIC SWING DOOR OPERATORS AT THE SENIOR CENTER IN AN AMOUNT NOT TO EXCEED \$6,000.00

Whereas the Borough Engineer has prepared plans and specifications for the Installation of Automatic Swing Door Operators at the Senior Center and

Whereas the Borough Engineer solicited price quotes from the following companies:

Automatic Door systems, LLC	\$6,000.00
EDC Electric	\$8,000.00
Action Electric	No Bid

And whereas, the Borough Engineer recommends award of the project to Automatic Door Systems, LLC for the lowest price quoted of **\$6,000.00**.

NOW, BE IT RESOLVED by the Borough Council of the Borough of South Plainfield, County of Middlesex, in the State of New Jersey, that pursuant to quotations received, which are under the bid threshold, it hereby authorizes the Installation of Automatic Swing Door Operators At The Senior Center in an amount not to exceed \$6,000.00 from Automatic Door Systems, LLC.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the following:

1. Glenn Cullen, CFO
2. Amy Antonides, Municipal Clerk
3. Senior Center
4. T&M Associates
5. Automatic Door Systems, LLC, 86 Porete Avenue, North Arlington, NJ 07031

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

RESOLUTION 2014-96

RESOLUTION AUTHORIZING SETTLEMENT OF 2011, 2012 and 2013 TAX APPEALS FILED BY GOLD MIST PROPERTIES, LLC, FOR THE PROPERTY KNOWN AS 660 MONTROSE AVENUE AND IDENTIFIED AS BLOCK 409, LOT 6, ON THE BOROUGH OF SOUTH PLAINFIELD TAX ASSESSMENT MAPS

WHEREAS, Gold Mist Properties, LLC (hereinafter referred to as “Taxpayer”) is the owner of the property known as 660 Montrose Avenue and identified as Block 409, Lot 6, on the Borough of South Plainfield’s Tax Assessment Maps (“Property”); and

WHEREAS, the assessed value of the Property was set at \$809,800 for 2011, 2012 and 2013; and

WHEREAS, Taxpayer filed appeals of the 2011, 2012 and 2013 tax assessments in the Tax Court of the State of New Jersey under docket numbers 010893-2011, 011328-2012 and 001905-2013; and

WHEREAS, a proposed settlement of the aforesaid tax appeals was negotiated between Taxpayer and the Borough Tax Assessor and Borough Tax Attorney as set forth in the Stipulation of Settlement annexed hereto; and

WHEREAS, the Borough Appraiser, Russ Sterling, MAI, opined that the Borough was not able to defend the assessment for the tax years under appeal and recommended that the settlement be approved and therefore, this proposed settlement is reasonable and reflects the correct market values for the Property which was over assessed for the tax years under appeal; and

WHEREAS, pursuant to the proposed Stipulation of Settlement annexed hereto, the aforesaid tax appeals are to be resolved as follows:

- The 2011 tax assessment shall be affirmed and remain unchanged;
- The 2012 original assessment in the amount of \$809,800 shall be reduced to \$700,000 and the Borough of South Plainfield shall provide Taxpayer with a corresponding tax refund for 2012;
- The 2013 original assessment in the amount of \$809,800 shall be reduced to \$600,000 and the Borough of South Plainfield shall provide Taxpayer with a corresponding tax refund for 2013;
- The parties agree that the provisions of N.J.S.A. 54:51A-8 (Freeze Act) shall apply to the assessment;
- Taxpayer has agreed to waive statutory interest provided that the tax refund is paid within 60 days of the date of entry of the Tax Court Judgment. The tax refund shall be made payable to “Sitar Law Offices, LLC. Attorney Trust Account” and forwarded to counsel for Taxpayer within 60 days of the date of Judgment.

WHEREAS, the Borough of South Plainfield Tax Assessor agrees that it is in the best interests of the Borough of South Plainfield to resolve the aforesaid tax appeals pursuant to the terms and conditions set forth above

and in the Stipulation of Settlement annexed hereto based on market conditions as well as the uncertainty and costs associated with continued litigation; and

WHEREAS, the aforesaid settlement is based on the specific and identifiable facts and circumstances pertaining to the Property and has no general application to other properties within the Borough of South Plainfield; and

WHEREAS, the Mayor and Borough Council of South Plainfield having reviewed and considered the pending tax appeals and the proposed settlement thereof agree and confirm it is in the best interests of the Borough of South Plainfield to resolve the tax appeals as set forth herein and in the Stipulation of Settlement attached hereto; and

WHEREAS, the Mayor and Borough Council make this settlement with the Taxpayer without prejudice to its dealing with any other South Plainfield taxpayer’s request for tax assessment reduction; and

WHEREAS, the Mayor and Borough Council leave the allocation between land and improvements of the aforesaid tax assessment reduction to the Borough Tax Assessor’s discretion with the direction that same be set so as to be most beneficial to the Borough.

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

1. The Borough Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$700,000 total tax assessment for the 2012 tax year for Block 409, Lot 6 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 the allocation between land and improvements of a \$600,000 total tax assessment for the 2013 tax year for Block 409, Lot 6 which is most beneficial to the Borough and advise the Borough Attorney of that allocation.
3. The Borough Attorney is authorized to execute on behalf of the Borough of South Plainfield the attached Stipulation of Settlement pertaining to the tax appeals filed by Gold Mist Properties, LLC under Docket Nos.: 010893-2011, 011328-2012 and 001905-2013 for the property known as 660 Montrose Avenue and identified as Block 409, Lot 6 on the Borough of South Plainfield Tax Assessment Maps which affirms the tax assessment for Tax Year 2011; which reduces the 2012 total tax assessment on the Property from \$809,800 to \$700,000; which reduces the 2013 total tax assessment on the Property from \$809,800 to \$600,000; which provides that the provisions of N.J.S.A. 54:51A-8 (Freeze Act) shall apply to the assessment; which provides that the Taxpayer has agreed to waive statutory interest provided that the tax refund is paid within 60 days from the date of Judgment; and which further provides that any tax refunds resulting from the settlement shall be made payable to “Sitar Law Offices, LLC, Attorney Trust Account” and forwarded to counsel for Taxpayer within 60 days of the date of Judgment.
4. This settlement shall be without prejudice to the Borough’s dealings with any other taxpayer’s request or appeal for a tax assessment reduction.

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana				x			
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	5	1			
Mayor Anesh – TIE ONLY							

**RESOLUTION 14-97
AUTHORIZING THE AWARD OF LAMP AND SWITCH INSTALLATION AT THE SENIOR
CENTER IN AN AMOUNT
NOT TO EXCEED \$7,760.00**

Whereas the Borough Engineer has prepared plans and specifications for Lamp and Switch Installation at the Senior Center and

Whereas the Borough Engineer solicited price quotes from the following companies:

H.B.C. Electric, Inc.	\$7,760.00
EDC Electric	\$8,650.00
Action Electric	No Bid

And whereas, the Borough Engineer recommends award of the project to H.B.C. Electric, Inc. for the lowest price quoted of **\$7,760.00**.

NOW, BE IT RESOLVED by the Borough Council of the Borough of South Plainfield, County of Middlesex, in the State of New Jersey, that pursuant to quotations received, which are under the bid threshold, it hereby authorizes Lamp and Switch Installation at the Senior Center in an amount not to exceed \$7,760.00 from H.B.C. Electric, Inc.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the following:

1. Glenn Cullen, CFO
2. Amy Antonides, Municipal Clerk
3. Senior Center
4. T&M Associates
5. H.B.C. Electric, Inc., P.O. Box 7155, 306 Chestnut St., Roselle, NJ 07203-7155

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

**RESOLUTION 2014-98
ACCEPTING THE RETIREMENT OF SPENCER B. ROBBINS, AS MUNICIPAL COURT JUDGE FOR
THE BOROUGH OF SOUTH PLAINFIELD EFFECTIVE MARCH 3, 2014**

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF SOUTH PLAINFIELD, NEW JERSEY, THAT:

It hereby accepts the retirement of Spencer B. Robbins, as Municipal Court Judge for the Borough of South Plainfield effective March 3, 2014;

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the following:

1. South Plainfield Court Administrator
2. Spencer B. Robbins
3. Marie Dudek, Payroll
4. Amy Antonides, Municipal Clerk

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

**RESOLUTION 2014-99
AUTHORIZING THE HIRING OF JAMES F. WEBER AS ACTING MUNICIPAL COURT JUDGE FOR
THE BOROUGH OF SOUTH PLAINFIELD
EFFECTIVE MARCH 3, 2014**

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF SOUTH PLAINFIELD, NEW JERSEY, THAT:

It hereby authorizes the hiring of Acting Judge, James F. Weber effective March 3, 2014 at a salary of \$150.00 per session.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the following:

1. South Plainfield Court Administrator
2. James F. Weber
3. Marie Dudek, Payroll
4. Amy Antonides, Municipal Clerk

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman Richkus			x				
Councilman Rusnak			x				
Councilman White		x	x				
Council President Barletta			x				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

CORRESPONDANCE

- Planning Board Minutes – December 18, 2013
- Recycling Commission Monthly Report – January, 2014
- Cultural Arts Commission Minutes – April 16, 2013

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	X		X				
Councilman Diana			X				
Councilman Richkus			X				
Councilman Rusnak			X				
Councilman White		X	X				
Council President Barletta			X				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

**SOUTH PLAINFIELD BOROUGH
APPROVAL OF BILLS AND CLAIMS**

Current Fund	3-01	19,201.56
Current Fund	4-01	319,897.73
Pool Utility	4-26	1,100.00
Pool Utility	3-26	0.00
Sewer Utility	4-07	47,374.62
Sewer Utility	3-07	0.00
Sewer Utility Capital	C-08	0.00
General Capital	C-04	15,566.59
Pool Capital	C-27	0.00
Election Account	E-18	0.00
Grant Fund	G-02	753.00
Dog Trust	T-12	3,433.33
Treasurers Trust	T-13	7,371.98
Recreation Trust	T-14	1,722.00
TOTAL ALL FUNDS		\$416,420.81

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga	X		X				
Councilman Diana			X				
Councilman Richkus			X				
Councilman Rusnak		X	X				
Councilman White			X				
Council President Barletta			X				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

COUNCIL REPORTS:

Borough Attorney Paul Rizzo, Esq. – advised that he has a court date of April 16th for the ClarkLane house demolition. He will be contacting John Pabst soon to discuss this.

Administrator Cullen – reported that the DPW has been busy doing some painting of the offices around Borough Hall. Also, there has been mention in some Nixel alerts about a shortage of road salt for some municipalities. Fortunately Cappi has managed our supply very well and South Plainfield has never been in danger of being out of road salt. The work that will be taking place at the Senior Center will be paid for with CDBG grant funds.

Engineer Miller – gave a progress report pertaining to the status of the Montrose Avenue road improvement application. It has been submitted to the DOT and we are just waiting to hear if it has been approved before we can move forward with preparing a bid. Mr. Miller also advised that he is in the process of obtaining quotes for a message board.

Clerk Antonides – reported progress.

Councilman Diana – Reminded everyone that April 19th is the Annual Litter Clean-Up Day beginning at 9 a.m.

Councilman Rusnak – advised that he attended a Board of Ed meeting recently in which he let them know that the Borough has once again paid their share of the tax appeals.

Councilman Bengivenga – thanked the Mayor and Council for their support of the resolutions this evening that authorize a new door and lighting at the Senior Center. This work represents the CDBG grant funds.

Councilman Richkus – reminded everyone that this Friday is the Comedy Night at the Westley Methodist Church.

Councilman White – thanked Councilman Bengivenga for his work with the CDBG Committee to help secure the new door and lighting at the Senior Center. Councilman White thanked the Mayor and Council for supporting these resolutions this evening that authorize this work to be done. Planet Fitness will be opening here in South Plainfield on March 11, 2014. Also the New Jersey Business Action Committee will be working with us to help us be more instrumental in our community.

Council President Barletta – said it was nice to see just a dusting of snow this morning instead of the predicted snow storm we were to get.

Mayor Anesh – advised that he had a great time dressing up as the Cat in the Hat for Read Across America this past weekend at the Senior Center in which some 150 children were in attendance. On another note Mayor Anesh advised that he is in the process of picking his annual charities to donate the 2013 wedding fees to.

COMMENTS FROM THE PUBLIC:

Mayor Anesh opened the floor for public comment.

Debbie Boyle of Van Fleet expressed condolences at the passing of Natalie Bergen and her friend Walter Kalman. There were both very active in our community and will be well missed.

Darlene Cullen of Fox Place thanked everyone who participated in this year's Read Across America. Also as an aside, it was Natalie Bergen's wishes that a donation in her honor be given to the Library.

Ms. Chrissy Buteas of 434 Lucy Court advised that she was upset to learn that Roosevelt School had to cancel their Read Across America to next week but looks forward to participating next week. Ms. Buteas said she understood that Councilman Diana did request a list of tax appeals last week and asked if it has been provided yet. Mr. Cullen advised that he provided Councilman Diana with what he had asked for. Councilman Diana said he will work with Mr. Cullen in that regard. Ms. Buteas asked how many tax appeals went to tax court trial. Mr. Rizzo said he will find out from the tax attorney. Ms. Buteas said she agrees with Councilman Diana that most of these will not make it to tax court but it does not mean that one, five or ten percent should not make it to court because we certainly want to send a message to folks that we are going to fight these and we are going to fight them hard. Clearly this is an issue because several years ago we were talking about a couple hundred thousand dollars in appeals and as of February 2014 we bonded a million dollars. This needs to be addressed moving forward. Ms. Buteas then asked where we are in terms of the snow budget. Mr. Cullen said we are a little over \$300K. Ms. Buteas concluded by reminding everyone that March is Women's History Month.

Councilman White said that Ms. Buteas mentioned that there should be cases going to court for tax appeals. Our criteria for doing that is based upon the recommendation of our professionals. Councilman White asked what Ms. Buteas suggests the criteria should be to further move the appeals along to tax court. Ms. Buteas said it is up to your professionals. Maybe the governing body needs to explore other options. This was one of the things that was raised in the past that you need to have certain attorneys and legal professionals to advise you in a certain way. Clearly when you say you do not know how many go to tax court off the top of your head at this point that is something you may want to explore further. Ms. Buteas said her understanding is that residential appeals mostly go to the county and commercial go to tax court which is a distinction to point out moving forward. Councilman White again asked what criteria does Ms. Buteas propose we use and added that we desire an attorney to base their recommendation on facts as to whether or not we can or cannot win a case. Councilman White stated that Mayor Anesh put it very eloquently that it would put the municipality at further risk if we are going to take appeals to court when our professionals do not recommend us doing so. Ms. Buteas said if you go to tax court you have the ability to also gain something and you have to evaluate the other side of the equation.

Councilman Bengivenga said Councilman White brings up a very good point. Councilman Bengivenga said that he saw Ms. Buteas sitting on Council in 2009 in which she voted to approve a similar bond for tax appeals yet never asked any of these questions when she was on Council. Now, as a member of the public, she is now all of a sudden asking what we are doing with tax appeals, yet never once asked what we can do better while she was sitting up on the dais as a member of the Council. Why is it ok now as a member of the public to ask these questions, but not when she was a member of the Governing Body? We had the same issue then that we do now. Ms. Buteas said she disagrees and did ask those types of questions. Councilman Bengivenga said in January of 2009 she bonded for settlements of tax appeals and what is fair is fair. In 2009 if she went to tax court for this one tax appeal in 2009, we wouldn't be dealing with this tax appeal right now. Councilman Bengivenga said if Ms. Buteas is trying to bring up a point, he would like to know how many she fought in tax court while she was on Council. If Ms. Buteas is going to bring up this argument he feels it should be apples to apples and that we should know how many tax appeals she brought to tax court while she was on Council.

Mayor Anesh reiterated that if your attorneys are all saying that this is indefensible and this is the best we are going to do, he does not know why certain people are hung up on a particular number that there has to be one or two that are pushed to tax court and simply does not understand that logic. Your attorneys are telling you it's indefensible, your Assessor is telling you it's indefensible, your Appraisers are telling you it's indefensible. This large tax appeal that we are talking about is something that we have been talking about for a long time. There is nothing that has been said that would have changed the outcome of this. The reality of it is that the market has changed, though it's on its way back up now. Despite that fact, at the end of the day when you look at a particular tax appeal and your tax attorneys have looked at it, and your appraisers have looked at it as well as your Assessor, and they all tell you that this is where it should be; this is our professionals coming up with where it should be based on the changes that have occurred. If they are telling you to settle, Mayor Anesh said he doesn't understand the argument to say that we need to take one to trial and that there has to be one to take to trial. How far are we away that trying a particular case in tax court is going to make a difference. Instead, trying it in court is going to open up a real possibility that we wind up paying a lot more than we would have. Mayor Anesh said that Ms. Buteas acts as if these attorney fees and court fees and cost of litigation don't factor into that. Mayor Anesh said that he is glad that we have attorneys and professionals that honestly tell us where they think we are making the best possible case to settle on behalf of the municipality because if they were telling us to go to court then we would probably be doing that. We may be singing a different tune if last year we were going to court and losing all of these settlements. Mayor Anesh said that is not the case however because we have listened to the advice of all of our professionals who know what they are doing and we did the smart thing. As a matter of fact, we have seen a number of cases withdrawn. Mayor Anesh wrapped up by telling Mr. Rizzo if there is a case somewhere out there that our tax attorney feels is great for a tax court trial (though added that he doesn't think there is any out there) than let's go to court. Mayor Anesh said that we brought in a very specialized highly recommended tax appeal attorney to look at these cases. Mayor Anesh said he will take the professionals that deals with this on a day to day basis in which they focus their practice on solely this any day and that his gut tells him that person is more in tune with this, then somebody who specializes in a whole bunch of other areas. Ms. Buteas said she thinks the public is concerned about the professional who bonds a million dollars for these tax appeals. Mayor Anesh pointed out that if we didn't have that professional we would be bonding for a whole lot more. Mayor Anesh also pointed out that when we didn't have those professionals on board, and Ms. Buteas, while on Council, settled for this of which it was later reevaluated and thus the tax appraiser came back assessing the property at a lesser value which is the reason why we are seeing this appeal settlement today.

With no further comments from the public, Mayor Anesh closed the floor.

At 8:00 p.m. Mayor Anesh called for a recess from the public portion of the meeting to go into Executive Session advising that everyone is welcome to stay if they choose.

ADJOURNMENT

Without further comment and no more action necessary for this evening, Mayor Anesh called for a motion to adjourn. Councilman Bengivenga made a motion to adjourn at 8:35 p.m., seconded by Councilman Rusnak and unanimously carried. The meeting was adjourned.

Submitted By:

Amy Antonides, RMC/CMC - Municipal Clerk