

**SOUTH PLAINFIELD BOROUGH
BOROUGH COUNCIL MEETING MINUTES
FEBRUARY 6, 2017, 7:00 P.M.
AGENDA MEETING**

CALL TO ORDER: Mayor Anesh called the meeting to order at 7:00 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 Amy Antonides as follows:

COUNCIL	Present	Absent	Late
Councilman Bengivenga	X		
Councilman Dean	X		
Councilwoman Faustini	X		
Councilman Vesce	X		
Councilman Wolak	X		
Council President White	X		
Mayor Anesh	X		
ALSO PRESENT			
Administrator Cullen	X		
Clerk Antonides	X		
Attorney Paul Rizzo Esq.	X		
Engineer Miller	X		

Review of Agenda Items: Clerk Antonides reviewed all the items on the agenda for this evening. Mayor Anesh asked if the Council had any comments about the agenda this evening. Councilman Dean asked to put aside Resolution #17-79 to be voted on separately.

**RESOLUTION #17-63
AUTHORIZING A CLOSED SESSION MEETING**

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231 and P.L. 2001, C. 404, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Borough Council of the Borough of South Plainfield wishes to go into a closed Executive Session and is of the opinion that such circumstances presently exist which should not be discussed in public, and

WHEREAS the Open Public Meetings Act pursuant to N.J.S.A. 47:1A-1 and N.J.S.A. 10:4-12 permits the Borough Council to discuss certain matter(s) in private, and in this case for the purpose of the Borough Council to discuss the below matters all of which requires attorney-client privilege:

- Personnel – Professional Managers

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of South Plainfield that it will go into an Executive Session for the purpose of Borough Council to discuss the aforementioned matters all of which requires attorney-client privilege in this regard;

BE IT FURTHER RESOLVED that the results of such discussion may be revealed at such time as the matter(s) are resolved and/or a contract(s) is signed and/or the negotiations are formally settled. Interested parties may contact the Borough Clerk anytime during normal business hours for periodic updates as to the availability in this regard.

COUNCIL	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Bengivenga			X				
Councilman Dean			X				
Councilwoman Faustini			X				
Councilman Vesce			X				
Councilman Wolak		x	X				
Council President White	x		X				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

PUBLIC COMMENT ON AGENDA ITEMS ONLY: Mayor Anesh opened the floor for public comments.

Mr. Joe Lambert of 1131 Tompkins Avenue, inquired about Resolution #17-79 on this evening's agenda regarding the Borough's COAH obligation and settlement agreement. Mr. Lambert asked what the Borough's actual obligation is? Mayor Anesh turned the floor over to the Court Appointed Master, Elizabeth McKenzie, who in turn answered by saying it is 538, with 419 units and 119 of unmet need emphasizing that Fair Share Housing projected our obligation should have been 896. Mr. Lambert verified that it's his understanding at 1111 Durham Avenue there will be 410 units. With that said, can there be additional units over and above that number. Mayor Anesh said no there cannot be, despite various rumors to that effect on social media. Ms. McKenzie said the Borough did strive to obtain another tenant for this site, however, once Fair Share Housing learned of the availability of this property the Borough had to include it in their plan. The Borough became legally obligated to include 1111 Durham Avenue. The developer proposed well over 700 units at this site, but the Borough was fortunate enough to negotiate it down to 410. Mr. Lambert asked if there will be commercial use at this location. Mr. Stan Slackatka, P.P., said no, it is strictly residential use. Mr. Lambert expressed his concerns with the impact this will have on our school system. Mayor Anesh asked both Mr. Slackatka and Ms. McKenzie if there were studies done on the impact of our schools and traffic among other things, if it would change anything in this settlement agreement. Ms. McKenzie said absolutely not. Mr. Lambert went on to inquire of other cost impacts, traffic impacts, etc. Mayor Anesh said those elements will be looked at when plans come forth through our Planning Board. Though we could look at all of that, Mayor Anesh said it will not change anything in regards to our legal obligation. Mr. Lambert asked if there will be any other meetings on this. Mayor Anesh said that is possible, though the venue was here tonight. Mr. Lambert asked if we have the ability to not vote on this this evening. The builder's protection remedy expires for us in a couple days and if we don't sign the agreement tonight, it will place the Borough in harm's way with costly litigation. This meeting tonight was put in the Tap, the Observer, as well as other social media sources. The council sent a letter to the editor. We announced that we will be signing this agreement at this meeting this evening. Ms. McKenzie said Mayor Anesh said it right. There is not sufficient vacant land to meet our need. We would be vulnerable to other developers stepping in and risking our obligation number increasing. The Judge has already given this Borough extensions of time to settle with the present developer. We would be highly vulnerable from the builder's remedy and risk losing control. Mayor Anesh asked Ms. McKenzie the likelihood of a Judge agreeing to lower our obligation number. Ms. McKenzie said it's not likely. Because the Supreme Court ruled that the gap period is in, the numbers will likely increase and there appears to be a track record for that in Middlesex County right now. Ms. McKenzie said overall this is risk management and if you want to close down the opportunity for others to come forward and remain in control of your plan settlement is your smart move, though, not an easy one. You do not have vacant land to meet your need. When you don't have vacant land to meet your need, you are forced to allow others to step in. Mr. Slackatka pointed out that if we do not settle, we risk the 1111 Durham Avenue developer seeking a much higher number and may lose control of all of our design element requirements. Council President White mentioned South Brunswick who in turn lost control of their whole plan and in fact had their obligation numbers scientifically increase. Mr. Slackatka verified that that is correct. Mr. Lambert said he noticed on our website a Judge's order for a fairness hearing in April, and asked if we could hold off on this agreement until then. Mr. Rizzo Esq. said no, that based upon a report to the judge, the council agreed to the settlement agreement at the last council meeting. That is what the fairness hearing judgment was based upon. Because it was reported to Judge Natale that we approved of the agreement in principal and we would formally be signing it at this meeting tonight, he granted us this brief extension. If we don't sign this agreement this evening, it will have to be reported back to the Judge and he will render a new order. Mr. Lambert expressed concerns of this having a huge impact on the Borough particularly with the schools and not having a re-evaluation in years. The schools have a \$29.5 million referendum right now, and our schools are either at or near capacity we are going to be in need of a new school and infrastructure upgrades. Mayor Anesh explained that a re-assessment has nothing to do with it. Whatever the Borough collects today, it will collect the same amount. The lack of a re-assessment poses risk to residents by increasing their taxes while you will have some whose taxes may go down a little bit. The net to South Plainfield will be identical. If we started that process today, it will not change the impact to our schools. Mayor Anesh pointed out the lack of legislative assistance, inclusive of our own local legislators, saying that nothing was done by any of them to help with this issue. The opportunity is still there for this legislature to do something that will affect this impact for us. We are now held accountable, but unfortunately the legislature is not as they have done nothing for the last 7-8 years. How many of them were re-elected this past November, probably every one of them. We can put up a big show and spend hundreds of thousands of dollars fighting the fight, but at the end of the day we will be looking at more developable industrial sites and higher obligation numbers, or we can end this high risk today, and sign this settlement agreement by limiting the exposure that we have. Mayor Anesh said the Council President and he sat with numerous developers who had intent of purchasing 1111 New Durham for commercial use, however, they told us the shocking news that when they approached the developer for 1111 New Durham they didn't want to sell the property and will wait it out. He has no intention of selling that parcel. Mayor Anesh said it is by no means on their part a lack of trying to keep this site commercial and bring potential new business(s) to town. Mayor Anesh said he agrees with Mr. Lambert regarding the impacts, however, we are legally obligated to include this site into our plan. Mayor Anesh said at this point there appears to be no other alternative. He wishes there was one, but there doesn't

appear to be one, unless Ms. McKenzie tells us there is one. Ms. McKenzie said no. Mayor Anesh said he could go door to door, to all the schools, hold town hall meetings from now until March, but it will not change a thing, because there are no other alternatives. Any alternatives we had, we've taken. We went from over 700 units at 1111 New Durham down to 410. At the end of the day we will not win in court and loose hundreds of thousands of dollars in attorney fees.

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

ADJOURN AGENDA MEETING: With no further comments, Mayor Anesh asked for a motion to adjourn from the Agenda Meeting. Council President White made a motion to adjourn from the Agenda Meeting at 7:38 p.m., seconded by Councilman Wolak and unanimously carried by an all in favor.

Respectfully Submitted By:

Amy Antonides

Amy Antonides, RMC/CMC/CMR