

**SOUTH PLAINFIELD BOROUGH
BOROUGH COUNCIL MEETING MINUTES
FEBRUARY 6, 2017 7:38 P.M.
PUBLIC MEETING**

CALL TO ORDER: Mayor Anesh called the meeting to order at 7:38 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 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		

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

Public Comment: Mayor Anesh opened the floor for public comment on agenda items only.

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

Authorizing the Approval of Council Minutes:

January 23, 2017 – Agenda
January 23, 2017 - Public
January 23, 2016 – Executive Session

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

Proclamations

Black History Month – February 2017
Boy Scouts Week – February 8th-11th, 2017

Mayor Anesh read both aforementioned proclamations in full and invited those present to receive the proclamations forward. Photographs were taken and everyone extended a round of applause.

At 7:50 p.m. Mayor Anesh called for a brief recess. At 8:00 p.m. Mayor Anesh called the meeting back to order.

Clerk Antonides read the following Bond Ordinance #2071 by title. Mayor Anesh opened the floor for public hearing. With no comments made, Mayor Anesh closed the floor. There were no comments from Council.

BOND ORDINANCE 2071

BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE BOROUGH OF SOUTH PLAINFIELD, IN THE COUNTY OF MIDDLESEX, NEW JERSEY, APPROPRIATING \$280,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$265,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF SOUTH PLAINFIELD, IN THE COUNTY OF MIDDLESEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

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 \$280,000, and further including the aggregate sum of \$15,000 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 \$265,000 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 & Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds & Notes</u>	<u>Period of Usefulness</u>
a) The acquisition of sport utility vehicles and associative fit-out equipment for the Police Department, including all related costs and expenditures incidental thereto.	\$265,000	\$251,000	5 years
b) The acquisition of electronic speed device message boards, including all related costs and expenditures incidental thereto.	<u>\$15,000</u>	<u>\$14,000</u>	10 years
TOTAL:	<u>\$280,000</u>	<u>\$265,000</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 bond anticipation note shall mature later than one year from its date. The bond anticipation 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 bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation 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 bond anticipation 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 bond anticipation 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 bond anticipation 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 improvements or purposes described in Section 3(a) of this bond ordinance are not current expenses. They are all improvements or purposes that the Borough may lawfully undertake as general improvements, and no part of the cost 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 5.26 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 \$265,000, 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 cost indicated herein for the purposes or improvements.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes or improvements 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 or improvements 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 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.

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

Mr. Cullen pointed out that under correspondence he has a tax appeal calculation sheet pertaining to this evenings tax appeals noting the estimated settlement appeal totals for each one.

RESOLUTIONS

RESOLUTION 17-64 AUTHORIZING THE REFUND OF \$76.00 TO BEVERLY ANN BULLY OF 122 SMITH STREET FOR A CANCELLED CONSTRUCTION PERMIT FEE FOR WORK NOT PERFORMED

WHEREAS, the Construction Official confirms that work did not take place at 122 Smith Street in South Plainfield as originally planned and thus the applicant has requested a refund of their \$76.00 permit fee;

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 refund check(s) in the amount(s) of \$76.00 to the following:

**Beverly Ann Bulla
122 Smith Street
South Plainfield, NJ 07080**

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

**RESOLUTION 17-65
AUTHORIZING THE REFUND OF \$2,298.00 TO CALLAN &
MOELLER CONSTRUCTION FOR A CANCELLED
CONSTRUCTION PERMIT FEE FOR WORK
NOT PERFORMED AT 200 HELEN STREET**

WHEREAS, the Construction Official confirms that work did not take place at 200 Helen Street in South Plainfield as originally planned and thus the applicant has requested a refund of their \$2,298.00 permit fee;

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 refund check(s) in the amount(s) of \$2,298.00 to the following:

**Callan & 7 Moeller Construction
Mr. Patrick Moeller
P.O. Box 2251
Long Beach Township, NJ 08008**

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

RESOLUTION 2017-66

RESOLUTION AUTHORIZING SETTLEMENT OF 2012, 2013, 2014 and 2015 TAX APPEALS FILED BY WADE REALTY CO., FOR THE PROPERTY KNOWN AS 235 ST. NICHOLAS AVENUE AND IDENTIFIED AS BLOCK 420, LOT 11.04, ON THE BOROUGH OF SOUTH PLAINFIELD TAX ASSESSMENT MAPS

WHEREAS, Wade Realty Co. (hereinafter referred to as “Taxpayer”) is the owner of the property known as 235 St. Nicholas Avenue and identified as Block 420, Lot 11.04, on the Borough of South Plainfield’s Tax Assessment Maps (“Property”); and

WHEREAS, the assessed value of the Property was set at \$1,050,000 for all years under appeal; and

WHEREAS, Taxpayer filed appeals of the 2012, 2013, 2014 and 2015 tax assessments in the Tax Court of the State of New Jersey under docket numbers 008528-2012, 004547-2013, 003823-2014 and 002795-2015; 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 assessments 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 all 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 2012 tax appeal shall be withdrawn by Taxpayer;

- The 2013 original assessment in the amount of \$1,050,000 shall be reduced to \$1,013,000 and the Borough of South Plainfield shall provide Taxpayer with a corresponding tax refund for 2013;
- The 2014 original assessment in the amount of \$1,050,000 shall be reduced to \$916,000 and the Borough of South Plainfield shall provide Taxpayer with a corresponding tax refund for 2014;
- The 2015 original assessment in the amount of \$1,050,000 shall be reduced to \$885,400 and the Borough of South Plainfield shall provide Taxpayer with a corresponding tax refund for 2015;
- Taxpayer has agreed to waive statutory interest provided the subject refunds are paid within sixty (60) days from the date of the entry of Judgment;
- Refunds regarding over payments shall be made payable to “Michael A. Vespasiano, Attorney Trust Account and Wade Realty Co.” and forwarded to Michael A. Vespasiano, Esq., 331 Main Street, Chatham, NJ within 60 days from the date of the entry of Judgment; and
- The parties agree that the provisions of N.J.S.A. 54:51A-8 (Freeze Act) shall not be applicable to this case.

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 reductions 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 \$1,013,300 total tax assessment for the 2013 tax year for Block 420, Lot 11.04 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 \$916,000 total tax assessment for the 2014 tax year for Block 420, Lot 11.04 which is most beneficial to the Borough and advise the Borough Attorney of that allocation.
3. The Borough Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$885,400 total tax assessment for the 2015 tax year for Block 420, Lot 11.04 which is most beneficial to the Borough and advise the Borough Attorney of that allocation.
4. 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 Wade Realty Co. under Docket Nos.: 008528-2012, 004547-2013, 003823-2014 and 002795-2015 for the property known as 235 St. Nicholas Avenue and identified as Block 420, Lot 11.04, on the Borough of South Plainfield Tax Assessment Maps which withdraws the tax appeal for Tax Year 2012; which reduces the 2013 total tax assessment on the Property from \$1,050,000 to \$1,013,000; which reduces the 2014 total tax assessment on the Property from \$1,050,000 to \$916,000; which reduces the 2015 total tax assessment on the Property from \$1,050,000 to \$885,400; which further provides that Taxpayer agrees to waive statutory interest on any refund or overpayment due provided the refund check is paid within sixty (60) days from the

issuance of Judgment; which further provides that any refunds shall be made payable to “Michael A. Vespasiano, Attorney Trust Account and Wade Realty Co.” and forwarded to Michael A. Vespasiano, Esq. 331 Main Street, Chatham, NJ within 60 days from the date of the entry of Judgment; and which provides that the provisions of N.J.S.A. 54:51A-8 (Freeze Act) shall not be applicable to this case.

5. 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				
Councilman Dean			X				
Councilwoman Faustini	x		X				
Councilman Vesce			X				
Councilman Wolak			X				
Council President White		x	X				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

**RESOLUTION 2017-67
RESOLUTION AUTHORIZING SETTLEMENT OF 2013, 2014, 2015 AND 2016 TAX APPEALS FILED
BY PROFESSIONAL HOLDINGS, LLC FOR THE PROPERTY KNOWN AS 1511 PARK AVENUE AND
IDENTIFIED AS BLOCK 55, LOT 3.01, ON THE BOROUGH OF SOUTH PLAINFIELD
TAX ASSESSMENT MAPS**

WHEREAS, Professional Holdings, LLC (hereinafter referred to as “Taxpayer”) is the owner of the property known as 1511 Park Avenue and identified as Block 55, Lot 3.01, on the Borough of South Plainfield’s Tax Assessment Maps (“Property”); and

WHEREAS, the assessed value of the Property was set at \$958,000 for 2013, 2014, 2015 and 2016; and

WHEREAS, Taxpayer filed appeals of the 2013, 2014, 2015 and 2016 tax assessments in the Tax Court of the State of New Jersey under Docket Numbers 013214-2013, 011794-2014, 010487-2015 and 009794-2016; 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 assessments for the 2013, 2014, 2015 and 2016 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 Tax Years 2013, 2014, 2015 and 2016; and

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

- The 2013 tax appeal shall be withdrawn by Taxpayer;
- The 2014 tax appeal shall be withdrawn by Taxpayer;
- The 2015 original assessment in the amount of \$958,000 shall be reduced to \$550,000 and the Borough of South Plainfield shall provide Taxpayer with a corresponding tax refund for 2015;
- The 2016 original assessment in the amount of \$958,000 shall be reduced to \$525,000 and the Borough of South Plainfield shall provide Taxpayer with a corresponding tax refund for 2016;
- Taxpayer has agreed to waive statutory interest provided the tax refund is paid within 60 days of the date of entry of the Tax Court Judgments;
- Refunds regarding overpayments shall be made payable to “Archer & Greiner, P.C. as Trustee for Professional Holdings, LLC” and forwarded to Joseph J. Norcia, Esq. c/o Archer & Greiner, P.C., 101 Carnegie Center, Suite 300, Princeton, NJ 08540 within 60 days of the date of entry of the Tax

Court Judgments.

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 \$550,000 total tax assessment for the 2015 tax year for Block 55, Lot 3.01 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 \$525,000 total tax assessment for the 2016 tax year for Block 55, Lot 3.01 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 Professional Holdings, LLC under Docket Nos.: 013214-2013, 011794-2014, 010487-2015 and 009794-2016 for the Property known as 1511 Park Avenue and identified as Block 55, Lot 3.01 on the Borough of South Plainfield Tax Assessment Maps which withdraws the tax appeals for Tax Years 2013 and 2014; which reduces the 2015 total tax assessment on the Property from \$958,000 to \$550,000; which reduces the 2016 total tax assessment on the Property from \$958,000 to \$525,000; which provides that the Taxpayer has agreed to waive statutory interest on any refund or overpayment due provided the refund check is paid within 60 days from the issuance of Judgment; and which further provides that any refunds shall be made payable to "Archer & Greiner, P.C. as Trustee for Professional Holdings, LLC" and forwarded to Joseph J. Norcia, Esq. c/o Archer & Greiner, P.C., 101 Carnegie Center, Suite 300, Princeton, NJ 08540 within 60 days of the date of entry of the Tax Court Judgments.
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				
Councilman Dean			X				
Councilwoman Faustini	x		X				
Councilman Vesce			X				
Councilman Wolak			X				
Council President White		x	X				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

RESOLUTION #2017-68

AUTHORIZING THE BOROUGH OF SOUTH PLAINFIELD IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY TO SUPPORT H.R. 814 KNOWN AS THE “THIN BLUE LINE ACT” TO SHOW SUPPORT FOR POLICE OFFICERS, FIREFIGHTERS, CORRECTION OFFICERS AND FIRST RESPONDERS

WHEREAS, Police Officers, Firefighters, Correction Officers, and First Responders ensure the public safety and protection of citizens and place their lives on the line while performing their duties; and

WHEREAS, Congressman David W. Jolly (R-Florida) introduced H.R. 814, known as the “Thin Blue Line Act” on February 9, 2016 that amends Section 3592 © Title 18 of the United States Code; and

WHEREAS, this legislation provides that the killing of Law Enforcement Officers, Firefighters, Prosecutors, First Responders and Correction Officers while engaged in the performance of their official duties, because of the performance of their official duties or because of their status as a public official employee, shall be deemed as an aggravating factor while considering the imposition of the death penalty based on the status of the victim under federal law; and

WHEREAS, the recent murder of 5 Law Enforcement Officers in Dallas, Texas on July 7, 2016, as well as the deaths of numerous Law Enforcement Officers and First Responders in the United States are an example of the dangerous conditions which Law Enforcement Officers and other responders face on a daily basis; and

WHEREAS, the Borough Council of the Borough of South Plainfield recognizes that all members of the South Plainfield Police Department, South Plainfield Fire Department, South Plainfield Volunteer Rescue Squad and First Responders and all Law Enforcement Officers and First Responders throughout New Jersey and the United State place themselves in harm’s way in order to protect the public and ensure a safe community.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of South Plainfield County of Middlesex and State of New Jersey confirms for the record it’s support of H.R. 814 and urges the United State House of Representatives and U.S. Senate to enact this important legislation; and

BE IT FURTHER RESOLVED, the Borough Clerk shall forward copies of this Resolution, to Senator Patrick J. Diegnan, Jr., Assemblyman Robert J. Karabinchak, Assemblywoman Nancy J. Pinkin, the New Jersey State Police Chiefs Association and all Mayors in Middlesex County, New Jersey.

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

RESOLUTION 2017-69

ACCEPTING THE RETIREMENT OF MARY DEROSE AS SECRETARY TO THE POLICE CHIEF EFFECTIVE DECEMBER 1, 2017

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

It hereby accepts the retirement of Mary DeRose from the Borough of South Plainfield Police Department as Secretary to the Police Chief effective December 1, 2017;

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

1. Mary DeRose, Police Department
2. James Parker, Chief of Police
3. Amy Antonides, Municipal Clerk
4. Anne Daley, Benefits
5. Carmela Sutor, Payroll

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

RESOLUTION 2017-70

Authorizing the submittal of a grant application and the execution of the grant contact with the NJ Department of Transportation for the Hadley Road Phase I project
(Refer to full copy of resolution in Municipal Clerk's Office)

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

RESOLUTION 2017-71 ACCEPTING THE RESIGNATION OF DARLEEN MARIN-ESPIN AS TAX OFFICE CLERK EFFECTIVE JANUARY 30, 2017

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

It hereby accepts the resignation of Darleen Marin-Espin as Tax Office Clerk from the Borough of South Plainfield effective January 30, 2017;

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

1. Darleen Marin-Espin, Tax Clerk
2. Kim Clifford, Tax Collector
3. Amy Antonides, Municipal Clerk
4. Anne Daley, Benefits
5. Carmela Sutor, Payroll

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

RESOLUTION 17-72
AUTHORIZING REFUND OF A \$100.00 SECURITY DEPOSIT FOR USE OF THE
SENIOR CENTER TO SUMAN McLINDEN OF 233 ADELINE AVENUE

BE IT RESOLVED, by the Borough Council of the Borough of South Plainfield that it hereby authorizes the following refund(s) to senior(s):

Suman McLinden
 233 Adeline Avenue
 South Plainfield, NJ 07080
 \$100.00 – Return of security deposit for room rental

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 refund(s).

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

RESOLUTION 2017-73
AUTHORIZING THE APPOINTMENT OF SCHANNA MACDONALD AS SECRETARY
TO THE TRAFFIC SAFETY ADVISORY COMMITTEE EFFECTIVE
FEBRUARY 1, 2017 AT AN ANNUAL SALARY OF \$750.00

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

It hereby appoints Schanna MacDonald as Secretary to the Traffic Safety Advisory Committee effective February 1, 2017 at an annual salary of \$750.00; and

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

1. Schanna MacDonald, Police Records
2. James Parker, Police Chief
3. Amy Antonides, Municipal Clerk
4. Anne Daley, Benefits
5. Carmela Sutor, Payroll

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

RESOLUTION 2017-74
AUTHORIZING THE APPOINTMENT OF KAREN PLASSE TO PERFORM THIRD PARTY BILLING
SERVICES FOR THE POLICE DEPARTMENT AT AN ANNUAL SALARY OF \$2,640.00 EFFECTIVE
FEBRUARY 1, 2017

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

It hereby appoints Karen Plasse to perform third party billing services for the Police Department effective February 1, 2017 at an annual salary of \$2,640.00; and

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

1. Karen Plasse, Police Department
2. James Parker, Police Chief
3. Amy Antonides, Municipal Clerk
4. Anne Daley, Benefits
5. Carmela Sutor, Payroll

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

**RESOLUTION 2017-75
AUTHORIZING THE TEMPORARY APPOINTMENT OF YOLANDA DIAZ
AS ACTING MUNICIPAL COURT ADMINISTRATOR**

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

It hereby temporarily appoints Yolanda Diaz as Acting Municipal Court Administrator in the absence of the Court Administrator at an increased rate of \$7.15 per hour effective January 30, 2017; and

BE IT FURTHER RESOLVED that this temporary appointment shall expire upon the return of the current Municipal Court Administrator; and

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

1. Yolanda Diaz, Municipal Court
2. Amy Antonides, Municipal Clerk
3. Anne Daley, Benefits
4. Carmela Sutor, Payroll

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

**RESOLUTION 2017-76
AUTHORIZING THE TEMPORARY APPOINTMENT OF SAVITREE RAMRUP
AS ACTING VIOLATIONS CLERK FOR THE MUNICIPAL COURT**

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

It hereby temporarily appoints Savitree Ramrup as Acting Violations Clerk for the Municipal Court at an increased rate of \$4.00 per hour effective January 30, 2017; and

BE IT FURTHER RESOLVED that this temporary appointment shall expire upon the return of the current Municipal Court Administrator; and

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

1. Savitree Ramrup, Municipal Court
2. Amy Antonides, Municipal Clerk
3. Anne Daley, Benefits
4. Carmela Sutor, Payroll

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

**RESOLUTION 2017-77
AUTHORIZING THE TEMPORARY APPOINTMENT OF JANINE CALVEY
AS ACTING DOCKET CLERK FOR THE MUNICIPAL COURT**

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

It hereby temporarily appoints Janine Calvey as Acting Docket Clerk for the Municipal Court at an increased rate of \$2.00 per hour effective January 30, 2017; and

BE IT FURTHER RESOLVED that this temporary appointment shall expire upon the return of the current Municipal Court Administrator; and

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

1. Janine Calvey, Municipal Court
2. Amy Antonides, Municipal Clerk
3. Anne Daley, Benefits
4. Carmela Sutor, Payroll

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

RESOLUTION 17-78
AUTHORIZING THE PURCHASE OF FIRE INSPECTION SOFTWARE
FROM TRADEMASTER IN AN AMOUNT NOT TO EXCEED
\$16,350.00 TO BE PAID OUT OF THE FIRE TRUST ACCOUNT

BE IT RESOLVED, by the Borough Council of the Borough of South Plainfield that it hereby authorizes the purchase of fire inspection software from Trademaster for the Fire Department in an amount to exceed \$16,350.00 to be paid for out of the Fire Trust Account; and

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. Joe Abbruzzese, Fire Official

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

Resolution 2017-79 below was pulled from the consent agenda to be voted on separately.

Mayor Anesh reiterated this is just to authorize the Mayor to execute the settlement agreement that was already voted on at our last council meeting. Mr. Rizzo Esq. concurred advising that at the last meeting the Council unanimously approved of the settlement agreement in its entirety and this is just a resolution memorializing what was already voted upon and agreed to. Mayor Anesh then called for a motion and second. Upon a motion by Council President White and second by Councilman Wolak, Mayor Anesh asked for any further comments.

Councilman Dean expressed his concern that the public really has not been notified about this. Councilman Dean said he feels we need to table this and speak to the public as he has received phone calls from residents about this. Councilman Dean said he doesn't feel this just sprung up on the Borough which is one of the outrages he received from a resident. They are wondering why they were not notified. Councilman Dean said he doesn't know how long this has been in production. There seems to be a lot of people outraged over this and he would like to see a motion to table this, thinking that we may have to go door to door on this to talk to people. Mayor Anesh said that perhaps Councilman Dean was not listening to what was said earlier this evening. We went over this with both our Special Court Master and Professional Planner. Mayor Anesh said that Councilman Dean has been in executive meetings since November and is now reiterating what he already said in that he can go door to door and it will not change one thing. As our Borough Attorney said, you have already agreed on this settlement. Mayor Anesh said the only thing tabling this will do is put our residents in a much greater risk of having even more units, more industrial sites with affordable housing, and risking increasing the number of unites at 1111 Durham Avenue from 400 to over 700. Mayor Anesh said that he has no problem talking to residents, and as an aside, only one resident called him to inquire about the settlement agreement showing surprise that historically as Mayor, residents stereotypically contact him with the complaints instead of council members. Mayor Anesh asked Councilman Dean what will change? How will we be in a better position tomorrow if we do not execute this agreement? Mayor Anesh said that Councilman Dean already voted yes on this agreement and agreed that it's in the best interest of this Borough. Drafts of this agreement were distributed to the entire council some two weeks ago. You have all had ample time to look at the proposed agreement. We've had executive session meetings about this for at least an hour at the prior meeting. You have had an additional two to three weeks to look it over. We've all been discussing this since November. You just heard from the Special Court Master who just said she will not budge. She will not give us any better deal than we have here today. We are not trying to hide anything here. You all approved of this agreement and then the entire Council within two days came to Borough Hall to sign a letter expressing your agreement with this settlement of which was sent to all the newspapers and posted on the Borough website, clearly not hiding anything.

Mayor Anesh inquired with the Tap Editor as to how many hits this story had in their paper. Mrs. Cullen said a couple thousand. Mayor Anesh asked The Observer Editor how many subscribers they have. Mrs. Grennier said a couple thousand. Mayor Anesh asked both Editors if the town advertised that this meeting with this subject matter would be heard this evening. Both Editors said yes. Mayor Anesh said it was also mentioned in various social media outlets. Mayor Anesh asked where are the residents this evening? Mayor Anesh asked how many residents are here this evening from the South Side. 3 residents raised their hands. Council President White pointed out that during our brief recess this evening he had some dialog with a couple residents merely just seeking clarification of understanding where we are at today with this and how we got here. Council President White said this topic has been discussed for a very long time. It hasn't been discussed on the floor because it has been in executive session of which we are not allowed to discuss such matters. Mr. Rizzo said yes, because the entire time you were in executive session with this matter it was in legal negotiations. It was a long negotiation process. There is nothing for the Council to act upon in public session until the negotiation is resolved. Mayor Anesh said that is correct. Now we have come to a negotiated agreement.

Mayor Anesh once again asked Councilman Dean what he expects will change by tabling this today and removing the protection that we have from the courts and having our professionals go back to the court to advise that that South Plainfield is refusing to allow the Mayor to execute the settlement agreement of which is a document Mayor Anesh said that he does not wish to sign to begin with. It is the last thing he wishes to sign but will do it because it truly is in the best interest of the residents of this Borough. Councilman Dean said he knows it's the last thing the Mayor wishes to sign, or any of them to sign. Mayor Anesh asked Councilman Dean to advise him what will change and what the course of action will be when we wake up tomorrow morning. Councilman Dean said he understands what Mayor Anesh is saying but feels the residents have not been notified. Mayor Anesh said but they have been. Councilman Dean said, he means well before recent weeks and more like last Spring. Mayor Anesh said it's been in legal negotiations. It has been well reported in the media throughout the state.

Councilman Dean said at election time when he was going door to door in that area that this subject matter was the number one question. Our response was that we had no idea. Mayor Anesh said they didn't know at the time either as it was in legal negotiations. Mayor Anesh reiterated that this Council was bringing prospective commercial entities to that site to maintain it as commercial use. We held out as long as we possible could in doing just that while under the courts protection. We've reached a point where our court protection from builder's remedies is now expiring. It has nothing to do with the election. Why on earth would we settle early? We don't want to settle now, but we are doing it because we are losing the court protection from other developers coming in. Mayor Anesh said he doesn't know how we get more transparent as we have been. It's been out there in newspapers. It's on our website. Mayor Anesh asked again what is his proposed course of action and what does he think the next step should be. Councilman Dean said he would have liked to have more input from residents. Mayor Anesh said that is fine and he is always willing to have input from our residents though there is no way to prevent this situation from occurring.

Councilman Dean expressed deep concern for the impact this is going to have on our residents. Mayor Anesh agreed and asked if we table this today what do we do when we wake up tomorrow to ensure the residents of South Plainfield don't see even more of these housing units than we are facing at this particular moment? Councilman Dean said the Borough is put in a really bad position. Mayor Anesh said he agrees but sometimes we have really difficult decisions to make. Councilman Dean said it appears this is the best plan we have right now.

Mayor Anesh asked Mr. Slackatka what the original plan was for affordable housing for South Plainfield. Mr. Slackatka said the basic frame of the plan mirrors your prior administrations over the years from other rounds. This round advances the same goals and objectives that the Borough had in other rounds and conforms with the revitalizing of downtown. Mayor Anesh said the only difference with this plan is that we are forced to include 1111 Durham Avenue. Our original plan was to never allow 1111 Durham Avenue to be developed in this way and it is our belief it doesn't make good sense to put affordable housing there. We made every argument possible for this to not happen. Mayor Anesh pointed out that by not authorizing him to sign this settlement is making the situation even worse for the residents unless he has some plan for him to wake up to tomorrow.

Councilman Dean asked what year the developer purchased the property. Mr. Cullen said around 3 years ago. Mr. Rizzo said it sat vacant for many years before he purchased it. Mayor Anesh said he is surprised the realtor didn't find anyone to purchase it because he and the Council found numerous commercial entities interested in it. Granted office space in New Jersey is on the decline, but when this developer took ownership we sent numerous businesses to him but he showed no desire with potential commercial entities for the property. Mayor Anesh said the developer knew this day was coming because he had hired the previous Judge who was hearing our case. The very Judge that quit without a pension. It makes one wonder if the system is rigged. Again Mayor Anesh asked what we should do if

this governing body decides to not allow him to sign this document that was unanimously approved two weeks ago, that he really doesn't want to sign but will because it is in the resident's best interest. Not signing puts our schools in more harm's way, our police, fire, DPW, first aid, emergency management and the overall infrastructure in this town all in more harm's way. There is not one person he thinks this will benefit in the Borough, strike that, the developer will benefit. Mayor Anesh concluded by asking Councilman Dean how we shall proceed. Councilman Dean said to proceed.

Councilman Vesce said he wishes the public could hear him speak about this. Mayor Anesh said they can. Councilman Vesce said he wished they would have come to the Council Meeting to hear from the Mayor. Mayor Anesh said he wished that was the case too. But they can still hear from him as he will avail himself to anyone about this. Councilman Vesce said that truthfully they probably didn't know there were perspective buyers for 1111 Durham Avenue that the developer turned away. Councilman Vesce reiterated he wished the people could hear the Mayor speak about all of this and that he too is not comfortable signing this document. Mayor Anesh said that until we had an agreement actually in place there was nothing at that point to say to the residents. Councilman Vesce said that maybe in the past two weeks from when the council signed the letter that something could have been done. Mayor Anesh said you cannot discount the advertised meeting for today. This is the forum. People are accustomed to seeing us here at this building with our advertised meetings. Mayor Anesh said we can continue to painstakingly have these meetings and this conversation and invite our professionals for residents to hear directly from them. This council is the representative for the residents. In fact, the developer who owns 1111 Durham Avenue owns other sites in town and had expressed interest in adding those sites as well to the plan. If this document is not signed today, the Borough will be at risk of that happening and the developer will maximize his opportunity. Mayor Anesh asked the Borough Attorney what will happen if we do not sign this tonight. Mr. Rizzo Esq. said you will go to trial. Mayor Anesh asked approximately how much it will cost in attorney and trial fees. Mr. Rizzo Esq. said at least a quarter of a million dollars which may be on the light side. Mayor Anesh said there is no good decision here tonight other than to limit the exposure to the residents of South Plainfield and stop the bleeding here.

Councilman Dean asked if this plan will protect by signing tonight from this developer entering his other sites into this plan. Mayor Anesh said yes it will until 2025. Special Court Master Betsie McKenzie agreed. Mayor Anesh said that hopefully the legislature in the next eight years will do something about this situation. Councilman Dean said it's not against affordable housing, his concern is just for the impact it's going to make in this Borough. Council President White said that the only way he would possibly vote for something like this is if his hand was forced, and it is forced. We are minimizing the impact to the Borough. It's not an easy decision. Council President White said he is not willing to look residents in the eye somewhere down the road and know that he could have minimized the impact, but choose not to. Councilman Wolak concurred and expressed concern for some \$250,000.00 of attorney fees we will have to expend if we don't sign this agreement tonight. Our obligation at 1111 Durham would than most likely go up from the 410 units to over 750 units. Other developers will then come forward. We will have more units overall and is the best decision that can be made for the Borough. Mayor Anesh pointed out that the decision was already made at the last meeting. The only decision tonight is to authorize the Mayor to sign this agreement. Councilwoman Faustini said all the alternatives have been reviewed and she feels it is in the best interest of the residents to move forward at this time. With no further comments, Clerk Antonides recapped that a motion was made by Council President White and a seconded by Councilman Wolak. The vote and roll call is indicated below:

RESOLUTION 2017-79

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF SOUTH PLAINFIELD, MIDDLESEX COUNTY, NEW JERSEY, AUTHORIZING THE MAYOR TO EXECUTE A SETTLEMENT AGREEMENT AND ALL NECESSARY DOCUMENTS TO OBTAIN A JUDGMENT OF COMPLIANCE REGARDING THE BOROUGH'S AFFORDABLE HOUSING COMPLIANCE PLAN

WHEREAS, the Borough of South Plainfield ("Borough") filed an action in the Superior Court of New Jersey, Middlesex County on July 7, 2015, ("Action") in accordance with the decision of the New Jersey Supreme Court, In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) ("Mount Laurel IV"), seeking a Judgement of Compliance of the Borough's Prior Round and Third Round Obligations to provide the realistic opportunity for the development of the Borough's regional fair share of low and moderate income housing in accordance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301 et seq.("FHA"); and

WHEREAS, a Judgement of Compliance will provide the Borough with the judicial equivalent of substantive certification and accompanying protection as provided under the FHA which includes repose from any builder's remedy claims until 2025; and

WHEREAS, the Borough received Substantive Certification from the Council on Affordable Housing (“COAH”) in 2009; however, that determination was subsequently voided due to decisions by the courts of New Jersey voiding the regulations under which Substantive Certification had been received; and

WHEREAS, there are three parties, Fair Share Housing Center, a non-profit organization representing the interests of those in need of affordable housing (“FSHC”), and two development companies, Colonial Oaks, LLC., (hereafter, “Colonial Oaks”), and M&M Realty Partners at South Plainfield, LLC (“M&M”)(collectively referred to as “Interested Parties”), involved in the Action in accordance with the provisions of Mount Laurel IV; and

WHEREAS, the Borough and the Interested Parties have engaged in negotiations with the assistance of the court appointed Special Master, Elizabeth C. McKenzie, P.P.,P.A ; and

WHEREAS the Council has been advised by its professionals that the Borough faces a substantial risk of having the Court impose a significant obligation upon the Borough for fair share housing if an agreement can not be reached; and

WHEREAS, at this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality’s Prior Round and Third Round present and prospective need instead of doing so through plenary adjudication; and

WHEREAS, settlement terms, as outlined in the proposed Settlement Agreement, annexed hereto as Schedule “A”, are fair and reasonable to the Borough based, in part, upon the zoning and development which is already in place as approved by the 2009 Substantive Certification from COAH, the limited available land in the Borough as set forth in the Vacant Land Analysis (Exhibit B to the Settlement Agreement) and the additional changes required to the zoning required to effectuate this settlement; and

WHEREAS, the Settlement Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff’d o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996); and

WHEREAS, the Borough Council has been briefed on this process, including the proposed settlement; and

WHEREAS, after consultation with the Borough’s Counsel and Planner regarding the proposed settlement and housing plan, the Borough Council believes that it is in the best interests of Borough of South Plainfield to settle the existing litigation with the interested parties and to endorse and proceed with the proposed Settlement and to prepare all necessary documents, plans and ordinances required to implement same subject to approval by the Court;

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

1. It hereby approves of the Settlement Agreement annexed hereto as Schedule “A”, including the exhibits thereto and directs the preparation of the necessary implementing documents, plans, plan amendments and ordinances, as required under the Fair Housing Act, and upon approval of the Court.

2. It hereby authorizes the Mayor, to execute the Settlement Agreement, and all necessary documents to effectuate the settlement.

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:	4	1			
Mayor Anesh – TIE ONLY							

RESOLUTION 2017-80

AUTHORIZING THE APPOINTMENT OF KAREN PLASSE TO THE POSITION OF ACTING SENIOR CLERK TRANSCRIBER FOR THE POLICE DEPARTMENT FOR AN ADDITIONAL \$4.50 PER HOUR EFFECTIVE FEBRUARY 1, 2017

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

It hereby appoints Karen Plasse to the position of Acting Senior Clerk Transcriber for the Police Department effective February 1, 2017 for an additional \$4.50 per hour; and

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

1. Karen Plasse, Police Department
2. James Parker, Police Chief
3. Amy Antonides, Municipal Clerk
4. Anne Daley, Benefits
5. Carmela Sutor, Payroll

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

RESOLUTION 17-81

AUTHORIZING 2016 APPROPRIATION TRANSFERS IN THE AMOUNT OF \$30,000.00 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 below transfers be approved.

CURRENT FUND				
FROM:				AMOUNT
6-01-20-150-000-221	Assessing		O&E	8,000.00
6-01-20-165-000-235	Engineering		O&E	3,000.00
6-01-26-290-002-445	Road Repairs & Maint.		O&E	5,000.00
6-01-26-290-003-321	Snow		O&E	9,000.00
6-01-31-465-001-565	Gasoline		O&E	2,500.00
6-01-32-465-001-545	Landfill		O&E	2,500.00
Total FROM:				30,000.00
TO:				AMOUNT
6-01-23-220-000-601	Health Insurance		O & E	25,000.00
6-01-25-240-001-400	Police		O & E	4,000.00
6-01-43-490-000-225	Court		O & E	1,000.00
Total TO:				30,000.00

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

**RESOLUTION 17-82
AUTHORIZING THE MIDDLESEX COUNTY CO-OP PURCHASE
OF ROAD SALT FOR THE DPW FROM ATLANTIC SALT, INC.
IN AN AMOUNT NOT TO EXCEED \$19,035.99**

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 Middlesex County Co-Op purchase of road salt from Atlantic Salt, Inc. in an amount not to exceed \$19,035.99; and

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. Len Miller, DPW

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

**RESOLUTION 17-83
AUTHORIZING THE NJ STATE CONTRACT PURCHASE
OF 8 COMPUTERS FROM OCEAN COMPUTER GROUP
IN AN AMOUNT NOT TO EXCEED \$6,094.63**

BE IT RESOLVED, by the Borough Council of the Borough of South Plainfield that it hereby authorizes the NJ state contract purchase of 8 computers from Ocean Computer Group in an amount not to exceed \$6,094.63 pursuant to state contract number A89987; and

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. John Abbruzzese, IT

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

**RESOLUTION 2017-84
AUTHORIZING THE APPOINTMENT OF COUNCILMAN ROBERT BENGIVENGA
TO THE DISMAL SWAMP PRESERVATION COMMISSION
FOR A TERM TO EXPIRE 12/31/2021**

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

It hereby appoints Councilman Robert Bengivenga to the Dismal Swamp Preservation Commission for a term to expire 12/31/2021; and

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

1. Robert Bengivenga, Councilman
2. Amy Antonides, Municipal Clerk

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

AUTHORIZING THE ACCEPTANCE OF CORRESPONDENCE:

- Zoning Board Minutes – December 20, 2016
- Planning Board Minutes – December 13, 2016 & January 3, 2017
- Finance Office – Tax Appeal Calculation Sheet
- Health Advisory Board Minutes – January 24, 2017

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

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

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

Current Fund	5-01	292,917.77
Current Fund	6-01	83,399.28
Pool Utility	6-26	0.00
Pool Utility	5-26	1,100.00
Sewer Utility	6-07	792.33
Sewer Utility	5-07	15,765.22
Sewer Utility Capital	C-08	0.00
General Capital	C-04	341,215.82
Pool Capital	C-27	0.00
Election Account	E-18	0.00
Grant Fund	G-02	767.00
Dog Trust	T-12	1,271.00
Treasurers Trust	T-13	2,323.05
Recreation Trust	T-14	2,219.00
COAH		0.00
TOTAL ALL FUNDS		\$741,770.47

COUNCIL REPORTS:

Borough Attorney Rizzo Esq. – reported progress

Administrator Cullen – reported that he and Councilman Dean are working on the issue with Boro Auto Wreckers. Our ratable base has increased and we can expect \$40,000 increase in surplus.

Engineer Miller – reported that the curbside recycling bid has been advertised and the bid opening is scheduled for 10 a.m. on March 9th.

Clerk Antonides – reported progress with preparing for the March 14th Special School Election.

Councilman Dean – reported that the Spring Clean-up will be April 15th from 9 a.m. to 12 noon. Pizza will be served after.

Councilwoman Faustini – advised that she and Councilman Vesce attended a Board of Health Meeting in which consideration of the annual tattoo parlor fee was discussed. The tattoo fees of other towns were looked at. \$900.00 was the highest fee in the area. After much consideration and discussion, it is the recommendation of the Board of Health to reduce our existing tattoo parlor fee from \$4,000 to \$1,000. Mr. Rizzo Esq. was asked to prepare an ordinance to amend our fee for the next meeting. Councilwoman Faustini went on to mention the success of the recent Chinese New Year event at the Senior Center stating that it was very well attended and was an enjoyable time. It exceeded her expectation.

Councilman Bengivenga – reported that he and Councilman Wolak met with Traffic Safety to further discuss issues pertaining to truck traffic and proper signage. Councilman Bengivenga noted a situation where it appeared that a truck driver was not taking a direct route but instead was following GPS directions. This will be looked into further.

Councilman Vesce – advised that recently met with Len Miller, and Councilmen Dean and Bengivenga to go over the DPW budget and some personnel matters.

Councilman Wolak – reported that the Fire Chief informed him that the new firetruck should be in our possession by the end of March or early April. A wet down ceremony will be planned for the coming months.

Council President White – reported that the Building Department will be holding a homeowner’s workshop on March 9th from 6 p.m. to 9 p.m. at the Senior Center. Before reporting progress Council President White mentioned a few new businesses coming to town.

Mayor Anesh – reported progress.

COMMENTS FROM THE PUBLIC:

Mayor Anesh opened the floor for public comment.

Mr. Al Lepore of Clark Lane asked if our own local legislators are doing anything pertaining to the COAH issue? Mayor Anesh said no, nothing that he is aware of.

Ms. Suzanne Lepore of Bullard Place, thanked everyone for attending the recent Chinese New Year event. The talent show auditions are forthcoming with the Talent Show scheduled for March 11th.

Debbie Boyle of Van Fleet reminded everyone that every council meeting since 2006 has been taped and appears on Comcast, FiOS and The Observer website. Every resident can watch this council meeting. On another note, Ms. Boyle inquired about obtaining a flashing light near Belmont Avenue, a county road, due the popularity of children crossing there. Councilman Vesce said he will look into it. The annual spelling bee is tomorrow at 6 p.m. and the Taste of South Plainfield is scheduled for March 13th.

Roberto Sayer said it is not an easy decision for the governing body pertaining to the COAH settlement agreement, however, he understands the Borough is dealing with a hostile developer. This appears to be the best decision the council can make and feels a bullet was dodged. It is a matter of cutting our losses and moving forward. Mayor Anesh said that despite this forced affordable housing obligation, it should be said that no matter what we cannot prevent building at 1111 Durham Avenue.

Mayor Anesh said Councilman Vesce voted the way he feels he had to, though, he authorized the agreement and for whatever reason he doesn’t want to authorize the Mayor to sign it. There is nothing that the outcome of this court case will do to make this situation any better. We have had many meetings where Councilman Vesce agreed that this settlement is in the best interest of the Borough. Councilman Vesce said he feels Mayor Anesh misunderstood because he never said he is against the agreement. Mayor Anesh said no, you are just against his signing it. Councilman Vesce said no, it is the residents that are not here to hear Mayor Anesh speak. Councilman Vesce said that the Mayor said earlier that we have to make tough decisions and that is exactly what he did. Mayor Anesh argued against that saying his tough decision was two weeks ago when the facts were looked at and he voted to authorize the settlement agreement. Tonight he is saying to not sign the agreement that he already agreed to do.

Councilman Vesce said in talking to the residents they may have said to take the quarter of a million dollars on the chin so we don’t have to have this settlement. Mayor Anesh said, you think. Councilman Vesce said he doesn’t know. Mayor Anesh said over two weeks ago he knew he was walking into the decision to be made on settling of this agreement and he could have spent his time on the weekends knocking on doors and encouraging residents to attend our meeting. We are not going to do a democracy day and cannot simply take every difficult decision and put it on a ballot. You have to look at the facts presented to you. You were never going to prevent development at 1111 Durham Avenue. If anything, you would have faced more units and lost all control of the site and design elements. How can we explain to our residents that we spent \$500,000 or even \$1,000,000.00 and yet lost all control and now have even more units especially when our professionals here tonight have said our likelihood of success in doing that according to our Court Master, is zero. Councilman Vesce said that he wished during the past two weeks we could have had our residents hear this. Mayor Anesh said we did. We all signed a letter of explanation, sent it off to our newspapers, and posted it on our website. Mr. Sayers interjected asking if the developer intervened. Mayor Anesh said the developer in fact hired the Judge to hear our case. Mr. Rizzo Esq. said yes, the developer intervened. Mr. Sayers confirmed that we went from over 700 units down to 410 and feels we should cut our loses and move forward. It was a good decision, though a difficult one.

Darlene Cullen of 457 Fox Place said that she begs to differ about the residents not being informed of this COAH matter on this evenings agenda saying that between the Tap and the Observer, as well as all the social media word got out. Mrs. Cullen asked Ms. McKenzie if we did have a prior town hall meeting and say some 400+ residents attended and they all objected to this plan, would that have made any difference or have had any impact on the courts? Ms. McKenzie said no, absolutely not. You still would have been facing the same decision. Mrs. Cullen said this is similar to the meetings with the Board of Education with their forthcoming referendum that will also impact all the residents of the Borough. One meeting 8 residents turned out and another meeting only 12 came out. Mrs. Cullen asked to have the heart awareness proclamation on for the next meeting. Mayor Anesh said it will be.

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

At 9:11 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.

Upon return from Executive Session at 10:00 p.m., Mayor Anesh called the public meeting back to order.

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 10:00 p.m., seconded by Councilman White and unanimously carried. The meeting was adjourned.

Submitted By:

Amy Antonides, RMC/CMC - Municipal Clerk