

**SOUTH PLAINFIELD BOROUGH  
BOROUGH COUNCIL MEETING MINUTES  
DECEMBER 2, 2013, 7:05 P.M.  
PUBLIC MEETING**

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**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 Barletta	x		
Councilman Bengivenga	x		
Councilman Diana	x		
Councilman McConville	x		
Councilman White	x		
Council President Rusnak	x		
Mayor Anesh	x		
<b>ALSO PRESENT</b>			
Administrator Cullen	x		
Clerk Antonides	x		
Attorney Rizzo	x		
Engineer Miller		x	

**Flag Salute:** was led by Mayor Anesh and Council President Rusnak led the invocation. Councilman Rusnak went on to report the police shooting that took place in the early hours this morning. One of our officers was shot while off duty and is currently in the hospital being treated for non-life threatening injuries. Our thoughts and prayers go out to this officer and his family.

**Approve Council Minutes:**

November 12, 2013 - Agenda  
November 12, 2013 – Public  
November 12, 2013 – Executive Session

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			x				
Councilman Bengivenga			x				
Councilman Diana			x				
Councilman McConville		x	x				
Councilman White	x		x				
Council President Rusnak			x				
<b>VOTE:</b>			<b>6</b>	<b>0</b>			
<b>Mayor Anesh – TIE ONLY</b>							

**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.

**ORDINANCE – SECOND READING BY TITLE** (Tabled from 11/12/13) Clerk Antonides read Ordinance 1994 by title. Mayor Anesh opened the floor for public hearing. With no comments from the public, or from the Council members, Mayor Anesh closed the floor.

#1994      AN ORDINANCE VACATING THE BOROUGH'S AUTHORITY AND CONTROL OVER A PORTION OF CAROL PLACE IN THE BOROUGH OF SOUTH PLAINFIELD, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, AND AUTHORIZIN ITS SALE OF SURPLUS MUNICIPAL PROPERTY PURSUANT TO N.J.S.A. 40A:12-13

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta		x	x				
Councilman Bengivenga	x		x				
Councilman Diana			x				
Councilman McConville			x				
Councilman White			x				
Council President Rusnak			x				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
Mayor Anesh – TIE ONLY							

**ORDINANCE – FIRST READING BY TITLE** Clerk Antonides read Ordinance 1995 by title. The Public Hearing was scheduled for December 16, 2016 at approximately 7:00 p.m.

#1995 AN ORDINANCE AMENDING ORDINANCE 409-36 OF THE BOROUGH OF SOUTH PLAINFIELD TITLED “BONDS; CASH DEPOSIT”

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			x				
Councilman Bengivenga		x	x				
Councilman Diana			x				
Councilman McConville			x				
Councilman White	x		x				
Council President Rusnak			x				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
Mayor Anesh – TIE ONLY							

**RESOLUTIONS:**

**RESOLUTION 13-363**

**AUTHORIZING A REFUND OF \$28.00 TO GLORIA BROWN OF 1412 LEONARD STREET IN PLAINFIELD, NJ FOR A TRIP TO SANDS ON OCTOBER 23, 2013**

**BE IT RESOLVED**, by the Borough Council of the Borough of South Plainfield that it hereby authorizes a refund of \$28.00 to the below senior for the Sands Trip on October 23, 2013:

Gloria Brown  
1412 Leonard Street  
Plainfield, NJ 07060

**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 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
Mayor Anesh – TIE ONLY							

**RESOLUTION 13-364**

**AUTHORIZING A WAIVER OF THE GAMES OF CHANCE PERMIT FEE OF \$750.00 FOR THE SOUTH PLAINFIELD ELKS FOR THEIR GAME OF CHANCE SCHEDULED FOR JANUARY, 2014**

**BE IT RESOLVED**, that the South Plainfield Elks Club is holding a game of chance in January, 2014 and as such has requested a waiver of all permit fees;

**NOW THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of South Plainfield hereby authorizes the waiver of all permit fees for the aforementioned event;

**BE IT FURTHER RESOLVED** that copies of this Resolution shall be forwarded as follows:

1. Municipal Clerk
2. Chief Financial Officer
3. Dan Uken, Trustee for Elks Club

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
<b>Mayor Anesh – TIE ONLY</b>							

**RESOLUTION 2013-365**

**AUTHORIAING A REFUND OF A TAX APPEAL JUDGMENT IN THE AMOUNT OF \$5,179.00 FOR VALLEY NATIONAL BANK OF 100 DURHAM AVENUE IN SOUTH PLAINFIELD**

**WHEREAS**, the following list of taxpayers have filed appeals with the State Tax Court and have received judgments reducing their assessments:

**NOW THEREFORE BE IT RESOLVED** by the Governing Body of the Borough of South Plainfield, County of Middlesex, State of New Jersey that the following appeals be refunded.

<u>OWNER/ADDRESS</u>	<u>BLOCK</u>	<u>LOT</u>	<u>YEAR</u>	<u>AMOUNT</u>
Valley National Bank	541	6.01	2012	\$2,622.00
100 Durham Avenue				
South Plainfield, NJ 07080			2011	\$2,557.00

**Make check payable to:**

Valley National Bank  
75 Eisenhower Parkway – Ste. 120  
Roseland, NJ 07068-1694

**Total** **\$5,179.00 \***

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

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
<b>Mayor Anesh – TIE ONLY</b>							

**RESOLUTION 2013-366**  
**AUTHORIZING THE CANCELLATION OF TAX SALE CERTIFICATE 13-00014 FOR BOYCE, DARRELL & SANVIKA CALLOWAY FOR BLOCK 20, LOT 1 OF WHICH WAS ISSUED IN ERROR**

WHEREAS, THE COLLECTOR OF TAXES advises that the following Taxpayer(s) had Tax Certificates erroneously issued as a result of the March 28, 2013 Tax Sale which need to be cancelled:

<b><u>BLOCK</u></b>	<b><u>LOT</u></b>	<b><u>ASSESSED TO:</u></b>	<b><u>CERTIFICATE NO.</u></b>
<b>20</b>	<b>1</b>	<b>Boyce, Darrell C. &amp; Sanyika Calloway</b>	<b>13-00014</b>

NOW, THEREFORE BE IT RESOLVED by the Municipal Council of the Borough of South Plainfield that the appropriate Municipal Officers be, and they are hereby authorized to execute a cancellation and discharge of the aforementioned Tax Sale Certificates.

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
<b>Mayor Anesh – TIE ONLY</b>							

**RESOLUTION 2013-367**  
**RESOLUTION OF SUPPORT FROM LOCAL GOVERNING BODY AUTHORIZING THE SUSTAINABLE JERSEY GRANT APPLICATION**

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, the Borough Council of the Borough of South Plainfield strives to save tax dollars, assure clean land, air and water, improve working and living environments; and

WHEREAS, the Borough of South Plainfield is participating in the Sustainable Jersey Program; and

WHEREAS, one of the purposes of the Sustainable Jersey Program is to provide resources to municipalities to make progress on sustainability issues, and they have created a grant program called the Sustainable Jersey Small Grants Program;

THEREFORE, the Borough Council of the Borough of South Plainfield has determined that the Borough of South Plainfield in the County of Middlesex should apply for the aforementioned Grant.

THEREFORE, BE IT RESOLVED, that Borough Council of the Borough of South Plainfield in the County of Middlesex, State of New Jersey, authorize the submission of the aforementioned Sustainable Jersey Grant.

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
			<b>VOTE:</b>	<b>6</b>	<b>0</b>		
<b>Mayor Anesh – TIE ONLY</b>							

**RESOLUTION 2013-368**

**AMENDING RESOLUTION 2013-316 THAT AUTHORIZES A CREDIT OF A TAX APPEAL JUDGEMENT IN THE AMOUNT OF \$11,743.66 FOR ALFIERI 550 HADLEY ROAD ASSOC., LP OF 550 HADLEY ROAD**

**WHEREAS**, property known as Lot **45.05**, Block **528.01** in the Borough of South Plainfield, more commonly known as **550 Hadley Road** in **South Plainfield, NJ** is owned by **Alfieri - 550 Hadley Road Associates, LP**; and

**WHEREAS**, the Tax Collector erroneously credited an appeal in the amount of \$11,743.66 towards 2013 as cited in RESOLUTION 2013-316;

**WHEREAS**, the Tax Collector should have credited an appeal in the amount of \$10,289.17;

**NOW THEREFORE BE IT RESOLVED**, that the Tax Collector be, and she hereby is, authorized and directed to cancel the credit of \$11,743.66; and

**BE IT FURTHER RESOLVED**, that the Tax Collector be, and she hereby is, authorized and directed to credit the 2013 appeal in the amount of **\$10,289.17**.

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
			<b>VOTE:</b>	<b>6</b>	<b>0</b>		
<b>Mayor Anesh – TIE ONLY</b>							

**RESOLUTION 2013-369**

**AUTHORIZING A REFUND OF TAX OVERPAYMENT IN THE AMOUNT OF \$2,693.50 FOR WEICHERT CLOSING SERVICES COMPANY ON 309 PITT STREET**

**WHEREAS**, the Tax Collector advises that the following taxpayer and/or their agent have overpaid their taxes and have requested a refund:

Block: 331 Lot: 1.022 Qual: C0002  
 Weichert Closing Services Co.  
 220 Commerce Drive  
 Suite 105  
 Fort Washington, PA 19034  
 \$2,693.50  
 RE: 309 Pitt Street, South Plainfield, NJ 07080

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

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

**RESOLUTION 2013-370  
AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT BETWEEN  
THE BOROUGH OF SOUTH PLAINFIELD AND  
TRADITIONS HOMEOWNERS ASSOCIATION, INC.**

**WHEREAS**, the Borough of South Plainfield and Traditions Homeowners Association, Inc. have resolved litigation concerning payment of certain services for the Association which are also provided to all other citizens of the Borough of South Plainfield; and

**WHEREAS**, the Borough and the Association have reached an agreement to resolve such litigation;

**NOW, THEREFORE, BE IT RESOLVED** that authorization of the Borough of South Plainfield, County of Middlesex, State of New Jersey is hereby granted to the Mayor and Borough Clerk to execute the agreement to resolve the litigation, a copy of such agreement is attached hereto as Exhibit A.

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

**RESOLUTION 2013-371  
AUTHORIZING THE MAYOR TO EXECUTE A LEASE BETWEEN  
THE BOROUGH OF SOUTH PLAINFIELD AND THE ASSOCIATION  
OF EXEMPT FIREMEN OF THE BOROUGH OF SOUTH PLAINFIELD**

**WHEREAS**, the Borough of South Plainfield has recently entered into a lease with the Association of Exempt Firemen of South Plainfield to lease premises located at 123 Maple Avenue, South Plainfield, New Jersey for the housing of equipment used by the Volunteer Fire Company, as well as offices and equipment for the Bureau of Fire Prevention; and

**WHEREAS**, said lease has expired; and

**WHEREAS**, the Borough wishes to continue such use at such location;

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Municipal Clerk are authorized to execute a new lease for rental of the premises at 123 Maple Avenue, South Plainfield, New Jersey leased by the Volunteer Fire Company and the Bureau of Fire Prevention for a 15-year term, ending September 14, 2028, such lease is attached hereto as Exhibit A.

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

**RESOLUTION 13-372**

**AUTHORIZING THE STATE CONTRACT PURCHASE OF A 2014 FORD EXPLORER FROM WINNER FORD IN AN AMOUNT NOT TO EXCEED \$35,979.00 FOR THE BUREAU OF FIRE PREVENTION UTILIZING THE BUREAU OF FIRE PREVENTION TRUST FUNDS FOR SAID PURCHASE**

**BE IT RESOLVED**, by the Borough Council of the Borough of South Plainfield that it hereby authorizes a NJ State Contract purchase of a 2014 Ford Explorer for the Bureau of Fire Prevention in an amount not to exceed \$35,979.00 pursuant to NJ State Contract Numbers #82925 for the Bureau of Fire Prevention utilizing the Bureau of Fire Prevention Trust Funds for said purchase.

**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. Fire Prevention

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		VOTE:	6	0			
Mayor Anesh – TIE ONLY							

**RESOLUTION 2013-373**

**RESOLUTION AUTHORIZING SETTLEMENT OF THE 2011 AND 2012 TAX APPEALS FILED BY THE HOME DEPOT USA FOR THE PROPERTY KNOWN AS 3100 HAMILTON BOULEVARD AND IDENTIFIED AS BLOCK 472, LOT 36 ON THE BOROUGH OF SOUTH PLAINFIELD TAX ASSESSMENT MAPS**

**WHEREAS**, The Home Depot USA (hereinafter referred to as “Taxpayer”) is the owner of the property known as 3100 Hamilton Boulevard and identified as Block 472, Lot 36 on the Borough of South Plainfield’s Tax Assessment Maps (“Property”); and

**WHEREAS**, the assessed value of the Property was set at \$10,500,000.00 for 2011; and

**WHEREAS**, the assessed value of the Property was set at \$10,500,000 for 2012; and

**WHEREAS**, Taxpayer filed appeals of the 2011 and 2012 tax assessments in the Tax Court of the State of New Jersey under docket numbers 002808-2011 and 000332-2012; 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 2011 and 2012 tax years under appeal and recommended that the settlement be approved and therefore, this proposed settlement is reasonable and reflects the correct market value for the Property which was over assessed for the years under appeal; and

(A0775192)

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

- The 2011 original assessment in the amount of \$10,500,000 shall be reduced to a total tax assessment of \$9,005,600 and the Borough of South Plainfield shall provide Taxpayer with a corresponding tax refund for 2011;
- The 2012 original assessment in the amount of \$10,500,000 shall be reduced to a total tax assessment of \$9,249,500 and the Borough of South Plainfield shall provide Taxpayer with a corresponding tax refund for 2012;
- Taxpayer has agreed to waive statutory interest provided the subject refunds are paid within sixty (60) days from the date of the entry of the Tax Court Judgment; and
- Refunds regarding overpayments shall be made payable to “The Home Depot USA, as Plaintiff, and Garippa, Lotz & Giannuario, P.C., as Attorneys for Plaintiff” without any offsets or deductions for any unpaid taxes or municipal charges for tax years subsequent to the Tax Years covered by this settlement; and forwarded to Garippa, Lotz & Giannuario, P.C. within sixty (60) days from the date of the entry of the Tax Court 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 assessments 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 \$9,005,600 total tax assessment reduction for the 2011 tax year for Block 472, Lot 36 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 \$9,249,500 total tax assessment reduction for the 2012 tax year for Block 472, Lot 36 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 The Home Depot USA under Docket Nos.: 002808-2011 and 000332-2012 for the Property known as 3100 Hamilton



Boulevard and identified as Block 472, Lot 36 on the Borough of South Plainfield Tax Assessment Maps which reduces the 2011 total tax assessment on the Property from \$10,500,000 to \$9,005,600; which reduces the 2012 total tax assessment on the Property from \$10,500,000 to \$9,249,500; 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 the Tax Court Judgment; and which further provides that any refunds shall be made payable to “The Home Depot USA, as Plaintiff, and Garippa, Lotz & Giannuario, P.C., as Attorneys for Plaintiff” and forwarded to Garippa, Lotz & Giannuario, P.C. without any offsets or deductions for any unpaid taxes or municipal charges for tax years subsequent to the Tax Years covered by this settlement within sixty (60) days from the date of the entry of the Tax Court 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 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
<b>Mayor Anesh – TIE ONLY</b>							

**RESOLUTION #13-374**

**AUTHORIZING THE RELEASE OF PERFORMANCE BOND POSTED BY TOMMASO GRASSO FOR PUBLIC IMPROVEMENTS TO BLOCK 404.03, LOT 1.02 AND ACCEPTANCE OF THE MAINTENANCE BOND IN THE AMOUNT OF \$4,157.00**

**WHEREAS**, the Borough of South Plainfield is in possession of a Performance Bond from Tommaso Grasso for the Improvements located at Block 404.03, Lot 1.02; and

**WHEREAS**, Tommaso Grasso has submitted a Maintenance Bond in the amount of \$4,157.00; and

**WHEREAS**, the Borough Attorney and the Borough Engineer have given approval of the form and content of the aforementioned Maintenance Bond.

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, by the Mayor and Council of the Borough of South Plainfield, that the Borough Clerk is hereby authorized to accept the aforementioned Maintenance Bond and release the Performance Bond held for the Public Improvements located at Block 04.03, Lots 1.02.

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
<b>Mayor Anesh – TIE ONLY</b>							

**RESOLUTION No. 13-375**

**AUTHORIZING 2013 APPROPRIATION TRANSFERS IN THE AMOUNT OF \$45,000.00 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.

(A0775192)

<b>CURRENT FUND</b>				
<b>FROM:</b>				<b>AMOUNT</b>
3-01-20-155-000-221	Legal		O&E	10,000.00
3-01-27-330-001-235	Board of Health		O&E	5,000.00
3-01-23-220-000-601	Health Benefits		O&E	15,000.00
3-01-31-445-001-581	Water		O&E	5,500.00
3-01-30-410-001-535	Municipal Support		O&E	2,500.00
3-01-31-465-001-565	Gasoline		O&E	5,000.00
3-01-36-472-000-675	SSI		Statutory	2,000.00
<b>Total FROM:</b>				<b>45,000.00</b>
<b>TO:</b>				<b>AMOUNT</b>
3-01-20-100-000-101	Administration		S&W	5,000.00
3-01-20-120-000-101	Borough Clerk		S&W	7,500.00
3-01-20-165-001-235	Engineering		O & E	5,000.00
3-01-25-265-003-581	Fire Service Charges		O & E	1,000.00
3-01-20-140-000-204	Computer		O & E	5,000.00
3-01-26-290-002-101	Road Repairs & Maintenance		S&W	5,000.00
3-01-26-310-000-101	Public Buildings & Grounds		S&W	5,000.00
3-01-25-240-001-102	Police		S&W	11,500.00
<b>Total TO:</b>				<b>45,000.00</b>

NOW, THEREFORE, BE IT RESOLVED that the following transfers be approved in

OUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
Mayor Anesh – TIE ONLY							

#### RESOLUTION No. 13-376

#### AUTHORIZING A THREE YEAR RENEWAL WITH THE MIDDLESEX COUNTY MUNICIPAL JOINT INSURANCE FUND

**WHEREAS**, the Borough of South Plainfield has participated as a member of the Middlesex County Municipal Joint Insurance Fund ( hereafter the “Fund” ) existing pursuant to Chapter 372, Laws of 1983 (40A:10-36 et. seq.) and is desirous of continuing said membership for a term expiring on December 31, 2016;and

**WHEREAS**, the governing body of the Borough of South Plainfield has determined that continued membership in the Fund is in the best interest of the municipality; and

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of South Plainfield County of Middlesex the following:

**SECTION 1.** The borough hereby agrees to continue as a member of the Fund for a period commencing January 1, 2011, and terminating on December 31, 2013 for the purpose of securing the following types of insurance coverage:

- a) Workers Compensation and Employer’s Liability

- b) Property Damage ( including Buildings and contents, automobile physical damage, contractors equipment, boiler and machinery and public employee blanket bonds)
- c) Motor Vehicle and Equipment Liability.
- d) General Liability including Public Officials and Police Professionals

After the expiration of the initial period of membership, participation may be cancelled or extended in accordance with the By-Laws of the Fund.

**SECTION 2.** For the purposes of contribution of sums into the Fund to be designated for administrative costs and claims, the Borough of South Plainfield hereby agrees to obtain the types of coverage from the Fund as set forth in Section 1 of this Resolution and Indemnity and Trust Agreement to be signed by it.

**SECTION 3.** The By-Laws of the Middlesex County Municipal Joint Insurance Fund have been adopted and accepted.

**BE IT FURTHER RESOLVED** that the Mayor and Municipal Clerk are hereby authorized and directed to execute the Indemnity and Trust Agreement and such other documents signifying membership in the Fund as are required by the Fund’s bylaws and to deliver same to the Executive Director of the Fund

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
<b>Mayor Anesh – TIE ONLY</b>							

**RESOLUTION 2013-377**

**AUTHORIZING T&M ASSOCIATES TO PROVIDE ENGINEERING SERVICES  
PERTAINING TO RESPONSE TO NJDEP IN AN AMOUNT  
NOT TO EXCEED \$19,800**

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

authorization is hereby given to the Chief Financial officer to make payment to T&M Associates, the Borough of South Plainfield’s appointed engineering firm, for the additional work required to respond to the NJDEP comments/requests and the conditions of the permit from September 2, 2013 to November 25, 2013 in an amount not to exceed \$19,800.

OUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			x				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
<b>Mayor Anesh – TIE ONLY</b>							

**RESOLUTION 2013-378**  
**REVISING AN AMENDMENT TO THE POLICY FOR PAYMENT OF PREMIUM CHARGES FOR CERTAIN ELIGIBLE PENSIONERS AND THEIR DEPENDENTS, AND TO REIMBURSE MEDICARE PREMIUMS FOR SUCH RETIREES AND THEIR SPOUSES COVERED BY THE NEW JERSEY STATE HEALTH BENEFITS PROGRAM.**

**WHEREAS**, the Borough of South Plainfield has previously acknowledged that the rules and regulations of the State Health Benefits Commission established that Chapter 436, Public Laws of 1981, set forth the following:

- A. Applies to all eligible present and future pensioners of the employer and their dependents and surviving spouses;
- B. Continue as long as the State is paying the cost of its eligible pensioners and their dependents in accordance with the provisions of Chapter 75, Public Laws of 1972;
- C. Provide for local employer reimbursement of federal Medicare premiums for eligible pensioners and/or their spouses, as well as the payment of health insurance premiums required by the program, on a basis comparable to the reimbursement made by the State to its eligible pensioners and their spouses in accordance with the provisions of Chapter 74, Public Laws of 1972; and

**WHEREAS**, the Borough of South Plainfield further acknowledges that the said provisions require the local employer to pay \$900.00 per person for Medicare Part B charges in 2013 and the full cost of such charges in 2014;

**NOW, THEREFORE, BE IT RESOLVED** that the Borough of South Plainfield, County of Middlesex, State of New Jersey agrees to pay \$900.00 per person for Medicare Part B premiums in 2013, and the full cost of such premiums in 2014 and thereafter for all eligible retired employees, their dependents and surviving spouses covered under the program; if such employees retired from a State or locally administered retirement system effective after the date the Borough adopted the State Health Benefits Program on a benefit based on 25 years or more of service credited in such retirement system, excepting the employees who elected deferred retirement, but including employees who retired on disability pensions based on fewer years of service crediting such retirement system, and also to reimburse such retired employees for their premium charges of Medicare Part B program covering the retired employees and their spouses in accordance with regulations of the State Health Benefits Commission.

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
<b>Mayor Anesh – TIE ONLY</b>							

**RESOLUTION 2013-379**  
**RESOLUTION AUTHORIZING SETTLEMENT OF 2011, 2012 AND 2013 TAX APPEALS FILED BY CSC SOUTH PLAINFIELD, LLC, FOR THE PROPERTY KNOWN AS 14 HARMICH ROAD AND IDENTIFIED AS BLOCK 255, LOT 32, ON THE BOROUGH OF SOUTH PLAINFIELD TAX ASSESSMENT MAPS**

**WHEREAS**, CSC South Plainfield, LLC (hereinafter referred to as “Taxpayer”) is the owner of the property known as 14 Harmich Road and identified as Block 255, Lot 32, on the Borough of South Plainfield’s Tax Assessment Maps (“Property”); and

**WHEREAS**, the assessed value of the Property was set at \$3,900,000 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 006452-2011, 006268-2012 and 003448-2013; 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 assessments for the 2011, 2012 and 2013 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 2011, 2012 and 2013; and

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

- The 2011 tax appeal shall be withdrawn by Taxpayer;
- The 2012 original tax assessment in the amount of \$3,900,000 shall be reduced to \$3,306,671 and the Borough of South Plainfield shall provide Taxpayer with a corresponding tax refund for 2012;
- The 2013 original assessment in the amount of \$3,900,000 shall be reduced to \$3,087,200 and the Borough of South Plainfield shall provide Taxpayer with a corresponding tax refund for 2013;
- Taxpayer has agreed to waive statutory interest provided the subject refunds are paid within 60 days from the date of the entry of Judgment;
- Refunds regarding over payments shall be made payable to “CSC South Plainfield, LLC, as Plaintiff and Lomurro Davidson, as Attorneys for Plaintiff” and forwarded to Blake R. Laurence, Esq. c/o Lomurro Davidson, 100 Willow Brook Road, Suite 100, Freehold, NJ 07728 within 60 days from the date of the entry of Judgment.
- 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 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:

5. The Borough Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$3,306,671 total tax assessment reduction for the 2012 tax year for Block 255, Lot 32 which is most beneficial to the Borough and advise the Borough Attorney of that allocation.
6. The Borough Tax Assessor is hereby directed to establish the allocation between land and improvements of a \$3,087,200 total tax assessment reduction for the 2013 tax year for Block 255, Lot 32 which is most beneficial to the Borough and advise the Borough Attorney of that allocation.
7. 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 CSC South Plainfield, LLC under Docket Nos.: 006452-2011, 006268-2012 and 003448-2013 for the Property known as 14 Harmich Road and identified as Block 255, Lot 32 on the Borough of South Plainfield Tax Assessment Maps which withdraws the tax appeal for Tax Year 2011; which reduces the 2012 total tax assessment on the Property from \$3,900,000 to \$3,306,671; which reduces the 2013 total tax assessment on the Property from \$3,900,000 to \$3,087,200; which provides that Taxpayer agrees to waive statutory interest on any refund or overpayment due provided the refund check is paid within 60 days from the issuance of Judgment; which further provides that any refunds shall be made payable to "CSC South Plainfield, LLC, as Plaintiff and Lomurro Davidson, as Attorneys for Plaintiff" and forwarded to Blake R. Laurence, Esq. c/o Lomurro Davidson, 100 Willow Brook Road, Suite 100, Freehold, NJ 07728, within 60 days from the date of the entry of Judgment; and which provides that the parties agree that the provisions of N.J.S.A. 54:51A-8 (Freeze Act) shall not be applicable to this case.
8. 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 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			X				
Councilman Bengivenga		x	X				
Councilman Diana			X				
Councilman McConville	x		X				
Councilman White			X				
Council President Rusnak			X				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
<b>Mayor Anesh – TIE ONLY</b>							

**CORRESPONDANCE**

- Business Advisory Group Minutes – September 4, 2013
- Middlesex County Planning Board Minutes – October 8, 2013

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta		x	x				
Councilman Bengivenga			x				
Councilman Diana			x				
Councilman McConville			x				
Councilman White	x		x				
Council President Rusnak			x				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
<b>Mayor Anesh – TIE ONLY</b>							

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

Current Fund	2-01	20,100.00
Current Fund	3-01	261,818.33
Pool Utility	2-26	0.00
Pool Utility	3-26	0.00
Sewer Utility	2-07	0.00
Sewer Utility	3-07	3,677.81
Sewer Utility Capital	C-08	0.00
General Capital	C-04	29,065.44
Pool Capital	C-27	0.00
Election Account	E-18	0.00
Grant Fund	G-02	324.20
Dog Trust	T-12	3,958.33
Treasurers Trust	T-13	14,800.04
Recreation Trust	T-14	2,800.00
<b>TOTAL ALL FUNDS</b>		<b>\$336,544.15</b>
<b>Addition of COAH Project Expense</b>		<b>\$10,535.00</b>

COUNCIL	MOTION	2 <sup>ND</sup>	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Councilman Barletta			x				
Councilman Bengivenga			x				
Councilman Diana			x				
Councilman McConville		x	x				
Councilman White	x		x				
Council President Rusnak			x				
		<b>VOTE:</b>	<b>6</b>	<b>0</b>			
<b>Mayor Anesh – TIE ONLY</b>							

**COUNCIL REPORTS:**

Borough Attorney Paul Rizzo, Esq. – had no report for this evening.

Administrator Cullen – updated the Council on the status of pending tax appeals.

Engineer Miller – was absent this evening.

Clerk Antonides – suggested the Council consider doing a blanket resolution at their reorganization meeting for the 2014 calendar year that waives all the stereotypical South Plainfield charitable organization permit fees that are identical to the ones that are typically done at nearly each council meeting. After brief discussion the Council thought this to be a good idea to try for the 2014 year, but to make sure it is for the same ones we have been waiving i.e. the annual type of waiver requests.

Councilman Elect Richkus – congratulated the high school athletes on their accomplishments and hoped that everyone had a nice Thanksgiving.

Councilman Diana – Said that he attended the Cappi awards to honor Fran Flannery which was a great job put on by the Recreation Committee. The news today regarding the shooting of our officer is very concerning and we will keep him and his family in our prayers.

Councilman Barletta – advised that the new Christmas tree in the foyer was decorated by Anne Daley this year and it looks absolutely fantastic! Our thoughts and prayers do go out to our officer and his family for a speedy recovery.

Councilman Bengivenga – reminded everyone of the past dinner with Santa on December 21st at the Senior Center sponsored by the Rescue Squad, Lions Club and Borough of South Plainfield. Our thoughts and prayers go out to Officer Stucky and his family.

Councilman McConville – said that prayers go out to Officer Stucky and his family. The DPW is out collecting leaf bags right now. Councilman McConville complimented the DPW on their excellent job of keeping up with the leaf collection as the town looks great in this regard. Mr. Cullen said that all three trucks are out picking up the leaves which makes a big difference.

Councilman White – advised that he too attended the Cappi awards in which Fran Flannery is very well deserving of this award. The Senior Center conducted its first singercise class in which 20 were in attendance. 680 meals were served this past month. The Christmas bus trip for the seniors to New York is sold out.

Council President Rusnak – reported progress.

Mayor Anesh – reported that we have received DEP approval for the Hollywood Avenue Project which has been a long time coming. Mayor Anesh briefed everyone on the history of this project and how we came to be where we are today. The proposed project put a roadway right through the yard waste site which will avoid most of the dismal swamp area. At present we will be looking at all possible methods for funding this project, i.e. any grants that may be available. This is a big milestone under our belts. On another note, we received word that FEMA has approved us for a \$460,000.00 generator for the high school. FEMA has agreed to pay 90% of the cost in which we will split the balance of the cost with the School Board. This will give us another option for temporary relief in an event of an emergency. To conclude, a new business in town, Great Clips, just had their soft opening.

As an aside, Councilman McConville said in regards to Amy's suggestion tonight of doing a blanket resolution for waiving the usual South Plainfield charitable organization permit fees, that we also consider doing a blanket resolution for all the block parties. After brief discussion, Clerk Antonides said she will also work on creating a blanket resolution in this regard for the 2014 calendar year.

#### **COMMENTS FROM THE PUBLIC:**

Mayor Anesh opened the floor for public comment.

Harold Lepore of Bullard Place thanked the Mayor and Council for their work on the Hollywood Avenue Project.

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

At 7:45 p.m. Mayor Anesh called for an adjournment 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 McConville made a motion to adjourn at 7:52 p.m., seconded by Councilman Bengivenga and unanimously carried. The meeting was adjourned.

Submitted By:

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Amy Antonides, RMC/CMC - Municipal Clerk