

Mayor O'Brien opened the Council Meeting at 7:00 PM. followed by a short prayer and salute to the flag.

- **STATEMENT OF NOTICE OF PUBLICATION**

Assistant Clerk Morelos announced that this October 10, 2017 Council Meeting has been advertised and posted in accordance with Open Public Meetings Act Chapter 231, P.L. 1975 by advertising in the Home News Tribune, notifying the Star Ledger and the Sentinel Publishing Co., posting on the bulletin board, and is on file in her office.

- **ROLL CALL:**

Present: Councilpersons Buchanan, Kilpatrick, Lembo,  
Melendez, Novak

Absent: Co. Grillo

Others Present: Mayor Kennedy O'Brien  
Daniel E. Frankel, Business Administrator  
Wayne A. Kronowski, C.F.O./Treasurer  
Theresa A. Farbaniec, Municipal Clerk  
Jessica Morelos, Assistant Municipal Clerk  
Michael DuPont, Esq., Borough Attorney  
Jay Cornell, P.E., Borough Engineer

Others Absent: None

- **APPROVAL OF PRIOR MINUTES OF THE MAYOR AND COUNCIL:**

Council President Buchanan moved the following Council Minutes be approved, subject to correction if necessary:

☒ August 21, 2017 - Regular & Agenda Session

☒ August 29, 2017 - Special Meeting-PBA Grievance Matter & Executive Session

Seconded by Councilwoman Novak.

Roll Call – Ayes: Councilpersons Buchanan, Kilpatrick Lembo, Melendez,  
Novak.

Nays: None

- **EXECUTIVE SESSION – Litigation & Personnel**

Mayor announced that the Council would be going into Closed Executive Session.

Borough Attorney DuPont read the following resolution into record.

**RESOLUTION FOR CLOSED SESSION**

**WHEREAS**, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 permits the exclusion of the public from a meeting in certain circumstances, and

**WHEREAS**, this public body is of the opinion that such circumstances presently exist;

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

1. The public portion of this meeting is hereby adjourned in order that the Governing Body may meet in a closed, private session for approximately 15-20 minutes to discuss the following matters:

**Litigation – Personnel- Contracts**

2. Following the conclusion of said closed session, the Governing body shall reconvene the open portion of this meeting to consider any other matters which may be properly brought before it at this time.

3. The nature and content of discussion which occurs during closed session shall be made public at the time the need for non-disclosure no longer exists.

**NOW, THEREFORE BE IT RESOLVED** that the public be excluded and this resolution shall take effect immediately.

/s/ Daniel Buchanan, Council President

APPROVED:

/s/ Kennedy O'Brien, Mayor

Council President Buchanan moved the Executive Session Resolution be adopted on Roll Call Vote. Motion seconded by Councilwoman Novak.

Roll Call: Ayes: Councilpersons Buchanan, Kilpatrick, Lembo, Melendez, Novak.

Nays: None.

Time: 7:03 PM

**Reconvene**

Council President Buchanan made a **motion to reconvene**. Motion was seconded by Councilwoman Novak.

Roll Call: Voice Vote, all Ayes. - Time 7:45 PM

Mayor called for the next order of business.

- **PROCLAMATION & PRESENTATION: None**
- **OLD BUSINESS:**

Assistant Clerk Morelos read the following

- a) Planning Board Report on Ordinance No. 364-17 and No. 365-17  
- There were no comments made.

Council President Buchanan moved the report be received and filed.  
Seconded by Councilwoman Novak.

Roll Call – Ayes: Councilpersons Buchanan, Kilpatrick, Lembo, Melendez,  
Novak.

Nays: None.

Assistant Clerk read the following:

- b) Public Hearing on the following Ordinances:

Mayor opened the meeting to the public for questions or comments on Ordinance 364-17, reminding everyone of the five minute limit.

**ORDINANCE NO. 364-17**

**AN ORDINANCE OF THE BOROUGH OF SAYREVILLE, COUNTY OF MIDDLESEX,  
STATE OF NEW JERSEY ADDING A NEW SECTION TO CHAPTER XXVI,  
SECTION 25-111, ENTITLED “DEVELOPMENT FEE ORDINANCE”,  
OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SAYREVILLE**

(Introduced on May 22, 2017 & Withdrawn on 8/21/17)

(Re-Introduced on Sept. 25, 2017)

(Planning & Zoning – Public Hearing, October 10, 2017)

Those appearing were:

- Steve Malaneski, 28 Scarlett Drive

Commented on Page 6, Item 6 regarding the developers who have received final approval prior to the adoption of the ordinance shall be exempt from paying the development fee. He questioned how many units does this apply to.

Mr. Leoncavallo said that he would have to research that information.

Mr. Malaneski suggested that a representative from the Planning Board attend the Council meetings and report to the residents on what they have done and what they are proposing. This would give accountability.

Councilman Lembo reminded everyone that the Planning Board meetings are also open to the public.

- James Robinson, 11 Borelle Square

Questioned if the Ordinance could be written so that it would apply to those who have received final approval, but haven't yet begun to build. He asked if this is a fund that builders would contribute to, so that there is money to support our affordable housing obligation. The Attorney said that applying this ordinance retroactively was not the intent of this particular ordinance.

Mr. Robinson then asked if this ordinance could be written that way. Mr. DuPont said that he would have to talk to Mr. Sachs. Mr. Robinson said that he thought it is a matter of how it is defined in the ordinance.

Discussion followed regarding revising this ordinance.

Mr. DuPont suggested Tabling the ordinance so that he could talk to Mr. Sachs regarding the applicability of the change they are looking for.

Mr. Robinson asked if this would apply to The Point as it is written now. Councilwoman Novak said that this does not apply if you have affordable housing only the developers who do not have affordable housing. Followed by a discussion on housing at The Point and the commercial aspect.

Mr. DuPont said that there are things that apply here to this ordinance, such as whether it can apply retroactively and whether it applies to The Point and Gondek Drive Development. He said that you could adopt the ordinance and amend at a later date with any changes.

Councilwoman Kilpatrick said that this ordinance does contain a clause that there are developer fees for non-residential development. Council President Buchanan and Novak said that on page 4 it talks about the residential area which is concerning, which says preliminary or final.

Mr. DuPont again recommended that the ordinance be Tabled so that he may speak with Mr. Sachs and get the wording correct.

- Kenneth Olchaskey, 108 No. Edward Street.

Stated that he was happy that this fee ordinance is on the agenda but does not want to see it delayed. He then commented on the other various municipalities that have a developer fee ordinance. He asked how many units would be exempt as the ordinance is written here today. The engineer said that there are different parameters that would tell you how many units you're looking to determine.

Mr. Olchaskey asked if the person who drafted this ordinance looked at other successful municipalities and their ordinance. Mr. Leoncavallo said that he did look at other ordinances as well as the model ordinances that come through COAH and used those sources to put this ordinance together.

Mr. Olchaskey commented on the fee ordinance and said he was upset that we have not had one.

Councilwoman Novak asked if this ordinance could be changed for #2 where it says the number of developments that have not been completed prior to the adoption of this municipal fee ordinance shall be exempt.

Mr. DuPont said that there are a couple of changes that are substantial so out of abundance of caution and questions that need to be answered he recommended Tabling the Ordinance.

Councilwoman Novak stated that if it gets Tabled tonight, then it would have to be re-introduced on Oct. 23 and final reading on Nov. 13 and did not want to wait. Wanted the changes to be made tonight. So Mr. DuPont suggested that they adopt tonight then amend after questions are answered at the next meeting.

Mayor O'Brien asked how this ordinance works- who will pay this fee if the process already started. The Borough Attorney said that it is based on the language, it would affect all those developments who get approved from October 10<sup>th</sup> on. Mayor then expressed his concern about the commercial fees attached to this ordinance.

- Steve Malaneski, 28 Scarlett Drive

He said that we need to come up with some type of formula. Get ordinance adopted and in place until it can be amended. He asked if there was a proformer on these projects and what will cost the taxpayers.

Co. Lembo asked Mr. Leoncavallo, how he arrived at these fees in the ordinance. Mr. Leoncavallo responded that it was derived from other model ordinances.

Councilwoman Kilpatrick asked what the low ball and high ball was and where Sayreville falls in comparison with regards to developer fees. Mr. Leoncavallo said that he could prepare it for the next meeting. Mr. Leoncavallo said that this ordinance has been reviewed by the special court master and she did not have any issues with it. He also said that he spoke with her regarding the phasing in of the number of affordable units per the number of market rate units and she agreed that was a situation that has occurred for a long time and it can't be changed it needs to be the way it is so the developer can forge ahead with some subsidy then by the time they get to 50% everything works out the way it should. He said what you are doing right now is 25% plus 1 unit then you get into affordable housing. Councilwomen Kilpatrick and Novak said that is not what our ordinance states, ours said 50%.

- Jim Robinson, Borelle Square.

Asked the Mayor if he supported this fee ordinance.

Mayor said that he likes smart fees.

- Ruth Ann Mahoney, 2 Gerard Place

Commented about other towns having this fee ordinance and then get new businesses and seem to be growing. Was in favor of Sayreville having it.

- Michael D'Addio, Chairman SERA

Spoke about how this fee ordinance will hurt The Point.

Requested that Re-development Zones be exempt.

Council President Buchanan asked the planner and attorney that a project like The Point that has residential components in it would it exempt them from the remaining portion. Mr. Leoncavallo said that there has been a general development plan that has been approved by the Planning Board. He felt that plan would have to be redone and approved by the Planning Board.

Councilwoman Kilpatrick said that the Developer would have to file for exemptions.

- Steve Malaneski, 28 Scarlet Drive

Expressed his concerns about the previously approved wording.

Comments made by Mayor O'Brien regarding tax incentives to the developers like The Point, then charge them back will dissuade them from coming in.

Councilwoman Kilpatrick commended SERA for doing their due diligence with the Morgan's Bluff development (Morgan site), explaining the number of units built, the COAH component and that this development fee ordinance because of that fact. She said this was a smart project producing only 4 school age children.

Council President Buchanan also commended SERA but questioned why the Planning Board pulled out the affordable component from the Gondek Drive Development Plan. He asked what the status of the plan was now that they are no longer in compliance with that plan.

Councilwoman Kilpatrick said she thought that when this ordinance was adopted they could impose these fees on them because they removed the affordable housing component. She said that the way the language was written into the agreement stated that COAH units were to be required as the Planning Board required. Then the Planning Board did not require them to put in any affordable housing units and now we cannot enforce that. She also commented on the many changes in types of housing that were to be built there. She then questioned the definition of Preliminary as it is described in this ordinance.

The Borough Attorney read the paragraph and thought that how it read due to the many changes in the Gondek Drive Development Plan that the fees may be applicable. He also stated that there was also an appeal process in the ordinance if they did not agree.

Mr. DuPont stated that if the council adopted the ordinance he would also give it to SERA Attorney, Mr. Baker for his interpretation as to the applicability of the development fees to Gondek Drive.

Mayor O'Brien asked the CFO what the PILOT agreement was for Morgan's Bluff.

Mr. Kronowski responded that off the top of his head he believes that it is around \$200,000 per year. It is a set amount based on the revenue. He thought it is a 20 year PILOT.

Council President questioned what the last change was in the Gondek Drive Development with the Planning Board. Councilwoman Kilpatrick responded on her research, then asked the Borough Engineer. The Borough Engineer stated that the changes were based on ordinance amendments to the redevelopment plan and that the affordable housing component was not part of the ordinances, so that was not discussed as part of the change.

Ken Olchaskey, 108 North Edward Street

Asked how long the development fee ordinances have been in effect in other towns.

Mr. Leoncavallo responded that he does not have dates, however they have been in effect for a while. He commented on the meetings that the council have been trying to schedule with the various boards. He felt that we should have had the representatives of these boards to bring up objections and opinions. He also commented that having representatives of these boards would not be illegal.

Mayor called for a motion to close the public portion on Ordinance 364-17. Motion was made by Councilwoman Novak. Seconded by Council President Buchanan.

Roll Call: Voice Vote, all Ayes.

Mayor asked the Council what their pleasure was on this ordinance.

Councilman Lembo expressed his concerns about The Point with regards to these fees. Unsure who could be exempt and if they could be exempt. Page seven addresses the appeal process being turned over to a Director of Taxation.

The Borough Attorney recommended that this Ordinance be adopted in its present form. He will then speak with Mr. Sachs and Mr. Baker with regard to the questions the Council has. He addressed the appeal process stating that the language was standard regarding the process for both residential and commercial. So again suggested that this ordinance be adopted and he would answer the questions at the October 23<sup>rd</sup> meeting.

Council President Buchanan commented that this fee ordinance is far overdue. He said that he would like to see stricter language regarding implementation. Would also like to make sure the appeal for The Point would be exempt. Councilman Lembo said that something should be added to exempt redevelopment zones. Councilman Buchanan felt that not all should be exempt and that is why there is an appeal process and they would have to justify the exemption, where The Point as this stage should be exempt.

Discussion between the Mayor and Council regarding the price point on affordable housing and then into the number of units we are short and in violation not having and the lawsuit.

Council President Buchanan **moved the Ordinance be adopted on second and final reading and advertised according to law.** Motion was seconded by Councilwoman Novak.

Comments:

Councilwoman Novak stated that she wants this passed right now in order to stop any future development. But would like to see changes in the ordinance introduced at the next meeting to have anyone who is currently building without affordable housing should be charged a fee.

Councilwoman Kilpatrick commented that it has been a long time coming that there be a Developers Fee Ordinance before them. She said that they will get it right to make sure this ordinance serves our town and residents, so she would be voting yes with the same provision as Co. Novak, that changes be made for the next meeting.

Councilman Lembo said that he would vote yes but would like to see changes, especially do not want to see it hurt The Point.

Councilman Melendez asked if they could have a calculation of the losses for the past 16 years. Mr. Leoncavallo said the he would try and attempt that task.

Roll Call - Ayes: Councilpersons Buchanan, Kilpatrick, Lembo, Melendez, Novak.  
Nays: None.

#### **ORDINANCE 364-17**

### **AN ORDINANCE OF THE BOROUGH OF SAYREVILLE IN THE COUNTY MIDDLESEX, NEW JERSEY, ADDING A NEW SECTION TO CHAPTER XXVI, SECTION 26-111, ENTITLED "DEVELOPMENT FEE ORDINANCE", OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SAYREVILLE**

**WHEREAS**, in Holmdel Builder's Association v. Holmdel Township. 121 NJ 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

**WHEREAS**, pursuant to PL 2008, c.46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), the Council on Affordable Housing (COAH) is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of a court of competent jurisdiction and have an approved spending plan may retain fees collected from non-residential development.

**WHEREAS**, pursuant to the March 10, 2015 Supreme Court Order, the Court transferred all functions, powers, and duties to the Courts. All references to COAH shall mean the Courts.

**WHEREAS**, this ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to the Court's regulations and in accordance PL 2008, c.46, sections 8 and 32 through 38.

**BE IT ORDAINED**, by the Mayor and Council of Sayreville Borough as follows:

**SECTION 1.** The following new Chapter 26-111 entitled "Development Fee Ordinance", is hereby added to the Revised General Ordinances of the Borough of Sayreville:

1. Basic Requirements
  - a. This Ordinance shall not become effective until approved by the Court pursuant to N.J.A.C. 5:96-5.1.
  - b. Sayreville Borough shall not spend development fees until the Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.
  - c. This Ordinance shall be interpreted within the framework of COAH's last adopted rules on development fees, codified at N.J.A.C. 5:97-8, as same may be interpreted and applied by the Court.
2. Imposition of Affordable Housing Development Fees
  - a. Residential Development
    1. Within the all Borough zoning district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one percent (1.0%) of the equalized assessed value for residential development, provided that no increased density is permitted.
    2. Where an increase in density is permitted through a variance granted pursuant to N.J.S.A. 40:55D-70d(5) or a rezoning, redevelopment plan, or redevelopment plan amendment that is adopted after the effective date of this ordinance, developers shall be required to pay a development fee of six percent (6.0%) of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include a set-aside of affordable housing units. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.
  - b. Non-residential Development
    1. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to two and one-half percent (2.5%) of the equalized assessed value of the land and improvements for all new non-residential construction on an unimproved lot or lots, provided that no increase in floor area is permitted.

2. Non-residential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to two and one-half percent (2.5%) of the increase in total equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
  3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and one-half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the preexisting land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, at the time the final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
  4. Developers that convert any portion of an existing residential structure to a non-residential use shall pay a development fee of two and one-half percent (2.5%). The development fee shall be calculated based on the increase in the equalized assessed value of the converted structure.
3. Eligible Exactions, Ineligible Exactions and Exemptions
- a. Residential Development
    1. Developers of low- and moderate-income housing shall be exempt from paying development fees, provided that the minimum number of affordable units required for the development is completed in accordance with all applicable regulations. Where affordable units are required and where the developer has been authorized by the Borough to make a payment in lieu of constructing the affordable housing units, the amount of the payment in lieu of construction shall be calculated and paid to the Borough. Any development of fewer than five (5) new market-rate residential units shall be subject to the payment of the affordable housing development fee pursuant to the provisions of this chapter. A payment-in-lieu-of-construction or development fee payment shall only be used to fund affordable housing activities within the Borough as approved by the Court.
    2. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The applicable development fee percentage shall be vested on the date that the building permit is issued.
    3. Owner-occupied residential structures demolished



and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

4. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
5. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use that requires the issuance of a Certificate of Occupancy (for example, when a single-family home is converted to a two-family home or a single-family home is converted to an apartment building). The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
6. Development fees shall be imposed and collected when a Certificate of Occupancy is issued for a new residential unit on a newly created lot that is the result of a subdivision. The development fee shall be calculated based on the equalized assessed value of the land and improvements.
7. Additions to existing homes and improvements such as decks, patios and like shall be exempt from the payment of a development fee.

b. Non-residential Development

1. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half percent (2.5%) development fee, unless otherwise exempted below.
2. The two and one-half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing building footprint, reconstruction, renovations and repairs.
3. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non- Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.
4. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to the development fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy for the non-residential development, whichever is later.

5. If a property that was exempted from the collection of a non- residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non- residential development fees under these circumstances may be enforceable by Sayreville Borough as a lien against the real property of the owner.
6. Developers that have received final approval prior to the adoption of a municipal development fee ordinance shall be exempt from paying a development fee, unless the developer seeks a substantial change in the approval.
7. Exempted from these provisions shall be approvals for the following classes of development:
  - a. Utility facilities
  - b. Educational, cultural and outdoor recreational facilities
  - c. Quasi-public uses, including clubs, lodges and similar uses
  - d. Public uses
  - e. Hospital uses

#### 4. Collection of Fees

- a. Upon the grant of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non- Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided on said form. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided on the Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e. The construction official responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final

inspection on property that is subject to a development fee.

- f. Within ten business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g. Should Sayreville Borough fail to determine or notify the developer of the amount of the development fee within ten business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- h. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- i. Appeal of development fees:
  - 1. A developer may challenge residential development fees imposed by filing a challenge with the Middlesex County Board of Taxation. Pending a review and determination by said board, collected fees shall be placed in an interest-bearing escrow account by Sayreville Borough. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq. within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
  - 2. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by Sayreville Borough. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq. within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

5. Affordable Housing Trust Fund

- a. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer of the Borough for depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b. The following additional funds, if collected by the Borough,

shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

1. payments in lieu of construction of affordable units;
  2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
  3. rental income from and municipally-operated units, exclusive of units operated by the Sayreville Borough Housing Authority;
  4. repayments from affordable housing program loans;
  5. recapture funds;
  6. proceeds from the sale of affordable units; and,
  7. any other funds collected in relation to Sayreville Borough's affordable housing program.
- c. Within seven days of the opening of the trust fund account, Sayreville Borough shall provide the Court with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and the Court to permit the Court to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d. All interest accrued in the housing trust fund shall only be used to fund eligible affordable housing activities approved by the Court.
6. Use of Funds
- a. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address Sayreville Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; rehabilitation; new construction of affordable housing units and related costs; accessory apartment, market to affordable, or regional housing partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; or, any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the Court-Approved Spending Plan.
  - b. Funds shall not be expended to reimburse Sayreville Borough for past affordable housing activities.
  - c. At least thirty percent (30%) of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income

households in affordable units included in the municipal Fair Share Plan. One-third (1/3rd) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty percent (30%) or less of median income by region.

1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowner's association or condominium fees and special assessments, and assistance with emergency repairs.
  2. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
  3. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- c. Sayreville Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- d. No more than twenty percent (20%) of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty percent (20%) of the revenues collected from development fees shall be expended for such administrative expenses.

Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the Court's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the affordable housing trust fund.

## 7. Monitoring

- a. The Borough shall provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and

the amount and purpose for which any funds have been expended.

- b. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with its housing program, as well as an accounting of the expenditure of revenues and implementation of the Spending Plan approved by the Court.

8. Ongoing Collection of Fees

- a. The ability for Sayreville Borough to impose, collect and expend development fees shall expire with the end of the repose period covered by its Judgment of Compliance unless Sayreville Borough has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated administrative entity of the State of New Jersey, has petitioned for a Judgment of Compliance from the Court or Substantive Certification or its equivalent from a State administrative agency, and has received approval of its development fee ordinance by the entity that will be reviewing the Housing Element and Fair Share Plan.
- b. If Sayreville Borough fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). Sayreville Borough shall not impose a development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall Sayreville Borough retroactively impose a development fee on such a development. Sayreville Borough shall not expend any development fees after the expiration of its Judgment of Compliance.

**SECTION 2.** This Ordinance shall be subject to review and recommendation by the Sayreville Borough Planning Board in accordance with N.J.S.A. 40:55D-26 and notice requirements of N.J.S.A 40:55D-62.1.

**SECTION 3.** All ordinances or parts thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistencies.

**SECTION 4.** The various parts, sentences, paragraphs, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

**SECTION 5.** This Ordinance shall take effect immediately upon its final passage and publication as required by law and filing with the Middlesex County Planning Board.

/s/Pasquale Lembo, Councilman  
Planning & Zoning Committee

**ATTEST:**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

**APPROVED:**

Returned unsigned by Mayor 10/10/17  
Kennedy O'Brien, Mayor

**APPROVED AS TO FORM:**

/s/Larry Sachs, Esq.  
Special Counsel - COAH

Mayor O'Brien opened the meeting to the public for questions and comments on this Ordinance. There being no appearances he called for a motion.

Councilman Lembo **moved the Public Portion be closed and the Ordinance adopted** on second and final reading and advertised according to law. Motion was seconded by Councilwoman Novak.

Roll Call - Ayes: Councilpersons Buchanan, Kilpatrick, Lembo, Melendez, Novak.  
Nays: None.

Mayor asked for the next Ordinance.

Assistant Clerk Morelos read the heading on Ordinance 365-17.

**ORDINANCE 365-17**

**AN ORDINANCE SUPPLEMENTING AND AMENDING ARTICLE III OF CHAPTER XXVI, LAND DEVELOPMENT, OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SAYREVILLE TO PERMIT AFFORDABLE ACCESSORY APARTMENTS IN THE OFFICE/SERVICES OVERLAY ZONE**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Sayreville, in the County of Middlesex and the State of New Jersey, as follows:

**SECTION 1. Section 26-84, SUPPLEMENTAL ZONING REGULATIONS, of Chapter XXVI, LAND DEVELOPMENT**, of the revised General Ordinances of the Borough of Sayreville, is hereby amended and supplemented to add new Sections 26-84.6.i., j. and k. following the existing Section 26-84.6.h., to read as follows:

- i. The following accessory apartment regulations are hereby enacted for the purpose of providing additional opportunities for affordable housing in the Borough. All accessory apartment units shall meet the following conditions:
  1. Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to local building codes;
  2. The accessory apartment shall, for a period of at least 10 years from the date of the issuance of the certificate of occupancy for the unit, be rented only to a duly qualified (at the time of initial occupancy) very low, low or moderate income household based upon a rent level calculated to be affordable to such household in accordance with the criteria set forth in the Borough's Affordable Housing Ordinance;
  3. Affordable rent levels for accessory apartments shall be calculated to include a deduction for tenant paid utilities (a utility allowance);
  4. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory

apartment is located running with the land and limiting its subsequent rental in accordance with the foregoing requirements for the entire term of the deed restriction;

5. Each accessory apartment shall have living/sleeping space, a complete kitchen and complete sanitary facilities for the exclusive use of its occupants. It shall consist of no less than two rooms, one of which shall be a full bathroom;
6. The accessory apartment shall have a separate door with direct access to the outdoors;
7. The potable water supply and sewage disposal system for the accessory apartment shall be demonstrated to be adequate;
8. The accessory apartment shall be affirmatively marketed throughout the Borough's housing region; and
9. In the case of an accessory apartment created illegally or without proper permits which the property owner desires to legitimize as an accessory apartment under this ordinance, all of the requirements of this ordinance shall apply, except that no subsidy shall be provided by the Borough.

j. The Borough shall designate an Administrative Agent to administer the accessory apartment program.

1. The Administrative Agent shall administer the accessory apartment program including advertising, income qualifying prospective tenants, setting rents and annual rental increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the accessory apartment program;

2. The Administrative Agent shall only deny an application for an accessory apartment if the project is not in conformance with all of the requirements of the municipal development ordinance, including this Section, or the Borough's Affordable Housing Ordinance. All denials shall be in writing with the reasons clearly stated; and

3. The Borough shall provide at least \$10,000. to subsidize the physical creation of an accessory apartment conforming to all applicable requirements. Prior to the grant of any subsidy, the property owner shall enter into a written agreement with Sayreville Borough insuring that (i) the subsidy shall be used only to create the accessory apartment and (ii) the apartment shall meet all applicable requirements of the Borough of Sayreville.

k. Applications for the creation of an accessory apartment shall be submitted to the Administrative Agent and shall include the following:

1. A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and primary dwelling or use within the building;

2. Rough elevations showing the modification of any exterior building façade to which changes are proposed; and

3. A site development sketch showing the location of the existing dwelling and other existing structures; all property lines; proposed addition if any, along with minimum building setback lines; the required parking spaces for both dwelling units; and any man-made conditions which might affect the proposal.



**SECTION 2. SEVERABILITY CLAUSE**

If any article, section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared severable.

**SECTION 3. REPEALER**

All other ordinances in conflict or inconsistent with this ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Ordinances of the Borough are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**SECTION 4. EFFECTIVE DATE**

This ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

/s/Pasquale Lembo, Councilman  
Planning & Zoning Committee

**ATTEST:**

**APPROVED:**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

Kennedy O'Brien, Mayor

**APPROVED AS TO FORM:**

/s/Larry Sachs, Esq.  
Special Counsel - COAH

Mayor O'Brien opened the meeting to the public for questions and comments on this Ordinance.

Those appearing were:

Barbara Kilcomons, 22 Schmitt Street

Questioned what was being done to Pulaski Avenue for that amount of money. Borough Engineer responded that the Borough is receiving over One Million Dollars in State Funding. He went on to say that there are approximately Eight Hundred Thousand Dollars in water improvements included in that estimate. Water Dept. has recommended that all galvanized water services be replace in all road improvements, unfortunately we do not know how many are galvanized so that is why the estimate is so high as it covers as if all have to be replaced. He also addressed here storm sewer concerns. He also added that the County is looking to now do the improvements to the intersection of Main Street and Pulaski Avenue. They just completed Washington Road and Pulaski Avenue.

- Steve Malaneski, Scarlet Drive

Questioned what the Borough's Bond Rate is.

CFO Kronowski stated that the bonds for this Ordinance have not been sold yet. But for a bond sale held back in September they went for 1.9%

There were no further appearances. Mayor O'Brien called for a motion.

Councilwoman Novak **moved the Public Portion be closed and the Ordinance adopted** on second and final reading and advertised according to law. Motion was seconded by Council President Buchanan.

Roll Call - Ayes: Councilpersons Novak, Buchanan, Kilpatrick, Lembo, Melendez.  
Nays: None.

Mayor asked for the next Ordinance.

Assistant Clerk Morelos read the heading for Ordinance 376-17

**ORDINANCE NO. 376-17**

**BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO PULASKI AVENUE IN THE BOROUGH OF SAYREVILLE, NEW JERSEY, APPROPRIATING \$2,600,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,525,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF SUCH APPROPRIATION**

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

Section 1. The Borough Council of the Borough of Sayreville, New Jersey (the "Borough") has ascertained and hereby determines that it is necessary and desirable to raise money to finance the cost of the improvements described in Section 3 of this bond ordinance, which improvements are hereby authorized to be made or acquired by the Borough. For said improvements or purposes stated in said Section 3, there is hereby appropriated the sum of \$2,600,000, said sum being inclusive of all appropriations heretofore made therefor and including a grant from the New Jersey Department of Transportation in the amount of \$1,075,000 (the "Grant"). Pursuant to the provisions of N.J.S.A. 40A:2-11(c), no additional down payment is required and therefor no additional down payment is included herein.

Section 2. For the financing of said improvements or purposes and to meet the part of said \$2,600,000 appropriation not provided for by application hereunder of said down payment and Grant, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$1,525,000 pursuant to the Local Bond Law, constituting Chapter 2 of Title 40A of the New Jersey Revised Statutes (the "Local Bond Law"). In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in the principal amount not exceeding \$1,525,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvements hereby authorized and the purposes for the financing of which said obligations are the improvement of the entire length of Pulaski Avenue, together with all other work, materials and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes of the Borough to be issued for said purposes is \$1,525,000.

(c) The estimated cost of said purposes is \$2,600,000, the excess thereof over the estimated maximum amount of bonds or notes to be issued therefor being the amount of said Grant for said purposes.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purposes described in Section 3 of this bond ordinance are not current expenses and are properties or improvements which the Borough may lawfully acquire or make as general improvements, and no part of the cost thereof has been or shall be specially benefited thereby.

(b) The period of usefulness of said purposes within the limitations of the Local Bond Law, according to the reasonable lives thereof computed from the date of said bonds or notes authorized by this bond ordinance, is 10 years.

(c) The supplemental debt statement required by the Local Bond Law has been duly made and filed in the office of the Borough Clerk and a copy thereof has been electronically filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs in the State of New Jersey (the "Division"), and 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 for in this bond ordinance by \$1,525,000, and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$300,000 for interest on said obligations, costs of issuing said obligations, engineering costs and other items of expense listed in and permitted under Section 40A:2-20 of the Local Bond Law is included in the estimated cost of said improvements.

Section 5. Any funds from time to time received by the Borough as contributions-in-aid of financing the improvements or purposes described in Section 3 of this bond ordinance, including any grant, shall be used for financing said improvements or purposes by application thereof either to direct payment of the cost of said improvements or purposes, or to payment or reduction of the authorization of the obligations of the Borough authorized therefor by this bond ordinance. Any such funds so received may, and

all such funds so received which are not required for direct payment of the cost of said improvements or purposes shall, be held and applied by the Borough as funds applicable only to the payment of obligations of the Borough authorized by this bond ordinance.

Section 6. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this bond ordinance. Said obligations shall be direct and unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all of the taxable property within the jurisdiction of the Borough for the payment of said obligations and interest thereon without limitation as to rate or amount.

Section 7. The capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith and the resolutions promulgated by the Local Finance Board of the Division showing all detail of the amended capital budget and capital program as approved by the Director of the Division, are on file with the Borough Clerk and are available for public inspection.

Section 8. The Borough intends to issue bonds or notes to finance the cost of the improvements or purposes described in Section 3 of this bond ordinance. The Borough expects that the maximum principal amount of bonds or notes which will be issued to finance the cost of the improvements or purposes described in Section 3 of this bond ordinance is \$1,525,000. If the Borough incurs any such costs prior to the issuance of the bonds or notes, the Borough intends to reimburse itself for such expenditures with the proceeds of the bonds or notes.

Section 9. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption as provided by the Local Bond Law.

/s/ Mary J. Novak, Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

**APPROVED:**

/s/ Kennedy O'Brien  
Mayor

**APPROVED AS TO FORM:**

/s/ Michael DuPont, Esq.  
Borough Attorney

Mayor O'Brien opened the meeting to the public for questions and comments on this Ordinance. There being no appearances he asked for a motion to close the Public Hearing.

Councilwoman Novak **moved the Public Hearing be closed and the Ordinance adopted** on second and final reading and advertised according to law. Motion was seconded by Council President Buchanan.

Roll Call - Ayes: Councilpersons Novak, Buchanan, Kilpatrick, Lembo, Melendez.  
Nays: None.

Mayor asked for the next Ordinance.

Assistant Clerk Morelos read the heading for **Ordinance 377-17**.

**ORDINANCE #377-17**

**AN ORDINANCE SUPPLEMENTING AND AMENDING  
ORDINANCE #257-14 FIXING THE SALARIES OF CERTAIN  
BOROUGH OFFICIALS, OFFICERS AND EMPLOYEES FOR THE  
YEARS 2013, 2014, 2015 AND 2016 AS SET FORTH IN  
THE S.A.M.S. BARGAINING AGREEMENT**

**NOW THEREFORE BE IT AND IT IS HEREBY ORDAINED** by the Mayor and Borough Council of the Borough of Sayreville that Ordinance #257-14 is hereby supplemented and amended to include the following salary adjustment and title as commensurated in the S.A.M.S. Bargaining Agreement for the years 2013, 2014, 2015 and 2016:

**Borough of Sayreville - SAMS Salary & Wage Schedule**

APPENDIX III

**Recycling Coordinator**

**1/1/2016**

MIN.	MAX.
\$31,145.	56,675.

**Grant Coordinator**

**1/1/2016**

MIN.	MAX.
\$ 1,000.	12,000.

**BE IT FURTHER ORDAINED** the Appendix I attached to Ordinance #257-14 be supplemented and amended to include the Title of Grant Coordinator and that it be known as **Appendix III** and be dated upon adoption.

**SECTION 2. Severability Clause.**

If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared severable.

**SECTION 3. Repealer.**

All other ordinances in conflict or inconsistent with this ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Ordinances of the Borough are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**SECTION 4. Effective Date.**

This ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

/s/ Mary J. Novak, Councilman  
(Admin. & Finance Committee)

**ATTEST:**

**APPROVED:**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O'Brien  
Mayor

**APPROVED AS TO FORM:**

/s/ Michael DuPont, Esq.  
Borough Attorney

- **NEW BUSINESS:**

a) Assistant Clerk Morelos read the following Ordinances for Introduction:

**ORDINANCE #378-17**  
**AN ORDINANCE AMENDING CHAPTER VII, TRAFFIC, OF**  
**THE REVISED GENERAL ORDINANCES OF THE**  
**BOROUGH OF SAYREVILLE**  
Handicapped Parking Space – Laurel Street  
(Public Safety – Public Hearing, October 23, 2017)

Councilman Lembo moved Ordinance 378-17 be introduced on first reading, advertised according to law and a public hearing be held on October 23, 2017. Motion was seconded by Councilwoman Novak.

Roll Call: Councilpersons Lembo, Buchanan, Kilpatrick, Melendez, Novak.

**ORDINANCE #379-17**  
**AN ORDINANCE AMENDING AND SUPPLEMENTING**  
**CHAPTER XII OF THE REVISED GENERAL ORDINANCES OF**  
**THE BOROUGH OF SAYREVILLE TO AMEND SECTION 12-3.5**  
**PROPERTY RENTAL AND RESALE INSPECTION**  
(Planning & Zoning – Public Hearing, October 23, 2017)

Councilman Lembo moved Ordinance 379-17 be introduced on first reading, advertised according to law and a public hearing be held on October 23, 2017. Motion was seconded by Councilwoman Novak.

Roll Call: Councilpersons Lembo, Buchanan, Kilpatrick, Melendez, Novak.

**ORDINANCE #380-17**  
**ORDINANCE OF THE BOROUGH OF SAYREVILLE, IN THE**  
**COUNTY OF MIDDLESEX, STATE OF NEW JERSEY AUTHORIZING A SPECIAL**  
**EMERGENCY APPROPRIATION PURSUANT TO N.J.S.A. 40A:4-53 TO**  
**PROVIDE FUNDS FOR THE PREPARATION OF AN APPROVED TAX MAP;**  
**AUTHORIZING THE ISSUANCE OF SPECIAL EMERGENCY NOTES IN THE**  
**AMOUNT OF \$350,000 TO FUND THE SPECIAL EMERGENCY APPROPRIATION;**  
**AND PROVIDING FOR OTHER DETAILS OF SAID ISSUE**  
(Admin. & Finance – Public Hearing October 23, 2017)

Councilwoman Novak moved Ordinance 380-17 be introduced on first reading, advertised according to law and a public hearing be held on October 23, 2017. Motion was seconded by Council President Buchanan.

Roll Call: Councilpersons Novak, Buchanan, Kilpatrick, Lembo, Melendez..

- **CONSENT AGENDA/RESOLUTIONS**

- At this time Mayor O'Brien opened the meeting to the Public on Consent Agenda Resolutions.

Those appearing Were:

- Barbara Kilcomons, 22 Schmitt Street

Questioned Resolution #2017-295 and the need and cost of this piece of equipment.

Response by the Business Administrator and CFO.

There were no further appearances. Council President Buchanan moved the public hearing be closed and the Consent Agenda Resolutions be approved on Roll Call Vote.

Motion was seconded by Councilwoman Novak.

Roll Call – Ayes: Councilpersons Buchanan, Kilpatrick, Lembo, Melendez, Novak.

**RESOLUTION #2017-293**

**WHEREAS**, all bills submitted to the Borough of Sayreville covering services, work, labor and material furnished the Borough of Sayreville have been duly audited by the appropriate committee;

**NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED** that all bills properly verified according to law and properly audited by the appropriate committees be and the same are hereby ordered to be paid by the appropriate Borough officials.

/s/Kennedy O'Brien  
Kennedy O'Brien, Mayor

/s/Daniel Buchanan  
Councilman Daniel Buchanan

/s/Pasquale Lembo  
Councilman Pasquale Lembo

Absent  
Councilman Steven Grillo

/s/Ricci Melendez  
Councilman Ricci Melendez

/s/Victoria Kilpatrick  
Councilwoman Victoria Kilpatrick

/s/Mary J. Novak  
Councilwoman Mary J. Novak

**Bill list of October 10, 2017 in the amount of \$4,005,239.86 in a separate Bill List File for 2017 (See Appendix Bill List 2017-A for this date).**

***Person to Person / Place to Place Transfer***

**RESOLUTION #2017-294**

**WHEREAS**, application has been received by the Licensing Authority for a Person to Person / Place to Place Transfer of Plenary Retail Consumption License #1219-33-021-009, heretofore issued to Gianna's LLC (pocket license) in the Borough of Sayreville, New Jersey; and

**WHEREAS**, the submitted application is complete in all respects, transfer fees have been paid, and applicant has disclosed with the issuing authority the source of all funds used in the purchase of said license and business; and

**WHEREAS**, the applicant has duly advertised in the Home News Tribune on June 12, 2017 and June 19, 2017, as required by law, and has produced proof of publication as to such advertising; and

**WHEREAS**, no objections or protests have been made with regard to said transfer; and

**WHEREAS**, all other necessary requirements have been fulfilled and proper investigations have been made, the applicant is qualified to be licensed according to all statutory, regulatory and local governmental Alcoholic Beverage Control laws and regulations.

**NOW, THEREFORE, BE IT RESOLVED** that the Licensing Authority has reviewed the applicants request for waiver of Ordinance #6-5.8, in order to locate within 2,000 feet of any other Plenary Retail Licensed Premise and as long as the Conditions on the license are met and adhered to, the waiver is hereby approved.

**BE IT FURTHER RESOLVED** that Plenary Retail Consumption License #1219-33-021-009 now held by Gianna's Inc. a Pocket License with conditions, be ***transferred with conditions as contained in Appendix A, attached hereto and made part thereof*** as follows:

<b>- LICENSE NO.:</b>	<b>FROM:</b>	<b>TO:</b>
1219-33-051-009	Gianna's Inc. (Pocket License)	DejaVu3, LLC – Inactive Status 1979 Route 35 South Sayreville, PO South Amboy, NJ 08879

/s/ Mary J. Novak, Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O'Brien  
Mayor

**RESOLUTION #2017-294 - APPENDIX A**  
**CONDITIONS TO REMAIN ON P.R.C.L. # 1219-33-021-009**  
**Deja Vu3, LLC**

**BE IT FURTHER RESOLVED THAT** Plenary Retail Consumption License Number 1219-33-021-009, is transferred to Deja Vu3, LLC, subject to the following conditions remaining on the license:

1. Licensee solely operates this license at the site as a Restaurant with a Bar.
2. The theme of the facility is an Asian/Mexican food driven facility, with the trade name of "Juan Lee" which is indicative of its food theme.
3. Licensee will be permitted to open seven (7) days a week.
4. Licensees hours of operation will be:
  - Sunday through Wednesday from 12:00 Noon to 12:00 A.M. closing.
  - Thursday, Friday and Saturday from 12:00 Noon to 1:00 A.M. closing.
5. The Licensee will only market and use the facility and license as a restaurant and not as a nightclub. There is to be no outside promoters hired and there will be no promotion or marketing of nightlife events.
6. Licensee will ensure alcoholic beverages are only consumed inside the establishment and will strictly enforce a policy that prohibits open containers of alcoholic beverages outside the premises, including but not limited to the sidewalk and in the parking lot.



7. Licensee is to post signage at the EXIT doors stating: NO ALCOHOLIC BEVERAGES ARE PERMITTED BEYOND THIS POINT”.
8. Licensee shall install signage inside the Licensed Premises, at or adjacent to the entrance to the premises, which will provide in bold letters **“Illegal Conduct Will Not Be Tolerated”**.
8. There will be no dance floor, so therefore, there is to be no equipment or furniture moved or reconfigured to provide for a dance floor surface and no tables and chairs will be removed from the dining area at any point during the hours of operation.
9. There will be no live entertainment permitted, including but not limited to bands, DJ’s, dancers, comedy performers, etc.
10. Licensee shall continue to implement and provide valet parking for its patrons on all nights of operation. The Chief of Police may grant a waiver, on occasion, of the valet parking requirement if the Licensee demonstrates, to the reasonable satisfaction of the Chief of Police, that Licensee’s level of occupancy on a specific occasion is anticipated to be significantly less than the legal occupancy so as to satisfy the Chief that valet parking will not be necessary on such specific occasion. The granting of any such waiver on one occasion shall not entitle the Licensee to such a waiver on any other occasion, without the approval of the Chief of Police.
11. The above-described valet parking requirement shall remain in effect unless and until a recommendation for other appropriate traffic control procedures, developed by a licensed traffic or civil engineer or consultant at Licensee’s expense, is received and approved by the Mayor and Council as a substitute measure.
12. Licensee shall institute a policy and instruct its parking lot attendants and employees to abide by a policy that requires that, when the parking facilities used by the Licensed Premises are at full capacity, any additional cars seeking to enter the parking lots shall be “waved off” by parking lot attendants in order to insure that traffic jams do not occur but that such traffic continues to move through and out of the area of the Licensed Premises when there are no legal spaces available in the Licensed Premises lots to accommodate additional cars.
13. Licensee shall coordinate with the Police Department to determine whether and how many security employees are required based on the number of patrons expected. All such security personnel, except those acting in an undercover capacity, shall wear clothing that permits ready identification by members of the Sayreville Police Department. Licensee agrees to submit security shirt design to the Police Department.

Theresa A. Farbaniec, RMC  
Municipal Clerk

**RESOLUTION #2017 -295**

**A RESOLUTION OF THE BOROUGH OF SAYREVILLE IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, AUTHORIZING THE MAYOR AND BOROUGH CLERK TO EXECUTE A CONTRACT WITH JACK DOHENY COMPANIES TO PURCHASE VACTOR MODEL 2115 PLUS COMBO TRUCK**

**WHEREAS**, the Borough of Sayreville is in need of certain equipment; namely a Vactor Model 2115 Plus Combo Truck; and

**WHEREAS**, the Borough of Sayreville, being a member of the National Joint Powers Alliance (NJPA) has reviewed the NJPA contractors and have found that a national contract has been given to Jack Doheny Companies under Contract #022014-FSC; and

**WHEREAS**, the Governing Body of the Borough of Sayreville, through the due diligence of the Water Department, has ascertained that the contract price of Jack Doheny Companies under the NJPA contract is the lowest possible price; and

**BE IT AND IT IS HEREBY RESOLVED** that Mayor Kennedy O'Brien and Theresa A. Farbaniec, Borough Clerk are hereby authorized and directed to execute the necessary documents to award the contract to Jack Doheny Companies under Contract #022014-FSC for the purchase price of \$411,963.86.

/s/ Daniel Buchanan  
Councilman  
(Water & Sewer Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O'Brien  
Mayor

**RESOLUTION #2017-296**

**WHEREAS**, on September 28, 2015 the Borough of Sayreville awarded a contract for "Hydrated Lime" to Carmeuse Lime, Inc., 11 Stanwix St., Pittsburg, PA 15222; and

**WHEREAS**, the Borough of Sayreville is desirous of exercising its right to renew the contract for another two-year period at no additional increase in price contained therein; and

**WHEREAS**, Carmeuse Lime, Inc., has indicated their interest in extending their terms of the aforesaid contract for a final two (2) year period;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Sayreville that the terms and conditions of the current contract with the above-captioned supplier for "Hydrated Lime" is hereby renewed for a final two (2) year period at no additional increase in price.

/s/ Daniel Buchanan  
Councilman  
(Water & Sewer Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O'Brien  
Mayor

**RESOLUTION #2017-297**

**WHEREAS**, the Borough is presently the owner of a vehicle which is no longer required for public use; and

**WHEREAS**, it has been determined that the best interest of the Borough will be served by disposing of said vehicle to the highest bidder;

**NOW THEREFORE BE IT AND IT IS HEREBY RESOLVED:**

1) That the Qualified Purchasing Agent of the Borough of Sayreville is hereby authorized and directed to advertise for the receipt of bids for the said vehicle.

2) The said notice of sale shall describe said vehicle and state when and where same may be inspected.

3) Notice shall state that the borough reserves the right to reject any and all bids at their sole discretion.

4) All items will be sold on an "as is and where is" basis.

5) The identity of the motor vehicles are as follows:

	<b>Year/Make/Model</b>	<b>VIN</b>
1.	2006 F450 22 Passenger Bus	1FDXE45S34HB04311

/s/ Victoria Kilpatrick  
Councilwoman  
(Public Works Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O'Brien  
Mayor

**RESOLUTION #2017-298**

**WHEREAS**, Qualified Purchasing Agent has recommended that certain increases and decreases be included in the following described project as will more fully appear in Contract Change Order No. 1:

- Project: Improvements to Sayreville Free Library Meeting Room
- Contractor: Tri-Form Construction  
119 Liberty Street  
Metuchen, NJ 08840
- Net Increase: \$6,574.97
- Reason: Adjustment of original contract to reflect actual quantities installed and work performed.

**NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED:**

1. That the recommendation and approval of said Qualified Purchasing Agent referred to above and in said Change Order be and the same is hereby accepted and approved:

2. That the Governing Body determines that said charges are proper and essential and that same be paid upon the submission of properly approved borough voucher.

/s/ Mary J. Novak  
Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O'Brien  
Mayor

**RESOLUTION #2017-299**

**WHEREAS**, Borough Engineer David J. Samuel has recommended that certain increases and decreases be included in the following described project as will more fully appear in Contract Change Order No. 1:

- Project: Bordentown Avenue Water Treatment Plant Raw Water Pipe Replacement Project
- Contractor: Allied Construction Group, Inc.  
499 Washington Road  
Parlin, NJ 08859
- Net Decrease: \$21,539.00
- Reason: Adjustment of original contract to reflect actual quantities installed and work performed.

**NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED:**

1. That the recommendation and approval of said Borough Engineer referred to above and in said Change Order be and the same is hereby accepted and approved:

2. That the Governing Body determines that said charges are proper and essential and that same be paid upon the submission of properly approved borough voucher.

/s/ Mary J. Novak \_\_\_\_\_  
Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC \_\_\_\_\_  
Municipal Clerk

/s/ Kennedy O'Brien \_\_\_\_\_  
Mayor

**RESOLUTION #2017-300**  
**ACCEPTING FINAL WORK**  
**AND AUTHORIZING FINAL PAYMENT**  
**UPON EXPIRATION OF STATUTORY PERIOD**

**WHEREAS**, the following named contractor has completed the following work as indicated on the project hereafter referred to, which work is apparently in accordance with the plans, specifications and contract documents:

- Project: Bordentown Avenue Water Treatment Plant Raw Water Pipe Replacement Project
- Contractor: Allied Construction Group, Inc.  
499 Washington Road  
Parlin, NJ 08859
- Balance Due \$3,915.94

**WHEREAS**, the Borough Engineer has fully issued a certificate certifying to the completion of the work and recommending payment in accordance with the terms thereof; and

**WHEREAS**, the Standing Committee of the Governing Body under whose jurisdiction this work falls has likewise inspected said work and has determined that it has been completed in apparent conformity with the plans and specifications; and

**WHEREAS**, the Statutes of New Jersey pertaining to the enforcement of mechanic's and materialmen's liens on municipal projects provide that notice thereof may be filed at any time within 45 days of the final acceptance of said work;

**NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED:**

1. That the project described in the preamble hereof is hereby accepted and approved with the proviso that such action is not to be construed as a waiver of any violation of the terms of said plans, specifications and contract documents if such violation should later appear.

2. That the Borough Clerk is authorized to insert a brief notice in a daily newspaper circulating in Middlesex County once a week for two consecutive weeks giving public notice of the final acceptance of said work so that any potential lien claimants may have notice thereof.

3. That upon expiration of the 45 days from the date hereof, the proper municipal officials be and they are hereby authorized and directed to execute and deliver a check to the said contractor covering the amount due him, less any retained percentage authorized by the contract documents.

4. That should the contract under which this work has been done provide for the release of any retained percentage upon the filing of a maintenance bond, that said percentage shall be paid said contractor upon the filing of a one-year 15% Maintenance Bond in the amount of \$29,369.55 and the approval of same as to form and sufficiency by the Borough Attorney.

/s/ Mary J. Novak  
Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O'Brien  
Mayor

**RESOLUTION #2017-301**

**WHEREAS**, on October 3, 2017 the Mayor and Council of the Borough of Sayreville received bids for the "2017 Roadway Paving and Reconstruction Project – Phase II – Improvements to Main Street Extension"; and

**WHEREAS**, Certification as to Availability of Funds is annexed hereto;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council on this 10<sup>th</sup> day of October, 2017 that:

1. Contract for the "2017 Roadway Paving & Reconstruction Project – Phase II – Improvements to Main Street Extension" be awarded to Z Brothers Concrete Contractors, Inc., 304 Jernee Mill Road, Sayreville, NJ 08882 on their bid price of \$1,450,550.80 as appears on copy of bid document attached hereto and made a part hereof, subject to the waiver of minor irregularities and the concurrence of the award of the contract by the New Jersey Department of Transportation.

/s/ Victoria Kilpatrick  
Councilwoman  
(Public Works Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O'Brien  
Mayor

**RESOLUTION #2017-302**

**WHEREAS**, on October 3, 2017 the Mayor and Council of the Borough of Sayreville received bids for the “2017 Roadway Paving and Reconstruction Project – Phase III – Improvements to North Ernston Road”; and

**WHEREAS**, Certification as to Availability of Funds is annexed hereto;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council on this 10<sup>th</sup> day of October, 2017 that:

1. Contract for the “2017 Roadway Paving & Reconstruction Project – Phase III – Improvements to North Ernston Road” be awarded to Z Brothers Concrete Contractors, Inc., 304 Jernee Mill Road, Sayreville, NJ 08882 on their bid price of \$385,463.60 as appears on copy of bid document attached hereto and made a part hereof, subject to the waiver of minor irregularities.

/s/ Victoria Kilpatrick  
Councilwoman  
(Public Works Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O’Brien  
Mayor

**RESOLUTION #2017-303**

**WHEREAS**, on September 19, 2017 the Mayor and Council of the Borough of Sayreville received bids for the “Roof Replacement at the Sayreville Public Library”; and

**WHEREAS**, Certification as to Availability of Funds is annexed hereto;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council on this 10<sup>th</sup> day of October, 2017 that:

1. Contract for the “Roof Replacement at the Sayreville Public Library” be awarded to Safeway Contracting, 636 North Michigan Avenue, Kenilworth, NJ 07033 on their bid price of \$470,000.00 as appears on copy of bid document attached hereto and made a part hereof, subject to the waiver of minor irregularities.

/s/ Victoria Kilpatrick  
Councilwoman  
(Public Works Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O’Brien  
Mayor

**RESOLUTION #2017-304**

**BE IT AND IT IS HEREBY RESOLVED**, that the proper Borough officials are hereby authorized and directed to execute an Inter-local services agreement with the Middlesex County Department of Transportation in order for the County to provide continued Senior Citizen Bus Transportation for the years January 1, 2018 through December 31, 2019.

/s/ Mary J. Novak  
Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O'Brien  
Mayor

**RESOLUTION #2017-305**

**A RESOLUTION OF THE BOROUGH OF SAYREVILLE IN THE COUNTY OF MIDDLESEX,  
STATE OF NEW JERSEY, AUTHORIZING THE MAYOR AND  
BOROUGH CLERK TO EXECUTE AN OFFSITE ACCESS AGREEMENT  
AUTHORIZING ANTEA USA, INC. TO INSTALL  
ONE (1) GROUNDWATER MONITORING WELL**

**WHEREAS**, the Borough of Sayreville owns certain property designated as 957 Route 9; and

**WHEREAS**, under the direction of the New Jersey Department of Environmental Protection (NJDEP) Antea Group is performing an environmental investigation for the purpose of installing one (1) or more groundwater monitoring well to delineate groundwater impacts as a result of historical activities at the Former Getty Service Station; and

**WHEREAS**, Mayor Kennedy O'Brien and the Governing Body of the Borough of Sayreville agree that the installation of the monitoring wells to be used for groundwater level elevations and the collection of groundwater samples for laboratory analysis of petroleum constituents is in the best interests of the residents of the Borough of Sayreville; and

**WHEREAS**, all proposed work will be conducted at no cost to the Borough of Sayreville; and

**BE IT AND IT IS HEREBY RESOLVED** that Mayor Kennedy O'Brien and Theresa A. Farbaniec, Borough Clerk are hereby authorized and directed to execute the Access Agreement with Getty Properties Corp. (GPC) and its consulting firm, Antea Group.

/s/ Pasquale Lembo, Councilman  
(Planning & Zoning Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O'Brien  
Mayor

**RESOLUTION #2017-306**

**WHEREAS**, Borough Engineer David J. Samuel has recommended that certain increases and decreases be included in the following described project as will more fully appear in Contract Change Order No. 1:

- Project: Repairs to the Kennedy Park Bridges
- Contractor: T.R. Weniger, Inc.  
1900 New Brunswick Avenue  
Piscataway, NJ 08854
- Net Increase: \$28,950.00
- Reason: Adjustment of original contract to reflect actual quantities installed and work performed.

**NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED:**

1. That the recommendation and approval of said Borough Engineer referred to above and in said Change Order be and the same is hereby accepted and approved:

2. That the Governing Body determines that said charges are proper and essential and that same be paid upon the submission of properly approved borough voucher.

/s/ Mary J. Novak  
Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Kennedy O'Brien  
Mayor

• **READ IN FULL:**

Councilwoman Kilpatrick said that back at the September 11<sup>th</sup> Council Meeting she had read a resolution in reference to the Mayor calling for Tom Tighe's removal from the Planning Board because of his conduct. She read the Resolution in full again tonight. She asked the Mayor if he gave her request any more thought.

Mayor stated he never received a copy and that this was irregular in that he would usually receive them on Friday. She said that she printed this and asked Terry to copy and put it out in front of her this evening. Mayor asked what she was looking to have done tonight. She said that she is asking for the Mayor to move forward and ask for the resignation of Mr. Tighe.

Mayor asked that the resolution be sent to the DCA for a legal opinion.

Councilwoman Kilpatrick stated that this was a memorialization of a request that she read on September 11<sup>th</sup> to have Mayor Kennedy O'Brien request the resignation of Mr. Thomas Tighe as Chairman of the Sayreville Planning Board. Mayor again said that he would like the DCA to give an opinion as to the legality of the Resolution to see if he could ask someone that he has appointed to step down.

Councilwoman Kilpatrick said that it was her understanding that the Mayor has the ability to remove or appoint anyone to that board at any time. She said that she also understood that if there was a hearing on these matters that the Mayor was the judge and jury and he could re-appoint Mr. Tighe or anyone that same day. Mayor asked that this get held over until the next meeting so that he would have the opportunity to get a legal opinion from the DCA. He also commented that he felt this was an inter-democratic fight. Councilwoman Kilpatrick did not agree and said that the reason she brought this forward was because she has serious concerns about the Planning Board and the way this one particular person conducts business. She said she has serious concerns for the residents of Sayreville because his actions, decisions and felt the meetings being conducted are in violation of State Statutes.

Councilwoman Novak said that this was discussed at an agenda meeting.

Councilwoman Kilpatrick read the following into record.

- a. At the March 1, 2017 Mr. Tighe embarrassed a resident because the resident did not know where a certain firehouse was located; and
- b. At the June 21, 2017 meeting Mr. Tighe made disparaging remarks to a resident who expressed concerns regarding the Affordable Housing litigation; and
- c. At the June 21, 2017 meeting Mr. Tighe made a comment about money and council seats; and



d. At the June 21, 2017 meeting the Planning Board members asked Mr. Tighe if he would be attending the next council meeting to defend the Planning Board's action in reference to the COAH litigation to which Mr. Tighe replied "I don't want to smack someone"; and

e. At the same meeting Mr. Tighe made disparaging remarks regarding Council President, Dan Buchanan's map reading skills and his person; and

f. Violating Open Public Meeting Act by not going in Executive Session in accordance with the statute and announcing reasons for Executive Session; and

g. Mr. Tighe violated N.J.S.A. 10:4-10 regarding Statement in Minutes on Adequate Notice as said statute requires, "at the commencement of every meeting of a public body the person presiding shall announce publicly, and shall cause to be entered in the minutes of the meeting, an accurate statement to the effect 'Adequate notice of the meeting has been provided, specifying, the time, place in which such notice was provided.'" Mr. Tighe violated same; and

h. Mr. Tighe violated N.J.S.A. 10:4-13, in particular no public body shall exclude the public from any meeting to discuss any matter described in this statute until the public body first adopts a resolution at the public meeting to which the subject shall be described, which resolution shall state the general nature of the subject to be discussed in an executive session. The resolution must be passed at the public meeting for which notice has been given. Mr. Tighe, as Chairman, failed to comply with said statute; and

i. Mr. Tighe also violated N.J.S.A 10:4-10 and 10:4-13 in particular by violating said statutes which caused or may cause the meetings to be voided as there was no resolution at the public meeting to go into executive session or to discuss the general nature of the topic to be discuss nor was there a vote to go into closed session. Mr. Tighe's conduct on January 18, 2017, April 19, 2017, and June 7, 2017 violated said statutes.

Victoria Kilpatrick, Councilwoman

She felt these reasons were considerably concerning.

Comments back and forth from the Mayor and Councilwoman Kilpatrick. She said that she could resubmit the resolution for the next meeting but in the end the Mayor makes the final decision and asked that he do the right thing for the residents.

Mayor asked that the Clerk sent the document to the Acting Commissioner of the DCA for a legal opinion and include it in the packet for the next meeting.

- **PUBLIC PORTION**

Mayor O'Brien opened the meeting to the public for any and all issues.

Those appearing were:

- Janice Benedetto, 1 Thomas Avenue

1) Questioned what was going on as far as an appeal process on the affordable housing. Mr. DuPont said that the final order has not been received yet and can't comment on the matter much more, pending the litigation.

2) Questioned ordinances 366-17 and 366B-17, which and when they were passed. Mr. DuPont said that the Court order it in its decision of Sept. 27 or 28<sup>th</sup> – no final order has been entered yet.

3) Asked the status of the joint meeting that was to occur on Oct. 2<sup>nd</sup>. Mr. DuPont said that all of the attorneys from the various boards voiced objections about conflict of interest about various potential litigation, confronting individuals, residents and board members so the meeting probably will not be rescheduled until the legal issues are worked out.

4) Questioned National Lead and the Intervenor Status and what that actually give the developers.

Mr. DuPont stated that an intervenor is an application by a party into a lawsuit to have their property issues addressed in this case. And they could participate in the litigation.

5) Asked if anyone had approached NL as far as purchasing the property for Open Space.

Mr. DuPont said that the Open Space Committee was evaluating it.

6) Asked if the quotes have been received yet on the NL Property.

Mr. DuPont said that was requested.

- Mr. D'Addio, SERA Chairman

Stated that SERA was a body that could request fees and the council could have the power as to if they want to take the fees, increase the fees or exempt an applicant. By putting this in your ordinance you are putting it in the County's hands, in the State's hands. He recommended that the council keep it as their decision and take the recommendation from SERA, as they had recommended the pilot program for The Point and the Nineteen million dollars for the school and other amenities. If you don't make it exempt in this ordinance it would be a mistake.

Council President Buchanan asked the recommendation regarding Gondek Drive.

Mr. D'Addio stated that in hind site, SERA should have put the number of units they wanted in that application. SERA trusted the Planning Board to come up with that number and they did not.

Mr. D'Addio that spoke on behalf of the Democratic Organization and that they did not seek or accept any kind of contribution for the campaign for Novak or Kilpatrick from Mr. Tighe.

- Steve Malaneski, Scarlet Drive

Commented that the various boards should come before the Mayor and Council from time to time for updates, so things do not fall between the cracks anymore.

-Ruth Ann Mahoney, 2 Gerard Place

Said that she was the person referred to in Councilwoman Kilpatrick's comments about being disrespected.

- James Robinson, 11 Borelle Square

He commented that there should joint board meetings and gave various reasons why. Asked the Borough Attorney that if it were stated upfront that no matters of litigation would be discussed at these meetings, could they be held. Mr. DuPont cautioned that it may not be a good idea, referring to various "Slap Lawsuits".

Spoke about affordable housing and credits and asked why no credit was given for Gillette Manor.

Mr. Leoncavallo said that there was never a look at Gillette Manor because there was nothing referenced anywhere that he could find. Mr. Robinson wanted every unit counted because each credit would mean less market rates being built.

Mr. Robinson asked the Mayor if he thought there were enough affordable housing in Sayreville. Mayor responded that he had answered this question a few times over already in that he thought Sayreville was fine.

Mr. Robinson then talked about Heritage Homes and the 2009 Conversion Statute and how that affected that development then and how it affects affordable housing numbers now.

Comments were then made between the Mayor, Councilwoman Novak and Councilman Buchanan.

- Regina Lodato, 20 Frazee Avenue

Questioned if SERA could purchase property and build the necessary affordable housing here in Sayreville.

Mr. Leoncavallo said that this was talked about with Mr. Sachs, Ms. McKenzie in which Ms. McKenzie felt it was still a good idea to have it distributed throughout the town inasmuch as it was not what COAH Litigation wanted us to do.

Ms. Lodato questioned if Gillette Manor has affordable units. Mr. Leoncavallo said that there should have been affordable Housing Units possibly but we did not have a development fee ordinance. Ms. Lodato could not understand why this was not included. She then expressed her concerns about the NL/Cross Avenue property.

- Ken Olchaskey, 108 North Edward Street

Commented about Heritage Lake Development and their requirement to build affordable housing and the Planning Board did not require them to. He spoke about at the last meeting. Expressed his concerns about the Borough's infrastructure and what this would cost the taxpayers.

Asked the council to have the DCA look into the illegal Planning Board in 2016 when three members sat and voted on issues and they were not reappointed. Asked the Attorney what the punishment was for people who violate the law sitting up here. Mr. DuPont said that he received a copy of the article through the Borough Clerk and is looking to get the court order from 2011/2012 and will check with the Planning Board Attorney because he believes that there is an application that can be filed to enforce that order.

Mayor commented on and supported the Planning Board. Followed by additional statements between the Mayor and Mr. Olchaskey.

- Jim Robinson, 11 Borelle Square

Came up with a copy of Judge Hurley's July 23, 2010 Court Order decision regarding Heritage Towne at Towne Lake, said that he would e-mail it to the Borough Attorney in the morning.

He went on to and spoke about the 37 Units not being built at Heritage Homes. He then asked if Mocco filed an application yet. The Engineer responded that he did. He then asked if they would have to pay the developer fee. The Planner said that it would be either/or, pay the developer fees or build affordable housing.

Requested the Borough get appraisals and see if we could purchase the property from Kaplan adjacent to Kennedy Park Open Space as part of Kennedy Park.

- Val Tarr, 27 Yorkshire Place

Commented on how appalling these council meetings have been conducted.

There were no other questions or comments.

Mayor O'Brien called for a Motion. Councilwoman Novak made a motion to close the Public Portion. Seconded by Council President Buchanan.

Roll Call: Voice Vote, all Ayes.

Councilwoman Kilpatrick made **a motion to appoint Val Tarr** to the **Vacancy** on the on the **Rent Leveling Board**. Motion was seconded by Councilwoman Novak.

Roll Call – Ayes: Councilpersons Kilpatrick, Buchanan, Lembo, Melendez, Novak.

- **ADJOURNMENT**

No further business. Council President Buchanan moved to adjourn the Council Session. Motion was seconded by Councilwoman Novak.

Roll Call – Voice Vote, all ayes. Carried.

Time 10:35 P.M.

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Theresa A. Farbaniec, RMC

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Date Approved