

Council President Buchanan opened the Council Meeting at 7:02 PM. followed by a short prayer and salute to the flag.

- **STATEMENT OF NOTICE OF PUBLICATION**

Municipal Clerk Farbaniec announced that this December 18, 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, Grillo, Kilpatrick, Lembo, Melendez.

Absent: Mayor Kennedy O'Brien (excused)  
Councilwoman Novak (excused)

Others Present: Wayne A. Kronowski, C.F.O./Treasurer  
Theresa A. Farbaniec, Municipal Clerk  
Edward Washburne, Esq., Borough Attorney  
Jay Cornell, P.E., Borough Engineer

Others Absent: Daniel E. Frankel, Business Administrator

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

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

- ☒ October 10, 2017 - Council, Agenda Sessions & Executive Session
- ☒ October 11, 2017 - Receipt of Bids (Routine & Emergency Repairs for Water, Sewer, Road Storm Sewer Infrastructure)
- ☒ November 13, 2017 - Special Meeting – Rent Leveling Board Appeal & Executive Session
- ☒ November 13, 2017 - Council, Agenda Sessions & Executive Session
- ☒ November 27, 2017 - Council, Agenda Sessions & Executive Session
- ☒ December 5, 2017 - Receipt of Bids (Public Safety Complex Parking Lot Improvements)

Seconded by Councilwoman Kilpatrick.

Roll Call – Ayes: Voice Vote, all Ayes, except Councilman Grillo abstained from October 10<sup>th</sup> and November 13<sup>th</sup> in which he was not in attendance.  
Nays: None

- **PRESENTATION - None**

- **OLD BUSINESS:**

a) Municipal Clerk Farbaniec read the heading for the following ordinances listed for Public Hearing:

**ORDINANCE #384-17**  
**AN ORDINANCE AMENDING CHAPTER III, "FIRE DEPARTMENT",**  
**OF THE REVISED GENERAL ORDINANCES OF THE**  
**BOROUGH OF SAYREVILLE**  
(Public Safety)

**BE IT AND IT IS HEREBY ORDAINED** by the Mayor and Borough Council of the Borough of Sayreville, in the county of Middlesex, that the Revised General Ordinances of the Borough of Sayreville are hereby amended as follows:

**3-2.8 Reinstatement of Members Who Have Resigned or Been Expelled or Left in Good Standing.**

A member of the Sayreville Fire Department who has resigned ~~or been expelled~~ may seek reinstatement as follows: He or she may complete the Fire Department application and apply directly to the fire company of which he or she had been a member, provided the company accepts him or her within three hundred sixty-five (365) days of the date of resignation ~~or expulsion~~. If more than three hundred sixty-five (365) days have passed since the date of resignation ~~or expulsion~~, the individual must apply as a new member, and meet all requirements of new applicants, including, but not limited, to a doctor's physical, background check, and interview process.

**3-2.8A. Members Who Have Been Expelled.**

***Once a said member of the Sayreville Fire Department has been expelled from the department and said company, he or she may not seek reinstatement.***

**BE IT FURTHER ORDAINED** by the Mayor and Borough Council of the Borough of Sayreville, in the County of Middlesex, that Chapter 3, of the Revised General Ordinances of the Borough of Sayreville, shall also be amended to reflect such change.

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed and this Ordinance shall take effect immediately upon final passage and publication in accordance with law.

/s/ Steven Grillo, Councilman  
(Public Safety 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

Council President Buchanan opened the meeting to the public for questions or comments on Ordinance 384-17.

There were no appearances.

Councilman Grillo moved the Public Hearing be closed and the Ordinance be adopted on this second and final reading and advertised according to law. Motion was seconded by Councilwoman Kilpatrick.

Roll Call: Councilpersons Grillo, Buchanan, Kilpatrick, Lembo, Melendez, all Ayes.

**ORDINANCE #385-17**  
**AN ORDINANCE AMENDING AND SUPPLEMENTING**  
**CHAPTER XIX OF THE REVISED GENERAL ORDINANCES**  
**OF THE BOROUGH OF SAYREVILLE TO AMEND**  
**CHAPTER XIX – SWIMMING POOLS**  
(Planning & Zoning)

Councilman Grillo made a motion to Table Ordinance 385-17 for further revisions, as was previously recommended and approved by the Board of Health. Motion was seconded by Councilwoman Kilpatrick.

Councilman Grillo said the Ordinance will be reintroduced on January 8, 2018.

Roll Call: Councilpersons Grillo, Buchanan, Kilpatrick, Lembo, Melendez, all ayes.

**ORDINANCE #386-17**  
**AN ORDINANCE OF THE BOROUGH OF SAYREVILLE IN THE**  
**COUNTY MIDDLESEX, NEW JERSEY**  
**SUPPLEMENTING AND AMENDING ORD. 364-17 TO CHAPTER XXVI, SECTION**  
**26-111, ENTITLED "DEVELOPMENT FEE ORDINANCE", OF**  
**THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SAYREVILLE**  
(Planning & Zoning – Public Hearing Dec. 18, 2017)

**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.
5. **Nothing contained herein to the contrary withstanding, the fees set forth in this ordinance shall not apply to property located within areas which the Borough has designated as Areas in Need of Redevelopment. Development fees, if any, for property located in areas designated as in need of redevelopment shall be determined by the**

**Sayreville Economic and Redevelopment Agency  
and shall be made part of the Redevelopment  
Agreement for any such property.**

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 in accordance with N.J.A.C. 5:97 or as approved by COAH or the Court.
    2. Developments that have received **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 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~~
- ~~e. Quasi-public uses, including clubs, lodges and similar uses~~
- ~~d. Public uses~~
- ~~e. Hospital uses~~
- ~~f. **Others as required**~~

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 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.
- d. 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.
- e. 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 objecting to the Council's regulations and/or action 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 State of New Jersey Department of Community, Council on Affordable Housing or other entity and Local Government Services, 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, Local Government Services or other designated entity. The reporting shall include the source and amount of funds collected and the amount and purpose for which any funds have been expended.
- b. Sayreville Borough shall complete and return to the New Jersey Department of Community Affairs (NJDCA), Local Government Services, all monitoring forms required in connection with the collection of development fees 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 in connection with 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 or substantive certification, 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, R.M.C.  
Municipal Clerk

**APPROVED:**

/s/ Kennedy O'Brien  
Mayor

**APPROVED AS TO FORM:**

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

Council President Buchanan opened the meeting to the public for questions or comments on Ordinance 386-17.

Those appearing were:

- Steve Melaneski, 28 Scarlet Drive, Parlin  
- Again asked for a figure for the potential loss of revenue, current and going back ten years, which was supposed to be reported on tonight.  
- Commented on an article in the Suburban on the same issue.

Clerk stated that Mr. Leoncavallo prepared a report for Mr. Melaneski and which was given to him this evening.

Councilman Grillo read through a report that the Council and Mr. Melaneski were presented, with some information with regards to the estimated cost of loss of revenue for what has already been built.

Council President noted for the record that on page six of this document #7 has been stricken and removed.

Councilwoman Kilpatrick said in an e-mail received from Mr. Leoncavallo there was a recommendation made in one of his e-mails that says: That in discussion with the Tax Assessor and other Borough Officials, it makes sense that if Ordinance 386-17 is approved, a trial period of six months to a year may be needed to tweak the Ordinance for revisions that will not become immediately apparent regarding the unique properties and circumstances. Monitoring of the fee ordinance maybe appropriate as anticipation of all conditions regarding generation of fees which may create many questions for residents as well as commercial builders.

She asked if this was common. The Clerk said that Ordinances have been amended throughout the course of time. Councilmen Lembo and Buchanan both stated that they are living documents and can be amended at any time. Councilwoman Kilpatrick stated that she was very uncomfortable with the whole way this materialized through time and if this developer's fee would be in our best interest. She stated, however, that she would be in support of it.

Councilman Grillo commented on the section on page seven that covered the appeal process. This gives the developer a process to appeal the development fees, residential and non-residential, with the County Board of Taxation. So this ordinance does give the Council the ability to change, if needed.

No other questions or comments.

Councilman Lembo moved the Public Hearing be closed and the Ordinance be approved on second and final reading and advertised according to law. Motion was seconded by Councilman Grillo.

Roll Call: Councilmen Lembo, Buchanan, Grillo, Kilpatrick, Melendez, all Ayes.

- **NEW BUSINESS:**

- a) Introduction of the following ordinances: - NONE

### **CONSENT AGENDA/RESOLUTIONS**

At this time Council President Buchanan opened the meeting to the public for questions or comments on Consent Agenda Items only.

Those appearing were:

- Janice Benedetto, 1 Thomas Avenue, Melrose  
Questioned Resolution #2017-353 – Transfer of Funds, specifically the transfer of funds between Appraisal Services to Legal Services  
Explained by the CFO, Mr. Kronowski

**Councilman Grillo moved the public hearing be closed. Motion was seconded by Councilwoman Kilpatrick.**

Council President Buchanan questioned an item on the bill list, namely a bill received from John Leoncavallo for his attendance to the meetings. He stated that the council did not request his presence at the meetings and after a brief discussion Council President Buchanan made a **Motion to pass the Consent Agenda Items with the exception of Bill List Invoice Item #17-PB041 in the amount of \$1,139.** , that this item not be paid.

Roll Call to Close Public Hearing: Councilpersons Buchanan, Grillo, Kilpatrick, Lembo, Melendez, all Ayes.

Council President Buchanan made **another Motion that Invoice Bill #17PB041 be denied payment.** Motion was seconded by Councilwoman Kilpatrick.

Roll Call: Councilpersons Buchanan, Grillo, Kilpatrick, Lembo, Melendez, all Ayes.

**RESOLUTION #2017-351**

**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.

Absent

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

Absent  
Councilwoman Mary J. Novak

	Buchanan	Grillo	Kilpatrick	Lembo	Melendez	Novak
Ayes	X	X	X	X	X	
Nays	Leoncavallo Inv. #17PB041	Leoncavallo Inv. #17PB041	Leoncavallo Inv. #17PB041	Leoncavallo Inv. #17PB041	Leoncavallo Inv. #17PB041	
Abstain						
Absent						X

**Bill list of December 18, 2017 in the amount of \$14,372,222.96 in a separate Bill List File for 2017 (See Appendix Bill List 2017-A for this date).**

**RESOLUTION #2017-352**

**BE IT RESOLVED** that the following person is hereby appointed to the following:

**NAME OF APPOINTEE:** Rafael Albarran  
**POSITION:** Code Enforcement Officer-  
Part Time  
**DEPARTMENT:** Construction Office  
**EFFECTIVE:** January 2, 2018

**BE IT FURTHER RESOLVED** that the compensation to be paid such appointee shall be fixed and determined by the Salary Ordinance or appropriate resolution adopted thereunder fixing the compensation to be paid municipal employees and that this appointment be made subject to all the rules and regulations of the New Jersey Department of Personnel.

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

**ATTEST:**

**APPROVED:**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Daniel Buchanan  
Council President

**RESOLUTION #2017-353**

BE IT AND IT IS HEREBY RESOLVED that the following transfers between 2017 Budget Appropriations be and the same are hereby authorized to be made in the following manner to wit:

<u>CURRENT FUND</u>	<u>FROM</u>	<u>TO</u>
Municipal Clerk (1120-101-1-1302) (1120-101-2-17020)	\$ 3,000	\$ 3,000
Planning Board (1180-155-1-1110) (1180-155-2-5020)	1,000	1,000
Cost of Appraisals (1150-121-2-6020)	30,000	
Legal Services (1155-130-2-3110)		30,000
Board of Adjustment (1185-160-1-1110) (1185-160-2-3123)		500 4,000
Construction Code Official (1195-330-1-1002)	4,500	
Group Insurance Plans (1220-205-2-8010)	50,000	
Health Insurance Waivers (1220-205-2-8011)		50,000
	<u>\$ 88,500</u>	<u>\$ 88,500</u>
 <u>WATER UTILITY</u>		
Duhernal (1502-7030-2-17355)	\$ 2,000	
Water Capital Outlay (1512-7050-2-15045)		\$ 1,000
Interest on Notes (1523-7140-2-1)		1,000
	<u>\$ 2,000</u>	<u>\$ 2,000</u>

/s/Victoria Kilpatrick  
Victoria Kilpatrick, Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

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

**APPROVED:**

/s/Daniel Buchanan  
Daniel Buchanan  
Council President

**RESOLUTION #2017-354**  
**RESOLUTION CANCELING BALANCES OF IMPROVEMENT**  
**AUTHORIZATIONS NO LONGER NEEDED**

**WHEREAS**, certain Capital Improvement appropriation balances remain dedicated to projects are now completed; and

**WHEREAS**, it is necessary to formally cancel said balances so that the unexpended balances may be returned to each respective Capital Improvement Fund or credited to Fund Balance and unused debt authorizations may be canceled;

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Sayreville that the following unexpended balances be canceled:

<b><u>ORD. NO.</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>FUNDED</u></b>	<b><u>UNFUNDED</u></b>
<b>General Capital Fund:</b>			
2002-763	Various Improvements	350,694.58	
2006-970	Commuter Parking Lot	48.06	
2009-095	Sidewalks & Road Improvements	53,292.16	
2009-103	Various Park Improvements	133.28	
2013-226	Various Park Improvements	441.74	

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to the Chief Financial Officer for his records.

/s/Victoria Kilpatrick, Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

/s/Theresa A. Farbaniec, RMC  
Municipal Clerk

**APPROVED:**

/s/Daniel Buchanan  
Council President

**RESOLUTION #2017-355**

**BE IT AND IT IS HEREBY RESOLVED** that Brian Hak, Esq. of the Weiner Law Group is hereby authorized and directed to review the NextEra PILOT Agreement and advise relative to certain terms.

/s/ Victoria Kilpatrick, Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

**BOROUGH OF SAYREVILLE**

/s/ Daniel Buchanan  
Council President

**RESOLUTION #2017-356**

**BE IT RESOLVED**, that the Borough Engineer is hereby authorized and directed to prepare a Site Characterization Report Associated with the Wetlands Mitigation for the Main Street By-Pass project and that he be paid for said services at a fee not to exceed \$72,315.00.

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

**ATTEST:**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

**BOROUGH OF SAYREVILLE**

/s/ Daniel Buchanan  
Council President

**RESOLUTION #2017-357**

**WHEREAS, the Borough Clerk is in receipt of applications for renewal of licenses for the year 2018 covering the following:**

Barber & Beauty Shops  
Junkyards  
Private Horse Stable Operator  
Taxi Cab Owner/Operator  
Temporary Trailer  
Motels

**NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Mayor and Borough Council that applications for license renewals for the year 2018 for the aforementioned be and the same are hereby approved, subject to the completion of the proper paperwork.**

/s/ Victoria Kilpatrick, Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Daniel Buchanan  
Council President

**RESOLUTION #2017-358**

**A RESOLUTION OF THE BOROUGH OF SAYREVILLE IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, MEMORIALIZING THE APPOINTMENT OF JEFFREY R. SURENIAN AS SPECIAL COUNSEL – COAH MATTERS FOR THE BOROUGH OF SAYREVILLE**

**BE IT AND IT IS HEREBY RESOLVED THAT** this Resolution hereby memorializes action taken by the Governing Body at the November 27, 2017 Regular Meeting appointing Jeffrey R. Surenian of the firm Jeffrey Surenian and Assoc., LLC as Special Counsel – COAH Matters for the Borough of Sayreville, County of Middlesex, State of New Jersey; and

**WHEREAS,** the Mayor and Council of the Borough of Sayreville are knowledgeable that the Borough requires the services of a Special Counsel for the purpose of reviewing and/or representing the Borough of Sayreville with respect to its Affordable Housing and COAH Obligations, litigation and appeal process, for a fee not to exceed \$15,000.

**WHEREAS,** the Laws of New Jersey provide for such services; and

**WHEREAS,** funds are available for this purpose;

**WHEREAS,** the Local Public Contacts Law (N.J.S.A. 40A: 11-1, et seq.) requires that the resolution authorizing the appointment of a Special Counsel as required by the Borough for “professional services” without competitive bidding must be publicly advertised.

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

1. Jeffrey R. Surenian of the firm Jeffrey R. Surenian and Assoc., LLC is hereby appointed as **Special Counsel-COAH obligations, litigation and appeal process for the** Borough for the term of one year terminating on December 31, 2018.

2. That the services to be rendered by said Larry Sachs, Esq. shall be in compliance with the Laws of the State of New Jersey.



3. This appointment is made without competitive bidding as a “professional service” under provisions of the Local Public Contracts Law because the services to be performed are to be performed by a recognized profession licensed and regulated by law.

4. A copy of this resolution, certified to be a true copy by the Borough Clerk shall be published as required by law within ten days from the date of adoption.

**BE IT FURTHER RESOLVED** that the Borough Clerk be and she is hereby authorized to forward a true copy of this resolution to Larry Sachs, Esq.

/s/ Victoria Kilpatrick, Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Daniel Buchanan  
Council President

**RESOLUTION #2017-359**

**WHEREAS**, the Governing Body of the Borough of Sayreville recognizes the need for a certified Planner to advise the Governing Body of its obligations concerning COAH; and

**WHEREAS**, on June 12, 2017 the Governing Body passed Resolution 2017-185 awarded a contract to Susan Gruel, PP of the firm Heyer, Gruel and Associates to act as Review Planner with regards to the Borough of Sayreville’s COAH obligations;

**NOW, THEREFORE BE IT AND IT HEREBY RESOLVED** that that the budget for Susan S. Gruel, PP is hereby amended increasing the cap by an additional \$15,000.

/s/ Victoria Kilpatrick, Councilwoman  
(Admin. & Finance Committee)

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Daniel Buchanan  
Council President

**READ IN FULL**

**RESOLUTION #2017-360**

**BE IT RESOLVED** that the following person is hereby appointed to the following:

<b>NAME OF APPOINTEE:</b>	Beth Magnani
<b>POSITION:</b>	Secretary Boards & Commissions
<b>DEPARTMENT:</b>	Planning Board
<b>EFFECTIVE:</b>	January 2, 2018

**BE IT FURTHER RESOLVED** that the compensation to be paid such appointee shall be fixed and determined by the Salary Ordinance or appropriate resolution adopted thereunder fixing the compensation to be paid municipal employees and that this appointment be made subject to all the rules and regulations of the New Jersey Department of Personnel.

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

**ATTEST:**

**BOROUGH OF SAYREVILLE**

/s/ Theresa A. Farbaniec, RMC  
Municipal Clerk

/s/ Daniel Buchanan  
Council President

At this time Council President Buchanan opened the meeting to the public for questions or comments on Resolution 2017-360.

There were no appearances.

Councilwoman Kilpatrick moved the Public Hearing be closed and the Resolution adopted on Roll Call Vote. Motion seconded by Councilman Grillo.

Roll Call: Councilpersons Kilpatrick, Buchanan, Grillo, Lembo, Melendez. All Ayes. Carried.

- **PUBLIC PORTION**

At this time Council President Buchanan opened the meeting up to the public for questions or comments on any and all matters.

- Steve Melaneski, 28 Scarlett Drive  
Asked for an update on the Dec. 15<sup>th</sup> court date on the COAH matter.

Council President stated that Mr. DuPont would have to provide us with a report but he asked Ed Washburne if he had an update.

Mr. Washburne said that the information Mr. DuPont provided was that there was a hearing in court last Tuesday and as a result the Court has not generated an Order which normally follows from any court appearance. Mr. DuPont is awaiting for the Order from the Court.

Mr. Melanaski asked what the Order would be for.

Mr. Washburne said that although he was not in court that day it would typically be for whatever relief was either asked for or objected to, that is what the Order would address. He said that he did know that there was another Motion for Council fees.

Council President Buchanan said that because the matter is part of litigation the Council cannot really discuss it other than it is going to appeal.

- Ruth Ann Mahoney, 2 Gerard Place  
Questioned if Mr. Leoncavallo could come to Council meeting without the council's approval and if the Planning Board could tell him to be here?  
Response by Council President Buchanan. That he is appearing here as the Planning Board Planner.

- Janice Benedetto, 1 Thomas Ave., Melrose  
Comments on how the Planning Board and Planner get are appointed and on there being a Municipal Planner appointed. She said that she, as well as other residents were not happy with the way this matter has been handled.

Council President Buchanan explained the appointment process beginning on January 1<sup>st</sup>.

Ms. Benedetto asked how much we have been billed by Mr. Leoncavallo and how much he has been paid.

Mr. Kronowski said that he would have that information for the next regular meeting.

Councilwoman Kilpatrick agreed with getting a report on how much was billed and paid for 2017 so far.

Ms. Benedetto asked if she could get a copy of the report they spoke about earlier and asked what the report was entitled.

Mr. Grillo responded that it is the Initial Pro Forma Study of COAH Obligation and Fiscal Impacts for COAH Period 2015-2025, dated Dec. 18, 2017 the other report is the Potential COAH Development Fees in Past Years.

Ms. Benedetto then questioned if there had been any reports from Mr. Surenian. Councilman Grillo and Buchanan both stated that he was just appointed and they have not received anything yet.

Ms. Benedetto then asked if we received appraisals on the Cross Avenue properties from the two appraisal companies yet.

Clerk responded that she does not have the reports yet.

There were no other questions or comments. Council President Buchanan called for a Motion. **Councilman Grillo motion to close the Public Portion. Seconded by Councilwoman Kilpatrick.**

Roll Call: Voice Vote, all Ayes.

- **ADJOURNMENT**

No further business. Councilman Grillo moved to adjourn the Council Session. Motion was seconded by Councilwoman Kilpatrick.

Roll Call – Voice Vote, all ayes. Carried.

Time 8:45 P.M.

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Theresa A. Farbaniec, RMC  
Municipal Clerk

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Date Approved