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TOWNSHIP OF NUTLEY, NEW JERSEY

BOARD OF COMMISSIONERS

)
CONFERENCE SESSION) TRANSCRIPT OF
) PROCEEDINGS:
)

October 16, 2018

7:08 p.m.

BEFORE:

- Commissioner Steven L. Rogers
- Commissioner Mauro Tucci
- Commissioner Thomas J. Evans
- Commissioner Alphonse Petracco
- Mayor Joseph Scarpelli

ALSO APPEARING:

Municipal Clerk

Job No. NJ3070341

Transcribed by: Nicole Yawn

P R O C E E D I N G S

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MAYOR PETRACCO: Madam Clerk?

MADAM CLERK: Board of commissioners public meeting Tuesday, October 16, 2018. The time is 7:08.

Pursuant to the requirements of the Open Public Meeting Act, Chapter 231, Public Law 1975, notice of this meeting was published in the December 14th, 2017 issues of the Nutley Sun, the Herald News, and the Star Ledger. A copy of this notice has been posted on the Nutley Town Hall bulletin board, and a copy is on file in the municipal clerk's office.

Commissioner Rogers?

COMMISSIONER ROGERS: Here.

MADAM CLERK: Commissioner Tucci?

COMMISSIONER TUCCI: Here.

MADAM CLERK: Commissioner Evans?

COMMISSIONER EVANS: Here.

MADAM CLERK: Commissioner Petracco?

COMMISSIONER PETRACCO: Here.

MADAM CLERK: Mayor Scarpelli?

MAYOR SCARPELLI: Here.

MADAM CLERK: All present, Mayor.

MAYOR SCARPELLI: Thank you, Madam Clerk.

Commissioner Petracco, what do you have on the agenda tonight?

1 COMMISSIONER PETRACCO: I have an introduction of
2 Ordinance No. 3400. This is the parking permit or decals.
3 This is the second time we're going to try to introduce it.
4 We went back and cleaned it up, and again, I have come off
5 my platform a little bit to try to make this work out, and
6 it's definitely going to be a pilot program, for sure, and
7 the only thing that we changed was the -- I know the biggest
8 thing was time enforcement from 6:00 a.m., Sam, it is?

9 MS. CARELLA: 8:00 a.m.

10 COMMISSIONER PETRACCO: 8:00 a.m. to 6:00 p.m.?

11 MS. SAM: Uh-huh.

12 COMMISSIONER PETRACCO: And that's what I was a
13 little -- I'm a little like halvesies about, you know,
14 because I've had some residents comes up to me about, you
15 know, they thought it was (indiscernible). So they could
16 park there for two hours at a time, but it's very difficult
17 to make everybody happy. So to keep it uniform -- and I
18 Have the chief here, which he'll talk on it, you know, out
19 front, but --

20 COMMISSIONER ROGERS: It happens in my house, and
21 we're down to two people.

22 COMMISSIONER PETRACCO: Yeah, exactly, exactly.
23 So if you talk to one person, they have a different opinion
24 than others. So --

25 COMMISSIONER ROGERS: And you don't repeat that,

1 Tammy (ph).

2 COMMISSIONER PETRACCO: No.

3 Get that?

4 UNIDENTIFIED SPEAKER: Uh-huh.

5 COMMISSIONER PETRACCO: So that's that and
6 tonight's for introduction. Then I have a public hearing on
7 the LOSAP. That's 3398, and then, I have a couple
8 resolutions, insertion of -- into the 2018 budget for 5,200,
9 and then, the medical leave of absence. That's all I have.

10 MAYOR SCARPELLI: Commissioner Evans?

11 COMMISSIONER EVANS: I just have reports for the
12 Code Enforcement Department for December, as well as the
13 third quarter of 2018, and I have 2 resolutions for permit
14 fee refunds and water charge refunds.

15 MAYOR SCARPELLI: Commissioner Rogers?

16 COMMISSIONER ROGERS: I have a resolution
17 recognizing World Polio Day, and this is of interest,
18 especially at this day and age, because the world is on the
19 threshold of eradicating this disease, and it's going to
20 take a little bit more research and time, but to see that in
21 our lifetime could really be a feat. So -- and that's all I
22 have, Mr. Mayor.

23 MAYOR SCARPELLI: So you're not going to give us
24 the little sugar cubes any more in the Dixie cups?

25 COMMISSIONER ROGERS: Oh, yeah, I haven't --

1 MAYOR SCARPELLI: I know you remember that.

2 COMMISSIONER ROGERS: Yeah, I do. Boy,
3 (indiscernible).

4 MAYOR SCARPELLI: Commissioner Tucci?

5 COMMISSIONER TUCCI: You guys remember, too. Just
6 make him believe.

7 All right, I just have an award of like
8 professional services --

9 You remember, Evans. You were there.

10 COMMISSIONER EVANS: Yeah, right.

11 COMMISSIONER TUCCI: -- for our township forester.
12 That's it.

13 MAYOR SCARPELLI: I have a couple of resolutions.
14 One's a contract award to AJM for Nairn Place, and the other
15 is to approve and authorize various raffle licenses, and the
16 other is to authorize the COAH settlement agreement, which
17 we'll hear from Mr. Inglesino, an executive, and in public.
18 So in addition, we have the public hearing on the density
19 ordinance, which I know there's still a lot of questions
20 that you have. So I'm going to ask that all questions and
21 comments be filtered through Mr. Genitempo.

22 Is that okay?

23 MR. GENITEMPO: Yes, sir, Mr. Mayor.

24 MAYOR SCARPELLI: And I talked to Phil Abramson
25 (ph) tonight, who reviewed it. He would like to address us

1 and give us his comments.

2 Commissioner Evans posed it might be a good idea
3 to also have Paul Ricci here, so we have two views on
4 the ordinance. So the next meeting, we'll invite them, and
5 so, all your comments about the ordinance can filter
6 through, and any questions, so we can clean it up as best as
7 possible, because there are some inconsistencies still in
8 the ordinance, and we can get out input from our planners,
9 and we can move forward on this long-awaited density
10 ordinance.

11 UNIDENTIFIED SPEAKER: Uh-huh, good.

12 MAYOR SCARPELLI: Madam Clerk?

13 MADAM CLERK: Yes, Mayor, I just have one raffle
14 for approval for Good Shepherd Academy for November 18th.

15 MAYOR SCARPELLI: I was remiss. We also have Mr.
16 Kozyra here tonight. We gave him a proclamation. He was
17 named Essex County Lawyer of the Year. He's been our long-
18 time Planning Board attorney and thought it was important to
19 recognize him.

20 MR. ROGERS: Good idea.

21 MAYOR SCARPELLI: So, Mr. Genitempo?

22 MR. GENITEMPO: I just have two litigation
23 matters, small.

24 MAYOR SCARPELLI: Mr. Inglesino, just the COAH?

25 MR. INGLESINO: Just the COAH.

1 MADAM CLERK: So contract negotiations?

2 MR. GENITEMPO: Yeah, for closed session, it would
3 be litigation. I guess also contract negotiations.

4 UNIDENTIFIED SPEAKER: Yeah, (indiscernible),
5 yeah, and contract.

6 MAYOR SCARPELLI: All right, could I have a motion
7 to go into executive?

8 COMMISSIONER TUCCI: So moved.

9 COMMISSIONER ROGERS: Second.

10 MADAM CLERK: WHEREAS, Section VII of the Open
11 Public Meeting Act, Chapter 231, Public Law 1975 permits the
12 exclusion of the public for meeting in certain
13 circumstances; and

14 WHEREAS, the public body is of the opinion that
15 such circumstances exist; and

16 WHEREAS, the Board of Commissioners of the
17 Township of Nutley in the county of Essex, state of New
18 Jersey decided to proceed to closed executive session; and

19 NOW, THEREFORE, BE IT RESOLVED by the Board of
20 Commissioners of the Township of Nutley move into closed
21 executive session to discuss litigation and contract
22 negotiations;

23 BE IT FURTHER RESOLVED that the time when such
24 discussion may be disclosed to the public shall be when such
25 disclosure may be made without adversely affecting the

1 Township of Nutley pending and/or anticipated legal,
2 personnel, contractual matters, and other matters within the
3 exceptions provided for by statute.

4 Commissioner Rogers?

5 COMMISSIONER ROGERS: Aye.

6 MADAM CLERK: Commissioner Tucci?

7 COMMISSIONER TUCCI: Aye.

8 MADAM CLERK: Commissioner Evans?

9 COMMISSIONER EVANS: Aye.

10 MADAM CLERK: Commissioner Petracco?

11 COMMISSIONER PETRACCO: Aye.

12 MADAM CLERK: Mayor Scarpelli?

13 MAYOR SCARPELLI: Aye.

14 MADAM CLERK: The time is 7:15.

15 (Recessed to Executive Session)

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TOWNSHIP OF NUTLEY, NEW JERSEY

BOARD OF COMMISSIONERS

)
) PUBLIC MEETING) TRANSCRIPT OF
)) PROCEEDINGS:
)

October 16, 2018

7:31 p.m.

BEFORE:

- Commissioner Steven L. Rogers
- Commissioner Mauro Tucci
- Commissioner Thomas J. Evans
- Commissioner Petracco
- Mayor Joseph Scarpelli

ALSO APPEARING:

- Alan Genitempo, Board Counsel
- Municipal Clerk

Transcribed by: Nicole Yawn

P R O C E E D I N G S

1
2 MAYOR SCARPELLI: Would everybody please stand for
3 the flag salute?

4 (Pledge of Allegiance)

5 (Pause)

6 MAYOR SCARPELLI: Madam Clerk?

7 MADAM CLERK: Thank you, Mayor.

8 Board of Commissioners public meeting Tuesday,
9 October 16th, 2018. The time is now 7:49.

10 Pursuant to the requirements of the Open Public
11 Meeting Act, Chapter 231, Public Law 1975, notice of this
12 meeting was published in the December 14th, 2017 issues of
13 the Nutley Sun, the Herald News, and the Star Ledger. A
14 copy of this notice has been posted on the Nutley Town Hall
15 bulletin board, and a copy is on file in the municipal
16 clerk's office.

17 Commissioner Rogers?

18 COMMISSIONER ROGERS: Here.

19 MADAM CLERK: Commissioner Tucci?

20 COMMISSIONER TUCCI: Here.

21 MADAM CLERK: Commissioner Evans?

22 COMMISSIONER EVANS: Here.

23 MADAM CLERK: Commissioner Petracco?

24 COMMISSIONER PETRACCO: Aye.

25 MADAM CLERK: Mayor Scarpelli?

1 MAYOR SCARPELLI: Here.

2 MADAM CLERK: All present, Mayor.

3 MAYOR SCARPELLI: Communications?

4 MADAM CLERK: Good Shepherd Academy has submitted
5 a letter requesting permission to hold an on-premise
6 merchandise raffle Sunday, November 18, 2018, at 2:00 p.m.,
7 at their address on 24 Brookline Avenue in Nutley.

8 I need a motion.

9 COMMISSIONER TUCCI: Move it.

10 COMMISSIONER EVANS: Second.

11 MADAM CLERK: Commissioner Rogers?

12 COMMISSIONER ROGERS: Aye.

13 MADAM CLERK: Commissioner Tucci?

14 COMMISSIONER TUCCI: Aye.

15 MADAM CLERK: Commissioner Evans?

16 COMMISSIONER EVANS: Aye.

17 MADAM CLERK: Commissioner Petracco?

18 COMMISSIONER PETRACCO: Aye.

19 MADAM CLERK: Mayor Scarpelli?

20 MAYOR SCARPELLI: Aye.

21 MADAM CLERK: And that's it for communications,
22 Mayor.

23 MAYOR SCARPELLI: It's my distinct pleasure, on
24 behalf of the Board of Commissioners, to congratulate
25 Mr. Barry Kozyra, who's in our audience tonight, on becoming

1 the 2018 Essex County Lawyer of the Year, and we're going to
2 read a proclamation on his behalf, and we'll take some
3 comments from the commissioners, and then, we'll take
4 picture.

5 WHEREAS, Barry A. Kozyra, Esquire, was born on
6 April 18, 1953 and is a long-time resident of the Township
7 of Nutley; and

8 WHEREAS, Barry A. Kozyra, Esq., is a graduate of
9 South River High School in South River, New Jersey, the
10 University of Chicago (B.A. with Honors in The College and
11 in American History 1975) and Rutgers Law School, Newark
12 (J.D. 1978); and

13 WHEREAS, Mr. Kozyra is married to Cheryl Peduto
14 Kozyra and together have raised two successful daughters
15 Jillian and Alexandra; and

16 WHEREAS, Barry A. Kozyra Esq. is a founding member
17 in the law firm Kozyra & Hartz and is admitted to the bars
18 in New Jersey, New York, Eastern District of New York,
19 Southern District of New York, the Second, Third and Ninth
20 Circuit Courts of Appeal and the United States Supreme
21 Court; and

22 WHEREAS, Mr. Kozyra is a member of the Bar
23 Association, the New Jersey State Bar Association and the
24 Essex County Bar Association (Chairman of the Criminal Law
25 Section (1988-1989); and

1 WHEREAS, Barry A. Kozyra previously served as a
2 member of the Township of Nutley Planning Board and
3 currently serves as the attorney for the Township of Nutley
4 Planning Board, is a mediator for the New Jersey State
5 Chancery and Law Divisions of the Superior Court, Discovery
6 Master, Statutory Receiver and Special Fiscal Agent for the
7 New Jersey State Superior Court Chancery Division, Federal
8 Arbitrator, United States District Court of New Jersey,
9 Federal Mediator, United States District Court of New
10 Jersey, Panelists in the Essex County Family and Chancery
11 Early Settlement Programs, Essex County Contract Arbitrator
12 and an Essex County Condemnation Commissioner; and

13 WHEREAS, Mr. Kozyra also serves as a Trustee on
14 the Board of Trustees of the Legal Services Corporation of
15 New Jersey, former Chairman of the St. Clare Church Finance
16 Committee, President and Founder of the Filomena Coppola
17 Memorial Scholarship Fund and former Chancellor of the
18 Nutley Historical Society; and

19 WHEREAS, Barry A. Kozyra was named as a 2005 and
20 2006 "Super Lawyer" in the Super Lawyer Magazine and a 2012
21 New Jersey Top Rated Lawyers for Administrative Law, Civil,
22 Trusts and Estates; and

23 WHEREAS, Mr. Kozyra is the recipient of the New
24 Jersey State Bar Association's Service to the Bar Award, the
25 Essex County Bar Association's General Practice Achievement

1 Award, the 2018 Elks Citizen of the Year Award and the 2018
2 Essex County Bar Association Professional Lawyer of the Year
3 Award for his exemplary conduct, competence, diligence,
4 demeanor and for setting a positive example for others; and

5 WHEREAS, it is with great pleasure that the
6 Township of Nutley pay tribute to the overwhelming
7 accomplishments of Mr. Barry A. Kozyra and for his steadfast
8 resolve to succeed in life.

9 NOW, THEREFORE, BE IT RESOLVED by the Mayor and
10 the Board of Commissioners of the Township of Nutley, County
11 of Essex, State of New Jersey that the Township commend
12 Barry A. Kozyra for his distinguished contributions and
13 accomplishments; and

14 BE IT FURTHER RESOLVED, that the Township of
15 Nutley extend its sincerest congratulations to Barry A.
16 Kozyra for being selected to receive the 2018 Elks Citizen
17 of the Year Award and 2018 Professional Lawyer of the Year
18 Award.

19 Mr. Kozyra, Congratulations.

20 (Applause)

21 MAYOR SCARPELLI: As our long-time Planning Board
22 attorney, we appreciate the hard work you put in on behalf
23 of the township of Nutley. It's a lot of work and effort,
24 and we don't always get compensated the way we should for
25 all that hard work and effort, but I'm sure it's a labor of

1 love.

2 Commissioners?

3 Commissioner Evans?

4 COMMISSIONER EVANS: Barry, you know, I thought
5 about this once I heard about it, and my first reaction was
6 a very heartfelt, hearty congratulations. I can't think of
7 many people that you never hear about getting any
8 recognition but who deserve to get much more than they
9 actually get. Your thoughtfulness, your caring to the town,
10 your devotion, as well as the legal prowess that you bring
11 to the table, is very much appreciated, I know, by me, and
12 I'm sure the Board has always been well-recognized. Thank
13 you.

14 MAYOR SCARPELLI: Commissioner Tucci?

15 COMMISSIONER TUCCI: Yes.

16 Barry, this is a tremendous honor, and it's very
17 well-deserved, not only for what you do for us here in
18 Nutley, but what you do throughout the county, throughout
19 the state, and everything else that you get involved in.
20 I'm really at a loss for words to tell you how honored I am
21 to be part of this, all right, in giving you this
22 proclamation, because it's not often that we hear very nice
23 things about attorneys.

24 (Laughter)

25 COMMISSIONER TUCCI: So having you recognized like

1 this and having you as one of our own is something that I
2 personally will never forget. Congratulations.

3 MAYOR SCARPELLI: Commissioner Petracco?

4 COMMISSIONER PETRACCO: Thank you.

5 You know, Barry, the one thing I always admired
6 about yourself and anybody, when you start from humble
7 beginnings and to wind up in the seat that you're in and the
8 award that you're receiving is -- you know, to me, means
9 everything. You know, when you're born on third base when
10 you get there, so to speak, not the same as when, you know,
11 you're swinging from home plate. Just to mirror Mauro's
12 words a little bit, you know, my respect for attorneys have
13 definitely grown the last couple of years, now that my son
14 is in law school.

15 So all I can say is I sure hope that you paid
16 your parents back for all your student loans, and I hope to
17 have received some of my money back from my son. We'll see
18 how that goes. But all kidding around, Barry, you know, as
19 the mayor, I worked with you on the Planning Board. A true
20 professional all the time, and, you know, our relationship
21 -- you know, I really thank you for fully supporting me as
22 well. So congratulations again.

23 MAYOR SCARPELLI: Commissioner Rogers?

24 COMMISSIONER ROGERS: Barry, well-deserved, and I
25 congratulate you and your lovely wife, who's sitting there,

1 who's been on this journey with you. I know full well that
2 it is a very difficult task that you have accomplished, and
3 you couldn't do it without your wife, and in addition to
4 that, just reiterating what my colleagues said, I know you
5 work hard. I know you work long hours. Have gotten some of
6 your emails on Saturday, Sundays, night, and day. You're a
7 truly dedicated servant, and I thank you so much, and I wish
8 you God's blessings.

9 MAYOR SCARPELLI: Mr. Kozyra, will you take a
10 picture with us?

11 MR. KOZYRA: Sure.

12 (Pause)

13 (Applause)

14 MR. KOZYRA: They never want to give me the mic.,
15 that's for sure. Anyway, I want to thank the commissioners
16 for their great honor to me. I have notes. I wouldn't be
17 here without family support, that's for sure.

18 I was talking to my brother-in-law yesterday, who
19 heard about this award, and he said, "It's funny you get
20 awarded for being professional of the year. Isn't that what
21 you're supposed to do?" A good lawyer. That's what you're
22 supposed to be.

23 And he said, "It's kind of sad that you're getting
24 an award for being what you're supposed to be," and he said
25 something about the other folks out there, but, you know,

1 those of you who know me know I work hard. My word is my
2 bond. If I tell you I'm going to do something, I try to do
3 it. If I'm not going to be able to do it, I call you up. I
4 send you one of those emails, 24/7, saying I'm not going to
5 be able to do it.

6 I do fight (ph) hard. I'm opinionated, as we all
7 know, but I have to say Nutley is my adopted community.

8 (Indiscernible) from here (indiscernible). My wife and kids
9 have been supportive of me all along. So I do thank you for
10 this award.

11 And for those of you who need more of me, I'll be
12 here tomorrow night for the Planning Board meeting and
13 Thursday night for another Planning Board meeting. So
14 you're welcome to come see me in action on behalf of the
15 town, but thank you very much. This is a great honor for
16 me.

17 MAYOR SCARPELLI: Congratulations, Mr. Kozyra.

18 (Applause)

19 MAYOR SCARPELLI: Let's go to reports.

20 Commissioner Petracco?

21 COMMISSIONER PETRACCO: Yes, we have our
22 Department of Public Safety report this month.

23 MAYOR SCARPELLI: Commissioner Evans?

24 COMMISSIONER EVANS: Yes, Code Enforcement reports
25 for the month of September and for the third quarter 2018.

1 MAYOR SCARPELLI: At this point, I'm going to
2 bring up Mr. Inglesino to give us an update on COAH and the
3 redevelopment at the former Roche site.

4 (Pause)

5 MR. INGLESINO: Thank you, Mr. Mayor, members of
6 the Board of Commissioners, and the public as well. I
7 apologize for my back. The progress on the former Roche,
8 now Prism Redevelopment, site and Nutley's affordable
9 housing settlement are (indiscernible). The mayor first
10 asked me to provide an update on the progress of the
11 redevelopment of the Roche site and then to discuss the
12 affordable housing settlement.

13 Roche announced it was going to close down back
14 in, I think, 2013 at some time. We were hired shortly
15 thereafter to serve as redevelopment counsel, and the
16 commissioners, at that point, were presented with an
17 enormous challenge, and the challenge was, you know, how to
18 reconstitute this site so that it could make Nutley a better
19 town. The underlying zoning on that site was industrial, so
20 you could have had a large industrial site on that project.

21 A large affordable housing obligation for Nutley
22 was looming in the distance, so you could have had an
23 enormous multi-family housing project on the site, and God
24 knows what else, but the commissioners decided that Nutley's
25 future, in large part, was inextricably linked to the future

1 of this site, and so, they decided to take matters into
2 their own hands, and working together with their
3 professionals in the community, set this site on a course
4 that would help shape Nutley's future.

5 And so, in March of 2014, the commissioners
6 authorized a blight study for most of the Roche site on a
7 condemnation basis, and this was important, because by
8 retaining power of eminent domain, we retain the ability to
9 control the destiny and future of this site. Knowing that
10 that may have sparked, as it did, some adversarialness with
11 Roche at the time, the commissioners felt very strongly that
12 the future of this property should be and remain in control
13 of Nutley.

14 On March 3rd of 2015, the commissioners declared
15 the site as a condemnation area in need of redevelopment,
16 and, in April of 2015, Roche filed a lawsuit challenging
17 Nutley's blight declaration, but I will say that, although
18 they filed the lawsuit, as you all know, the lawsuit was
19 never really litigated. It was held in abeyance, pending
20 the outcome of the sale to Prism, whereupon, it was -- it
21 was dismissed.

22 In 2016, the summer of 2016, the commissioners
23 adopted a redevelopment plan for the medical school site on
24 approximately 10.9 acres of the site, and the site, of
25 course, is a little over 100 acres in total, between Nutley

1 and Clifton, with about 52 or acres in Nutley and about the
2 same in Clifton. So about almost 11 acres of the site was
3 for the medical school, and this was important, because, you
4 know, Roche came to the table and, you know, expressed a
5 willingness to work with the Board of Commissioners,
6 participated in the visioning process, which you may recall
7 we wrote the first and the Perkman's Eastman (ph) Study that
8 called them the best scenario, to my recollection, it would
9 take something like 15 years to potentially build it out.
10 We remember different scenarios potentially for the site,
11 but the idea of a medical school for the site was something
12 that began to be discussed and took hold and was something
13 that the commissioners embraced and the community embraced
14 as something that would be good for the site, because it
15 would create the opportunity not realize a vision for the
16 site of life sciences and development that would be related
17 to that that would help you, not only replace the tax
18 rateable, but would really elevate and, again, shape -- help
19 shape future for Nutley.

20 Between August and September of 2016, Nutley
21 entered into a series of meetings and passed a series of
22 resolutions with the medical school, which again, is a joint
23 venture, as we all know, between Hackensack and Seton Hall,
24 which resulted in this. This was the first private medical
25 school in New Jersey, a non-profit at that -- resulted in

1 them agreeing to pay Nutley the equivalent of full taxation
2 on the site. That was an extraordinary accomplishment.

3 Here you have a non-profit medical school by
4 utilizing the redevelopment tools at your disposal, were
5 able to get a concrete agreement, series of agreements, that
6 results in this medical school paying full taxation on the
7 site. We also know that, in September of 2016, that Prism
8 acquired the property from Roche. We've been engaged in the
9 planning process for the rest of the site.

10 In August of this year, the commissioners approved
11 a redevelopment plan for what we refer to as Phase II-A of
12 the site, Phase II-A, and that is a plan, basically, for the
13 remaining buildings on the site, other than the medical
14 school. As we all know, Roche had taken down a bunch of
15 buildings. There were a few buildings remaining, and the
16 redevelopment plan pertains to those sites.

17 Building 1, which is now known as 100 Metro
18 Boulevard -- this building is a 15-story, about 255 or so
19 thousand square foot building which is being leased by Ralph
20 Lauren, which has been announced. The redevelopment plan
21 for Phase II-A also pertains to Building 76, which is now
22 known as 200 Metro Boulevard, which is the other large 15-
23 story building, which is a little over 300,000 square feet.
24 There's Building 102, which is the modern metal building now
25 known as 111 Ideation (ph) Way, which is a 6-story building,

1 consistent with about 154,000 square feet.

2 So the plan provides for various uses for these
3 buildings to help facilitate, you know, tenants to go into
4 these buildings and occupy those buildings, so that the site
5 can realize its potential. That redevelopment plan also
6 created the opportunity for subdivision and also designated
7 Prism as the redeveloper and resulted in the approval of a
8 parking garage, but that parking garage will be used
9 exclusively for 100 and 200 Metro Boulevard, and those
10 actions, of course, were taken by the Planning Board, under
11 the leadership of the Planning Board attorney, Mr. Kozyra,
12 and those members on the Board.

13 Currently, we're in the process of negotiating a
14 redevelopment agreement for Phase II-A. That's ongoing. In
15 the process of considering Prism's tax abatement request for
16 Phase II-A, and currently planning for the future
17 development of the balance of the Roche, now Prism, site.
18 Some of the -- some of the issues that are being considered
19 the various uses, making sure that those uses are linked to
20 and consistent with the vision for the site just outlined.

21 The density, how dense is the site going to be;
22 bulk standards for buildings that will be built on the site;
23 the effects of Clifton redevelopment on the site. The
24 Clifton site was not occupied, in large part, prior to now,
25 with buildings, and there's a redevelopment effort going on

1 there.

2 How are those buildings -- how is that
3 redevelopment going to impact Nutley in the various ways?
4 All issues under consideration.

5 Traffic -- first, there's internal circulation on
6 the site, making sure that that works. There's off-site
7 traffic considerations that have to be thoroughly reviewed
8 and undoubtedly result in major traffic improvements that
9 Nutley will likely require the redeveloper to perform.

10 Economic impacts on the site -- this is a very
11 significant property, in terms of the tax rateables that
12 Nutley collects and making sure that those rateables get
13 back, hopefully, to where they once were, or as close to
14 that as possible and understanding impacts on services, so
15 that all the commissioners -- I know that, as these concepts
16 and plans for redevelopment will be reflecting on what
17 impacts those plans might have on their departments, so that
18 Nutley can be compensated for services.

19 There's infrastructure impacts on your water, on
20 your sewer. There's things that Nutley's trying to get from
21 the community benefit from this project, I'm sure. The
22 inner-connect (ph) system (indiscernible), water pressure,
23 and fire suppression issues.

24 There's connectivity to Nutley's business district
25 and utilizing this new development process as a way to help

1 foster improvements that will benefit Nutley's business
2 district by creating connectivity that today does not exist.

3 And also affordable housing and how this site
4 could help satisfy Nutley's affordable housing obligations.
5 These impacts are important, because this site is
6 transforming from a closed-off, owner-occupied campus to a
7 multi-tenanted, potentially multi-owned campus that will not
8 be gated off or closed off, so the public will have -- we'll
9 include the public. And so, these are all of the issues
10 that are being carefully and thoughtfully considered and
11 deliberated, so that decisions that are made going forward
12 are ones that will be in Nutley's best interests.

13 Which leads me to a summary of the settlement
14 agreement that is on your agenda for consideration tonight.
15 This settlement, if approved, will resolve Nutley's
16 affordable housing obligation for the -- for the third
17 round. There have been roughly -- there's roughly 30 -- I
18 think in excess of 300 of these cases that have been pending
19 around the state, and over 230 of them have been settled.
20 So by settling this case, we're certainly following suit
21 with any of the municipalities in this state who have been
22 through this Mount Laurel litigation process. But first, a
23 little bit of context, so that the public understands what
24 we are talking about by Mount Laurel, Mount Laurel Doctrine
25 and affordable housing.

1 There's a little bit of the history here, and I'll
2 get through it as quickly as I can, but I do think it's
3 important for folks to have some understanding of the
4 history and context, so that they can appreciate the action
5 that's being taken tonight. Back in the early 1970s, there
6 was a lawsuit. The Southern Burlington County NAACP
7 challenged the zoning ordinance of Mount Laurel Township on
8 the grounds that it excluded low and moderate-income persons
9 from obtaining housing. The idea was that towns could zone
10 out people with lesser means and prevent them from living in
11 those municipalities.

12 And in this seminal decision, the New Jersey State
13 Supreme Court held that the State Constitution required that
14 each municipality plan and provide, by its land use
15 regulations, the reasonable opportunity for appropriate
16 variety and chose of housing, including low and moderate-
17 income housing to meet the needs, desires, and resources of
18 all categories of people who may desire to live in within
19 its borders. In order to satisfy this obligation, the Court
20 held that all municipalities, developing municipalities,
21 must affirmatively provide a realistic opportunity for the
22 construction of their fair share of the regional need of low
23 and moderate-income housing. That is a constitutional
24 requirement that is imposed on municipalities across the
25 state and across the state, like Nutley, since 1975.

1 Now, despite this ruling that came down from the
2 New Jersey State Supreme Court, many municipalities didn't
3 do anything, and the legislature didn't do anything
4 legislative by not enacting laws to implement the Supreme
5 Court's decision. So in 1983, there was a case that came
6 down that's known as Mount Laurel II, which introduces the
7 Builders' Remedy. So in 1983, the Supreme Court upheld and
8 affirmed its ruling in Mount Laurel I and created a
9 mechanism to enforce its mandate, called the Builders'
10 Remedy.

11 The Builders Remedy entitles developers a Court-
12 ordered zoning designation, including density, setbacks,
13 building heights, lot coverage, green area, et cetera, and a
14 developer -- despite your zoning, what it means is the Court
15 can order multi-family housing and affordable housing in any
16 zone in the town, irrespective of how the town seeks to zone
17 this property. If it succeeds in the Mount Laurel
18 litigation, meaning that the developer could show that the
19 town has not satisfied its fair share requirement
20 establishing Mount Laurel I and if it proposes a project
21 with a substantial amount of affordable housing, which has
22 meant 15 percent directly and 20 percent before-sale (ph)
23 projects of the total proposed units must be affordable to
24 low and moderate-income housing.

25 And there was also a requirement that the property

1 be suitable for multi-family housing development, because
2 this was significant, because in New Jersey, we're
3 considered a whole new state. Zoning and planning is
4 something that is done at the local level, but if the town
5 is not compliant with its Mount Laurel requirement, then a
6 developer can come in in any zone, sue, and get a large-
7 scale multi-family housing imposed on the town, so long as
8 there's 15 or 20 percent of the housing set aside for low
9 and moderate-income housing.

10 So what this means, basically, is one out of five
11 units -- one out of five units is affordable. The builder,
12 in many cases, (indiscernible) to proceed with his project,
13 irrespective of zoning. Well, Mount Laurel II sort of got
14 everybody's attention in response to that.

15 In 1985, the New Jersey Legislature acted and
16 passed what is called the Fair Housing Act. That act did a
17 couple of things. Number one, it codified the Mount Laurel
18 Doctrine.

19 Number two, it established a Council on Affordable
20 Housing, known as COAH. We always hear that acronym, COAH.
21 What does it mean? It means Council on Affordable Housing,
22 and that is a state agency that was created under the Fair
23 Housing Act of 1985.

24 The act also provides the municipality with the
25 voluntary administrative process through which they can

1 satisfy their Mount Laurel obligations, in lieu of
2 litigating exclusionary zoning lawsuits. So rather than
3 waiting for a developer to come and sue you with a
4 (indiscernible) lawsuit, the establishment of COAH provided
5 voluntary mechanism whereby you could go to the state.

6 You could go to COAH with an affordable housing
7 plan and get that plan approved, or you could file a
8 declaratory judgment action. So municipalities again
9 (indiscernible) participate in COAH's administrative process
10 by adopting and filing housing element fair share plan that
11 addressed both of the (indiscernible) present and
12 prospective housing needs. Now, any town that filed the
13 housing and fair share plan with COAH could thereafter
14 petition COAH for something called substantial
15 certification, which meant that, basically, COAH approved
16 your plan for a particular period of time, which is known as
17 rounds.

18 So what you have here is you have the developer to
19 sort of have (indiscernible) of the developers', Builders'
20 Remedy lawsuit, and municipalities were then given the
21 shield of the administrative process whereby they could have
22 their housing plan approved and be immune from Builders'
23 Remedy. That's how it, basically, works, and once you have
24 this granted substantial certification to your plan, your
25 land use ordinances were rendered presumptively valid (ph)

1 for a period of ten years. Now, the concept here was that
2 COAH granted these rounds.

3 The concept was that COAH would say to the
4 municipality, here, town, is your obligation for a first
5 round, and the first round was actually 1987 to 1993, and
6 the second round was from 1993 until 1999. The COAH would
7 say, here's your obligation. You, town, have an obligation
8 to submit a plan, which showed how you were going to fulfill
9 that obligation through the zoning process. If the units
10 weren't built, it wasn't your fault. All you could do as a
11 town is provide the zoning and provide the ability for those
12 units to be built.

13 Now, this was not a very popular process.
14 Municipalities and the public did not like the fact that
15 unwanted, Court-mandated multi-family housing projects were
16 being imposed on municipalities, but frankly, back then, the
17 obligations, which were always significant, were not
18 overwhelmingly significant, but they were unpopular,
19 nonetheless. Now, the second round was started in 1999, and
20 for those of us who were around back then, we knew what
21 happened in 1999 and then in 2000. George W. Bush got
22 elected the president of the United States.

23 Governor Christy ripped (ph) into his time as
24 governor and went to become a member of George Bush's
25 cabinet. Don DiFrancesco became the acting governor, and

1 then, in 2001, Jim McGreevey, the mayor of Woodbridge, was
2 elected governor. So guess what didn't happen during that
3 period of time?

4 Third round rules were never adopted by COAH, and
5 that was left to Governor McGreevey. Now, Governor
6 McGreevey was mayor of Woodbridge, which was a large
7 struggling municipality, and he understood that this concept
8 of imposing Court-mandated housing on towns was not well-
9 received, but he had an obligation as governor to come up
10 with a new set of rules. So he came up with the new concept
11 called growthshare (ph).

12 The concept of growthshare was, rather than the
13 state imposing a number on the towns, instead, you would go
14 if you grew. The more you grow -- the more you grow, the
15 more you owe. That was the concept. So if you permitted
16 commercial space to be built in your town, then for X number
17 of square footage of commercial space, you had to provide Y
18 number of affordable housing units. That was the concept,
19 so that it wasn't as offensive to towns and the public.

20 These rules were challenged by Fair Share Housing
21 Center, by the builders' groups, by a number of groups, and
22 there was litigation that lasted from 1999, which really
23 didn't get fully resolved until 2015. So guess what didn't
24 happen during that period of time? Rules were never passed.
25 Obligations were never set for municipalities, and nothing

1 much happened.

2 On March 15th, of 2015, the New Jersey State
3 Supreme Court found that COAH's administrative process had
4 failed and that COAH was the, quote, "more bond agency
5 (ph)." That's what the New Jersey State Supreme Court said
6 about COAH. This landmark decision did a number of things.

7 Number one is it returned the termination of
8 municipal compliance (ph) with the constitutional net rule
9 (ph) obligations to the courts. So now, rather than, you
10 know, having this process that towns could go to COAH, which
11 was probably (indiscernible), jurisdictions where compliance
12 was with the courts in the state of New Jersey. It directed
13 the courts to use similar processes that would have been
14 available before COAH.

15 Now, this is really a recipe for dysfunction,
16 because administrative agencies have planners on staff and
17 an administrator. Courts don't administrate. Courts
18 adjudicate the (indiscernible). The courts don't have
19 planners on staff. Courts hear from experts.

20 It afforded municipalities some protection from
21 Builders' Remedy actions while the obligations of
22 municipalities were determined, and it permitted developers
23 to file their Builder Remedy actions if a town were
24 determined to be non-compliant. So in July of 2015, in
25 accordance with this March ruling, over 300 municipalities,

1 including the Township of Nutley, filed declaratory judgment
2 actions seeking judicial confirmation of their compliance
3 with Mount Laurel and also seeking protections from the
4 Builders' Remedy lawsuits, and, in fact, as you know, the
5 Court granted Nutley immunity from Builders' Remedy lawsuits
6 while we went through this process of figuring out what
7 Nutley's obligation was going to be.

8 Again, approximately 230 towns have settled with
9 Fair Share Housing and with developers, and so, what
10 happened during this process is everybody had experts.
11 Again, because Courts adjudicate the suits, and the way
12 courts function is each side gets an expert, and the Court
13 makes the call on which expert, you know, has control. And
14 so, you had Fair Share Housing, who was advocating for more
15 affordable housing units.

16 They employed Dr. David Kinsey (ph) as their
17 expert, and municipalities across the state hired a company
18 called eConsult to be their expert. I will say that Nutley
19 has had a long history of participating in COAH's
20 administrative process and also received first and second
21 rounds of substantial certification from COAH.

22 So now, the litigation -- back to the litigation
23 -- happens (indiscernible) Dr. Kinsey and eConsult. Dr.
24 Kinsey had calculated Nutley's obligation to be about 500
25 affordable housing units. Now, again, this covers the

1 period between 1999 through 2015, which is called the gap
2 period, and then, from 2015 through 2025. But during
3 that period of time, Dr. Kinsey said Nutley has an
4 obligation for 500 affordable housing units.

5 Now, remember, that's only 20 percent of the total
6 number of units that could be imposed upon Nutley, and that
7 means that, under Dr. Kinsey's methodology, Nutley could
8 have been exposed to 2,500 multi-family housing units, of
9 which 500 would be low and moderate-income housing units.
10 That was the exposure for Nutley, and again, when we're here
11 in 2014 and '15 and you see what's going on with the
12 Roche/Prism site at that time, it's these kinds of things
13 that presented extraordinary challenges for the
14 commissioners and, I might add, your professionals. So that
15 was the exposure.

16 Your consultant, eConsult, who consulted --
17 represented not only Nutley, but all the municipalities who
18 participated in the process in the state of New Jersey (ph)
19 -- they calculated Nutley's obligation to be 164 units.
20 Now, Nutley had about 30 credits from the previous round.
21 So say it was 134 units or thereabouts, which still exposed
22 Nutley to about 675 multi-family housing units, of which 134
23 thereabouts would be affordable units. So we were trying to
24 figure out, you know, worst-case scenario, 2,500 units.
25 Best-case scenario, 675 total units is what we were working

1 with.

2 We were able to reach a settlement that surpassed
3 anything that we had hoped to accomplish, given the policy
4 directives which we were following, which was to absolutely
5 minimize any Court-mandated multi-family housing
6 (indiscernible). That was the clear policy direction that I
7 received from the Commission, and I think we accomplished
8 that objective.

9 Under the agreement reached with Fair Share Housing
10 Center, Nutley's obligation would be to adopt a zoning or
11 redevelopment plan on the Prism site that would create the
12 opportunity for 55 affordable family rental units, 55. That
13 is lower than even your own expert's calculation. There is
14 no obligation to zone for affordable housing in any other
15 area in town.

16 All of your affordable housing through 2025, which
17 is the third round and as far out as anybody could see it at
18 the moment, will be satisfied on the Prism/Roche property.
19 There will be no mandatory set-aside or overlay zoning
20 requirement anywhere else in town. which is an extraordinary
21 accomplishment that we believe accomplishes the policy goals
22 the commissioners gave to us. This settlement constitutes an
23 85 percent reduction from Fair Share's calculation and
24 approximately a 50 percent reduction from your own expert's
25 calculation.

1 So again, if the policy objective here is
2 (indiscernible) for us to minimize the requirement of, you
3 know, the number of Court-mandated multi-family units to be
4 imposed on Nutley, then I feel very confident (indiscernible)
5 that goal (indiscernible) accomplished.

6 At this time, I'd be happy to take any questions.

7 MAYOR SCARPELLI: First, Mr. Inglesino, I want to
8 compliment you for your representation of the Board in this
9 matter and all matters that you've been handling, and thank
10 you for the update and the civic lesson on Mount Laurel and
11 COAH. I thought that was pretty good, and to get us to a
12 point where we're at 55 units, rather than 500 units that we
13 were maybe obligated to.

14 Commissioners, any questions, comments?

15 Commissioner Tucci?

16 COMMISSIONER TUCCI: Just that, John, I think
17 you've done an outstanding job. This was unbelievable, the
18 whole concept of the Council on Affordable Housing. You
19 know what my opinion of that is. I don't have to go through
20 it again. In some instances, it's similar to terrorism for
21 small developed suburban towns, but nonetheless, you've done
22 an outstanding job, and I think this is a very fair
23 settlement. Thank you.

24 MAYOR SCARPELLI: Commissioner Evans?

25 COMMISSIONER EVANS: Yeah, John, just a point. I

1 don't think anyone truly understands the number of hours of
2 time and effort and negotiation that have gone into
3 achieving this decision, and I want to thank you for that.
4 I want to thank you for hearing our mandate, which was to
5 settle this, get us out of the mainstream on this, don't
6 wait for others to come to some conclusion, because, as we
7 know in all the other towns, it's still floating, and
8 there's a lot of, you know, uncertainty around that.

9 But more importantly, the aspect of the
10 settlement, which basically, does not obligate the town to
11 have to consider COAH in any other part of the town and any
12 future development activities, and I think that's an
13 extraordinary accomplishment, especially when you're aware
14 of the fact that, in the state of New Jersey, the shortage
15 in housing, which is forecast -- it is not, you know, 10 or
16 15 units. It's over 170,000 housing units across the state.
17 So that's an extraordinary accomplishment. So thank you for
18 listening to us and for your exceptional work.

19 MAYOR SCARPELLI: Commissioner Petracco?

20 COMMISSIONER PETRACCO: Yes, thank you.

21 I just want to point out one very important fact,
22 John, and I think you didn't stress it enough -- is that, in
23 the beginning of this, you know, we could have had an
24 additional 2,500 apartments in Nutley that would have been
25 mandated, you know, if it was through that 20 percent, like

1 you said. So, you know, again, you know, I want to commend
2 you on your hard work, you know. To get it to 55 units, I
3 think is, you know, unbelievable, and I know it didn't come
4 easy for you, and I know, you know, what your work ethic is
5 like and what you've done for the Township of Nutley.

6 Like Mauro said, you know, -- or the mayor, not
7 just on this item, but, you know, everything going through
8 Roche redevelopment, and I know we spent a lot of time
9 together those first few years, and it was stressful, and
10 just to see how the town is shaping up. You know, I know we
11 can't make everybody happy, but I think we're making the
12 majority of the people of what's going on on that Roche site
13 and, you know, with this COAH obligation being at 55. It
14 could have been a lot worse. So I just want to thank you
15 for representing our town so well. Thank you.

16 MAYOR SCARPELLI: Commissioner Rogers?

17 COMMISSIONER ROGERS: John, Commissioner Petracco
18 was truly echoing it while I was thinking. Twenty-five
19 hundred units would have devastated our school district.
20 Twenty-five hundred units would have change the changed of
21 this community forever. So it was an extraordinary
22 challenge.

23 You got it down to 55. The impact would be
24 probably not even felt. Thanks for saving the town. I
25 appreciate it.

1 MR. INGLESINO: Oh, thank you.

2 Thank you all for your -- for your kind words, but
3 I do want to emphasize that, you know, the policy direction
4 and the result was communicated very clearly by all of you to
5 me several times. By the first time that I met with you, it
6 became apparent that you all love this community. You
7 understand what this community is and that you want to make
8 it better, and you all had a vision on how to do that, and
9 all I was really trying to do was to help you implement your
10 vision. So really, that credit, you know, belongs to you.
11 I'm just here helping you the best way that I can accomplish
12 these (indiscernible), and thank you for the opportunity to
13 represent you and to represent this town, and it makes me
14 feel good to work, you know, for people who are as
15 professional as you are and as committed as you are
16 (indiscernible).

17 MAYOR SCARPELLI: Thank you, Mr. Inglesino.

18 MR. INGLESINO: And then, by the way, I also
19 extend (indiscernible) Township Attorney, Mr. Alan Genitempo,
20 who I have really come to know and respect.

21 (Indiscernible) --

22 (Laughter)

23 MR. INGLESINO: We cannot talk about, you know,
24 the (indiscernible) Nutley without having
25 Mr. Genitempo at the top of that conversation.

1 MAYOR SCARPELLI: Let's move to the bills, Madam
2 Clerk.

3 MADAM CLERK: Yes, Mayor.

4 Bill list for October 16, 2018, Public Affairs,
5 \$97,507.46; Revenue and Finance, \$3,371,885.72; Public
6 Safety, \$271,218.16; Public Works, \$452,562.13; Parks and
7 Public Property, \$80,979.73; Water Utility, \$24,618.06.
8 Total payroll, \$953,124.21, for a grand total of
9 \$5,251,895.47.

10 COMMISSIONER EVANS: Move the bills.

11 COMMISSIONER TUCCI: Second.

12 MADAM CLERK: Commissioner Rogers?

13 COMMISSIONER ROGERS: Aye.

14 MADAM CLERK: Commissioner Tucci?

15 COMMISSIONER TUCCI: Aye.

16 MADAM CLERK: Commissioner Evans?

17 COMMISSIONER EVANS: Aye.

18 MADAM CLERK: Commissioner Petracco?

19 COMMISSIONER PETRACCO: Aye.

20 MADAM CLERK: Mayor Scarpelli?

21 MAYOR SCARPELLI: Aye.

22 MADAM CLERK: That's it for bills, Mayor.

23 MAYOR SCARPELLI: Public comment on agenda items

24 only?

25 Madam Clerk?

1 MADAM CLERK: Yes, Mayor.

2 All persons addressing the Board of Commissioners
3 regarding community concerns should approach the microphone
4 and provide their name and address for the record. Unless
5 further time is granted by the board, each person shall
6 limit their address to three minutes. All remarks to the
7 board and its individual members must be addressed to the
8 mayor. The mayor may defer citizens' comments to the
9 appropriate member of the board.

10 Dialogue between citizens and others addressing
11 the board shall be allowed, unless the mayor or presiding
12 officer or the majority of the membership of the board shall
13 determine that the interests of decorum and/or the
14 expeditious conduct of municipal business are being
15 adversely affected by such dialogue.

16 MAYOR SCARPELLI: Anybody wish to address the
17 Board of Commissioners on agenda items only?

18 Seeing none, let's move to Board of Commissioner
19 announcements.

20 COMMISSIONER ROGERS: We have a taker.

21 MAYOR SCARPELLI: Oh, I'm sorry/
22 Mr. Henning?

23 MR. HENNING: This is public action agenda items?

24 MAYOR SCARPELLI: It's agenda item, yes.

25 MR. HENNING: Congratulations on (indiscernible)

1 COAH obligations. It's very important (indiscernible).
2 What is Prism getting out of it? I mean, it's going to be
3 55 total units on their property. Is there expected to be
4 any other residential units to go there, and if so, how
5 many?

6 MAYOR SCARPELLI: Well, we don't have that number
7 at the present time.

8 MR. HENNING: But there will be?

9 MAYOR SCARPELLI: More than likely.

10 MR. HENNING: Thank you.

11 MAYOR SCARPELLI: Anybody else with to address the
12 Board of Commissioners on agenda items only?

13 MS. O'MALLEY: Karen O'Malley, 81 Coeyman Avenue.
14 I'm (indiscernible) very thorough and informative. I just
15 have a question about something that you said -- is it okay
16 if I ask the attorney about this report?

17 MAYOR SCARPELLI: Through me, yes. go ahead.

18 MS. O'MALLEY: Okay. So my question was is this
19 housing obligated to provide any further affordable housing
20 outside of the Roche property; is that correct? Is that --

21

22 MAYOR SCARPELLI: There's no --

23 MS. O'MALLEY: (Indiscernible).

24 MAYOR SCARPELLI: I'll have Mr. Inglesino correct
25 me. There's no other further obligation, besides those --

1 MS. O'MALLEY: (Indiscernible).

2 MAYOR SCARPELLI: -- 55 units until 2025?

3 MS. O'MALLEY: So my question is are we
4 allowed, as a town, to put them other places outside of that
5 one facility. So could we spread it out, or is it going to
6 be just congested into one all affordable housing in one
7 area?

8 MAYOR SCARPELLI: It'll be -- go ahead, Mr.
9 Inglesino.

10 MADAM CLERK: In the microphone.

11 MR. INGLESINO: In accordance with the Fair Share
12 Housing obligations (indiscernible).

13 MADAM CLERK: Sorry.

14 MR. INGLESINO: It was important to Fair Share
15 Housing that affordable housing -- and to the Special Master,
16 I might add -- that affordable housing be placed on the Roche
17 site and be part of the redevelopment there, and that is one
18 of the ways in which we were able to effectively reduce the
19 number even below that, which your consultant, you know,
20 opined to. And so, you know, part of the deal is that those
21 55 units will be constructed on the former Roche property, and
22 there is no -- at the moment, there is no redevelopment plan
23 beyond, you know, Phase II-A, and while, certainly, the
24 redeveloper has expressed an interest from the beginning to
25 have some residential there the 55 number was

1 not tied to any agreed-upon, you know, number of residential
2 units from the current owner of the site. That's a separate
3 negotiation.

4 MS. O'MALLEY: So I'm guessing the previous
5 question asked (indiscernible) what percentage does that make
6 up of this whole new housing that would be going up
7 (indiscernible)?

8 MS. O'MALLEY: There's no obligation on our part to
9 have that be like 20 percent of the units built on the site.

10 MS. O'MALLEY: But is that a percentage of the
11 total --

12
13 MAYOR SCARPELLI: No.

14 MS. O'MALLEY: -- that's going to be
15 there?

16 MAYOR SCARPELLI: No, it's not.

17 MS. O'MALLEY: So then it could --essentially,
18 it could be just 55 housing units there complete on the
19 site?

20 MAYOR SCARPELLI: It could be.

21 MS. O'MALLEY: But we don't know that?

22 MAYOR SCARPELLI: Correct.

23 MS. O'MALLEY: Okay. Thank you.

24 COMMISSIONER TUCCI: Well, hold on.

25 Mr. Inglesino, correct me if I'm wrong, but right

1 now, our only obligation is the 55 units on that site.

2 MR. INGLESINO: That's correct. Your only
3 obligation --

4 COMMISSIONER TUCCI: Right.

5 MR. INGLESINO: Which is an obligation as part of
6 the settlement agreement. It's not an obligation to Prism.

7 COMMISSIONER TUCCI: Right.

8 MR. INGLESINO: Your only obligation under this
9 agreement is to plan for -- which would mean either to zone
10 or to enact a redevelopment plan, which is the functional
11 equivalent of permitting 55 affordable housing units on this
12 site.

13 COMMISSIONER TUCCI: On that site.

14 MR. INGLESINO: And that is not part and was not
15 negotiated with the developer, Prism. That is an obligation
16 that the municipality is determining to place on Prism, and,
17 you know, whatever Prism seeks to negotiate going forward,
18 it certainly is free to do, but it's -- it's not linked to
19 the settlement agreement that is being acted on tonight.

20 MS. O'MALLEY: One more question. And is that
21 public housing (indiscernible)? Is that the housing that the
22 municipality has to put there, or is that
23 private housing that developers would be installing?

24 MR. INGLESINO: So it's not public housing. I
25 knew I -- I know I threw a lot of information at you, and I

1 -- I had to actually really try to think through how much
2 information was too much, but -- even for me at times. But
3 the municipality's obligation is to provide a realistic
4 opportunity for the affordable housing to be built, which
5 generally means that the obligation for the town is to zone
6 for it to be built. The town has no obligation to build it.
7 The housing will not be public housing that you might think
8 of, you know, a town or a housing agency building -- you
9 know? It's not that way.

10 It is to provide a reasonable opportunity for the
11 housing to be built, and typically, you know, these are
12 built, you know, by developers, and they have to follow the
13 requirements that are set forth in the COAH regulations,
14 because although COAH was disbanded -- and this is where we
15 really get to the A.P. class on COAH. There are certain
16 regulations of COAH that have survived and that govern
17 affordable housing going forward.

18 MS. O'MALLEY: Thank you.

19 MAYOR SCARPELLI: Anybody else wish to address the
20 Board of Commissioners on agenda items only?

21 Seeing none, let's move to commissioner
22 announcements.

23 Commissioners, any announcements?

24 COMMISSIONER PETRACCO: I actually have one today.
25 I'd just like to say that I was invited to the Nutley

1 Lacrosse team's annual fishing trip, and I have to tell you I
2 never caught so many porgies in my life. I never baited so
3 many hooks for kids in my life, but I have to tell you it was
4 an excellent trip, and, you know, everybody that ran it, from
5 the coaches -- and there was a lot of Nutley people there.
6 It really is the spirit of Nutley, you know, what we do here
7 and how people get involved and how people come out.

8 It was a bunch of fresh new faces for me, not
9 having, you know, my son in lacrosse, my youngest one anyway.
10 You know, there's a whole new -- whole new people here that,
11 you know, are moving from other towns, and it was just really
12 nice to shake their hands, and they have actually had a lot
13 of good things to say about the town, which was really
14 refreshing as well. So here's to Nutley lacrosse.

15
16
17 MAYOR SCARPELLI: Thank you, Commissioner.

18 All right. Ordinance introductions?

19 Commissioner Petracco?

20 COMMISSIONER PETRACCO: Yes. Before I introduce
21 this ordinance for introduction -- this is our parking
22 ordinance. So I'd just like to ask the chief to come up and
23 to say a few words of what he's been dealing with at the
24 police department the last couple years with things that
25 affect this ordinance.

1 CHIEF STRUMOLO: Here are some of the complaints
2 we're receiving regarding some of the streets in the
3 ordinance, Highfield Lane, Edison, Oakley Terrace and
4 Conduit. We're adjusting the parking to allow parking permit
5 to two hour limit; 8AM to 6PM is the standard two-hour limit
6 in all zones. So this is just allowing the residents on the
7 streets to apply and have the stickers to be exempt from the
8 two-hour limit. So they can park on the street for a few
9 hours, and it seems like that will alleviate a lot of the
10 concerns that some have with commuter people parking in the
11 area and the neighborhood. So I think we'll try it for six
12 months and evaluate it and make any adjustments that need to
13 be made we'll make them at that time.

14 MAYOR SCARPELLI: Okay.

15 Any questions, Commissioners?

16 COMMISSIONER ROGERS: Chief, I'm going to take
17 this opportunity. I want to thank you and the police
18 department for the extraordinary work that you've been
19 doing. I've been reading a lot about some of these
20 burglaries, these car burglaries, but I'll tell you what.
21 Commissioner, when you read the end of the story and the
22 Nutley Police apprehended these thugs, I've got to tell you,
23 it makes you feel safe.

24 Commissioner, thank you -- or, Chief, thank you.

25 CHIEF STRUMOLO: Appreciate the support. Thanks.

1 COMMISSIONER ROGERS: Thank you.

2 MAYOR SCARPELLI: Commissioner?

3 COMMISSIONER PETRACCO: Okay. This is Ordinance
4 No. 3400, an ordinance to amend the ordinance codified in
5 the Code of the Township of Nutley, CHAPTER 228, ENTITLED
6 VEHICLES AND TRAFFIC, PARTICULARLY ARTICLE II (PARKING ON
7 CERTAIN STREETS), SECTION 11 ENTITLED "PARKING TIME LIMITED"
8 AND SECTION 32 ENTITLED "PERMIT PARKING".

9 Let's see. I don't have my little saying in here.
10 You got one?

11 Thank you, Commissioner Rogers.

12 I move that this ordinance be passed through its
13 second reading and advertised in the Nutley Sun, together
14 with the notice required by law and that further
15 consideration of said ordinance for final passage by the
16 Board of Commissioners be held at its second reading. I
17 believe it's November --

18 MADAM CLERK: November 20th.

19 COMMISSIONER PETRACCO: What is it?

20 MADAM CLERK: November 20th.

21 COMMISSIONER PETRACCO: When is it?

22 MADAM CLERK: November 20th.

23 COMMISSIONER PETRACCO: November 20th, 2018.

24 I move the ordinance.

25 COMMISSIONER ROGERS: I second.

1 MADAM CLERK: Commissioner Rogers?

2 COMMISSIONER ROGERS: Aye.

3 MADAM CLERK: Commissioner Tucci?

4 COMMISSIONER TUCCI: Aye.

5 MADAM CLERK: Commissioner Evans?

6 COMMISSIONER EVANS: Aye.

7 MADAM CLERK: Commissioner Petracco?

8 COMMISSIONER PETRACCO: Aye.

9 MADAM CLERK: Mayor Scarpelli?

10 MAYOR SCARPELLI: Aye.

11 Let's move to public hearings.

12 Commissioner Petracco?

13 COMMISSIONER PETRACCO: Okay, this is on the
14 LOSAP, Ordinance No. 3398, ORDINANCE TO AMEND AN ORDINANCE
15 CODIFIED IN THE CODE OF THE TOWNSHIP OF NUTLEY, CHAPTER 96,
16 ENTITLED "LENGTH OF SERVICE AWARDS PROGRAM".

17 I move that we open the public portion of the
18 meeting.

19 COMMISSIONER ROGERS: Second.

20 MAYOR SCARPELLI: Would anybody like to be heard
21 on Ordinance No. 3398?

22 Seeing none, I move to close.

23 COMMISSIONER ROGERS: Second.

24 MADAM CLERK: Commissioner Rogers?

25 COMMISSIONER ROGERS: Aye.

1 MADAM CLERK: Commissioner Tucci?

2 COMMISSIONER TUCCI: Aye.

3 MADAM CLERK: Commissioner Evans?

4 COMMISSIONER EVANS: Aye.

5 MADAM CLERK: Commissioner Petracco?

6 COMMISSIONER PETRACCO: Just before I vote, I'd
7 just like to thank everyone that had something to do with
8 this ordinance. I know Sam Carella's here, Fire Chief
9 Nicoletti, or Deputy Chief Paul Caffone (ph), all the
10 members of the volunteers. This has been a work probably in
11 process since the -- since I've got on this Board with all
12 these volunteers. So I just wanted to thank the Board of
13 Commissioners and the mayor for your support.

14 I'd like to thank all the volunteers for their
15 patience, and I really think that it's been a long time
16 coming.

17 So I vote aye.

18 MADAM CLERK:

19 MAYOR SCARPELLI: Aye.

20 I know we had scheduled the public hearing on the
21 density ordinance.

22 COMMISSIONER EVANS: Excuse me. We've got to move
23 the ordinance.

24 MAYOR SCARPELLI: Oh, sorry.

25 Move to more the ordinance.

1 COMMISSIONER PETRACCO: I thought I did. I'm
2 sorry. I'm --

3 COMMISSIONER ROGERS: Move to close the public
4 hearing.

5 COMMISSIONER PETRACCO: And to that, I move the
6 ordinance. Thank you.

7 COMMISSIONER ROGERS: Second.

8 MADAM CLERK: Commissioner Rogers?

9 COMMISSIONER ROGERS: Aye.

10 MADAM CLERK: Commissioner Tucci?

11 COMMISSIONER TUCCI: Aye.

12 MADAM CLERK: Commissioner Evans?

13 COMMISSIONER EVANS: I just want to comment. On
14 introduction, I incorrectly voted no. I just wanted to say
15 I wholeheartedly vote yes on this ordinance.

16 MADAM CLERK: Commissioner Petracco?

17 COMMISSIONER PETRACCO: I didn't know,
18 Commissioner Evans, what this meant. Now, I do. That means
19 move the ordinance. Okay. Gotcha.

20 I vote aye.

21 MADAM CLERK: Mayor Scarpelli?

22 MAYOR SCARPELLI: Aye.

23 Well, that's what I would say. You know, a long-
24 awaited density ordinance we had scheduled for a public
25 hearing tonight -- the commissioners are still working

1 through the details or the ordinance with a lot more
2 questions that have come up over the last two weeks. We're
3 going to ask all the commissioners to filter their comments
4 through Mr. Genitempo, and then, we're going to have our two
5 planners come in and help us work through, so we can finally
6 get this ordinance passed and, you know, put some density on
7 mixed use. So we're just moving forward on that, and it's a
8 longer process than anybody anticipated.

9 Let's move to resolutions.

10 Commissioner Rogers?

11 COMMISSIONER ROGERS: You know, I have a
12 resolution -- before I present it. It deals with polio.
13 Normally, I don't read resolutions, but I'm going to read
14 this one. I remember, as a kid growing up in Brooklyn, we
15 had a relative who used to limp around, and I remember
16 asking my mother what happened to -- he was Junior. He was
17 a cousin, and I remember my mother telling me that he was
18 afflicted with polio before there was enough of vaccinations
19 that came out.

20 And, you know, I listen, as you do, to the
21 news, and we just, you know, are inundated with so many
22 things in life, but you know what really counts? Our health
23 and the fact that we are in a position, whether we're in
24 government or private industry, to do something about it,
25 and I'm going to read something to you tonight where you're

1 going to hear some extraordinary developments regarding
2 polio.

3 WHEREAS, polio mainly affects children under the
4 age of 5 -- can you imagine that? Under the age of 5 -- and

5 WHEREAS, there is no cure for Polio but it is
6 preventable with a vaccine; and

7 WHEREAS, polio cases have dropped by 99.9 percent
8 since 1988 and the world stands on the threshold of
9 eradicating this disease -- and, boy, wouldn't it be great
10 to see that eradicated in our lifetime? And

11 WHEREAS, if polio is not eradicated within 10
12 years, as many as 200,000 children could be paralyzed by it
13 each year. A polio-free world will be a safer world for
14 children everywhere;

15 NOW THEREFORE BE IT RESOLVED that the Board of
16 Commissioners, in the Township of Nutley, County of Essex,
17 State of New Jersey, recognize October 24, 2018 as WORLD
18 POLIO DAY.

19 Now, here's the neat part of this. And commends
20 the global network of the Rotary Organization, including the
21 Nutley Rotary Club -- Commissioner Petracco, you talked
22 about some of the extraordinary things our township does.
23 Well, boy, I'll tell you. If you ever want to see a club --
24 and all of them are great clubs, but I know the Rotary Club
25 is really outstanding. The Nutley Rotary Club and their

1 efforts to build awareness, fundraise, and encourage
2 governments to donate to and support polio eradication
3 efforts around the world.

4 So moved.

5 COMMISSIONER PETRACCO: Second.

6 MADAM CLERK: Commissioner Rogers?

7 COMMISSIONER ROGERS: Aye.

8 MADAM CLERK: Commissioner Tucci?

9 COMMISSIONER TUCCI: Aye.

10 MADAM CLERK: Commissioner Evans?

11 COMMISSIONER EVANS: Aye.

12 MADAM CLERK: Commissioner Petracco?

13 COMMISSIONER PETRACCO: Aye.

14 MADAM CLERK: Mayor Scarpelli?

15 MAYOR SCARPELLI: Aye.

16 Commissioner Tucci?

17 COMMISSIONER TUCCI: Yes, thank you, Mayor.

18 WHEREAS, the Township of Nutley has a need to
19 acquire specialized professional services as a fair an open
20 contract pursuant to the provision of N.J.S.A. 19:44 A-20.5;
21 and

22 WHEREAS, the RFQs for Township Forester were
23 received and opened on Wednesday, October 8, 2018;

24 WHEREAS, the most responsible and responsive
25 request for qualifications was from The Shade Tree

1 Department LLC, John Linson, P.O. Box 6089- West Orange, New
2 Jersey 07052; and

3 WHEREAS, The Shade Tree Department LLC, has
4 provided these services in the past to the Township of
5 Nutley and is particularly suited to provide continued
6 service; and

7 WHEREAS, the term of this contract is for a one
8 year period commencing on October 1, 2018 and continue
9 through September 30, 2019; and

10 WHEREAS, the contract is not to exceed \$22,000 and
11 funds are available from account 8-01-512-200 in the amount
12 of \$5,505 and 9-01-512-200 in the amount of \$16,495; funds
13 have been certified by the Chief Financial Officer, said
14 certification being attached to this resolution;

15 NOW THEREFORE, BE IT RESOLVED by the Board of
16 Commissioners of the Township of Nutley, County of Essex,
17 Stat of New Jersey, that a contract be awarded to The Shade
18 Tree Department, LLC, John Linson as described herein. The
19 response to the Request for Qualification be placed on file
20 with this resolution, and a notice of this action shall be
21 printed once in the Nutley Sun in accordance with the Local
22 Public Contracts Law.

23 I move the resolution.

24 COMMISSIONER EVANS: Second.

25 MADAM CLERK: Commissioner Rogers?

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COMMISSIONER ROGERS: Aye.
MADAM CLERK: Commissioner Tucci?
COMMISSIONER TUCCI: Aye.
MADAM CLERK: Commissioner Evans?
COMMISSIONER EVANS: Aye.
MADAM CLERK: Commissioner Petracco?
COMMISSIONER PETRACCO: Aye.
MADAM CLERK: Mayor Scarpelli?
MAYOR SCARPELLI: Aye.
COMMISSIONER TUCCI: Thank you, Mayor.
MAYOR SCARPELLI: Commissioner Evans?
COMMISSIONER EVANS: Thank you.

WHEREAS, the Code Enforcement Department received a zoning permit fee in the amount of \$75.00 from Sheldon & Glory Nidhan for property located at 197 Van Winkle Avenue; and

WHEREAS, Sheldon & Glory Nidhan are not moving forward with the sale of their home; and

WHEREAS, the Zoning Official has determined that the fee of \$75.00 shall be refunded to Sheldon & Glory Nidhan;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Township of Nutley, County of Essex, State of New Jersey that the Township Treasurer is

1 authorized to refund the Zoning Permit fee in the amount of
2 \$75.00 to Sheldon & Glory Nidhan.

3 So moved.

4 COMMISSIONER TUCCI: Second.

5 MADAM CLERK: Commissioner Rogers?

6 COMMISSIONER ROGERS: Aye.

7 MADAM CLERK: Commissioner Tucci?

8 COMMISSIONER TUCCI: Aye.

9 MADAM CLERK: Commissioner Evans?

10 COMMISSIONER EVANS: Aye.

11 MADAM CLERK: Commissioner Petracco?

12 COMMISSIONER PETRACCO: Aye.

13 MADAM CLERK: Mayor Scarpelli?

14 MAYOR SCARPELLI: Aye.

15 COMMISSIONER EVANS: BE IT RESOLVED, by the Board
16 of Commissioners of the Township of Nutley, in the County of
17 Essex, State of New Jersey, that the Treasurer be and she is
18 hereby authorized to refund overpayments of the water
19 charges in the amount of \$3,772.58 for Block 9302, Lot 10.

20 So move.

21 COMMISSIONER TUCCI: Second.

22 MADAM CLERK: Commissioner Rogers?

23 COMMISSIONER ROGERS: Aye.

24 MADAM CLERK: Commissioner Tucci?

25 COMMISSIONER TUCCI: Aye.

1 MADAM CLERK: Commissioner Evans?

2 COMMISSIONER EVANS: Aye.

3 MADAM CLERK: Commissioner Petracco?

4 COMMISSIONER PETRACCO: Aye.

5 MADAM CLERK: Mayor Scarpelli?

6 MAYOR SCARPELLI: Aye.

7 COMMISSIONER EVANS: Thank you.

8 MAYOR SCARPELLI: Commissioner Petracco?

9 COMMISSIONER PETRACCO: Yes, this is Ordinance No.
10 232-18. Just to save a little time, I'll read it -- I'll
11 read it by number. This is for bullet-proof vests. It's a
12 budget insertion of \$5,284.

13 I move the resolution.

14 COMMISSIONER ROGERS: Second.

15 MADAM CLERK: Commissioner Rogers?

16 COMMISSIONER ROGERS: Aye.

17 MADAM CLERK: Commissioner Tucci?

18 COMMISSIONER TUCCI: Aye.

19 MADAM CLERK: Commissioner Evans?

20 COMMISSIONER EVANS: Aye.

21 MADAM CLERK: Commissioner Petracco?

22 COMMISSIONER PETRACCO: Aye.

23 MADAM CLERK: Mayor Scarpelli?

24 MAYOR SCARPELLI: Aye.

25

1 COMMISSIONER PETRACCO: BE IT RESOLVED by the
2 Board of Commissioners of the Township of Nutley, County of
3 Essex, State of New Jersey that Anthony Barino, an employee
4 in the Department of Public Safety, be granted a medical
5 leave of absence without pay effective September 5, 2018
6 through December 5, 2018.

7 I move the resolution.

8 COMMISSIONER ROGERS: Second.

9 MADAM CLERK: Commissioner Rogers?

10 COMMISSIONER ROGERS: Aye.

11 MADAM CLERK: Commissioner Tucci?

12 COMMISSIONER TUCCI: Aye.

13 MADAM CLERK: Commissioner Evans?

14 COMMISSIONER EVANS: Aye.

15 MADAM CLERK: Commissioner Petracco?

16 COMMISSIONER PETRACCO: Aye.

17 MADAM CLERK: Mayor Scarpelli?

18 MAYOR SCARPELLI: Aye.

19 COMMISSIONER PETRACCO: That's all I have.

20 MAYOR SCARPELLI: WHEREAS, bids for the Nairn
21 Place Roadway Improvement Project were received and opened
22 on Wednesday, September 26, 2018; and

23 WHEREAS, AIM Contractors, Inc., 300 Kuller Road,
24 Clifton, New Jersey, 07011, was the low bidder; and
25

1 WHEREAS, the Base Bid for the Nairn Place Roadway
2 Improvement Project is in the amount of \$143,811, for a
3 total bid amount of \$143,811; and

4 WHEREAS, funds are available from Account No. G-
5 04-104-40 I/Ordinance No. 3345A in the amount of \$143,811
6 and have been certified by the Chief Financial Officer, said
7 certification being attached to this resolution;

8 NOW, THEREFORE, BE IT RESOLVED by the Board of
9 Commissioners of the Township of Nutley, County of Essex,
10 State of New Jersey, that a contract be awarded to AJM
11 Contractors, Inc., not to exceed \$143,811 and that the Mayor
12 and Township Clerk are hereby authorized to enter into and
13 sign said contract for the Township of Nutley.

14 I move the resolution.

15 COMMISSIONER TUCCI: Second.

16 MADAM CLERK: Commissioner Rogers?

17 COMMISSIONER ROGERS: Aye.

18 MADAM CLERK: Commissioner Tucci?

19 COMMISSIONER TUCCI: Aye.

20 MADAM CLERK: Commissioner Evans?

21 COMMISSIONER EVANS: Aye.

22 MADAM CLERK: Commissioner Petracco?

23 COMMISSIONER PETRACCO: Aye.

24 MADAM CLERK: Mayor Scarpelli?

25 MAYOR SCARPELLI: Aye.

1 WHEREAS, raffle applications have been received
2 from the following organizations, Rotary Club of Nutley
3 License No. 35-18, off-premise merchandise raffle be held
4 Saturday, December 1st, 2018; HSA Fairview of Bloomfield
5 License No. 36-18, on-premise merchandise raffle, and
6 License No. 37-18 on-Premise 50/50 cash raffle to be held
7 November 30th, 2018; Good Shepherd Academy, License No. 38-
8 18 on-premise merchandise raffle, and License No. 39-18 on-
9 premise 50/50 cash raffle to be held on Sunday, November
10 18th, 2018.

11 WHEREAS, the applications have been reviewed and
12 approved by the Municipal Clerk and the Police Department;

13 NOW, THEREFORE BE IT RESOLVED by the Board of
14 Commissioners of the Township of Nutley, County of Essex,
15 State of New Jersey that the aforementioned licenses are
16 approved and the Municipal Clerk is authorized to issue the
17 raffle licenses.

18 I move the resolution.

19 COMMISSIONER TUCCI: Second.

20 MADAM CLERK: Commissioner Rogers?

21 COMMISSIONER ROGERS: Aye.

22 MADAM CLERK: Commissioner Tucci?

23 COMMISSIONER TUCCI: Aye.

24 MADAM CLERK: Commissioner Evans?

25 COMMISSIONER EVANS: Aye.

1 MADAM CLERK: Commissioner Petracco?

2 COMMISSIONER PETRACCO: Aye.

3 MADAM CLERK: Mayor Scarpelli?

4 MAYOR SCARPELLI: Aye.

5 This is Resolution 238-18. I'm going to shorten
6 this a little bit.

7 WHEREAS, over the past decade, the New Jersey
8 Council on Affordable Housing has failed to adopt
9 constitutionally compliant Third Round Rules that have
10 withstood judicial scrutiny; and

11 WHEREAS, the parties have agreed to enter into a
12 written settlement agreement to memorialize the terms and
13 conditions of settlement, as well as the respective
14 obligations of the parties; and

15 WHEREAS, the Board of Commissioners finds that it
16 is prudent to enter into a settlement agreement with FSHC to
17 avoid the time and expense of continued litigation.

18 NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board
19 of Commissioners of the Township of Nutley, County of Essex,
20 State of New Jersey, as follows:

21 1. That the aforesaid recitals are hereby adopted
22 and incorporated herein as if repeated in full; and

23 2. That the Mayor be and is hereby authorized to
24 execute, and the Township Clerk be and is hereby authorized
25 to witness, a settlement agreement resolving the Township's

1 DJ Action, in a form and content acceptable to counsel for
2 the Township; and

3 3. That the Township administration, planner, and
4 counsel for the Township be and are hereby authorized to
5 undertake all reasonable and necessary steps to effectuate
6 the foregoing; and

7 4. This Resolution shall take effect immediately.

8 I move the resolution.

9 COMMISSIONER TUCCI: Second.

10 MADAM CLERK: Commissioner Rogers?

11 COMMISSIONER ROGERS: Before I vote, I'm going to
12 expand a little bit of what Commissioner Tucci said
13 regarding COAH. Since the 1970s, our township and
14 municipalities across the state have been victimized by
15 judicial overreach. It is sickening to me that the courts
16 have the power to determine the destiny of any community in
17 this state. And I've looked into this for quite some time
18 and I've been told there is absolutely nothing we can do
19 about it.

20 I'm sure if it was up to our municipality as
21 well as others, we would just say hey, you know, we'll
22 determine what is right for our community. I hope down the
23 road some of the citizens here and maybe some of the
24 listening will take some action with regard our state
25 legislature that puts heavy burdens on municipalities like

1 ours. Judicial overreach, folks, is not good for anybody,
2 but saying that, I'm glad that we have a Board of
3 Commissioners and an attorney and our town attorney,
4 Mr. Genitempo, who is really on top of this and minimize the
5 real negative impact that this could have had on us. But I
6 would just hope you remember those two words, judicial
7 overreach. This is not the end. This is going to go on and
8 on for a long time.

9 But I vote yes.

10 MADAM CLERK: Commissioner Tucci?

11 COMMISSIONER TUCCI: Aye.

12 MADAM CLERK: Commissioner Evans?

13 COMMISSIONER EVANS: Aye.

14 MADAM CLERK: Commissioner Petracco?

15 COMMISSIONER PETRACCO: Aye.

16 MADAM CLERK: Mayor Scarpelli?

17 MAYOR SCARPELLI: Aye.

18 That concludes the business portion of our
19 meeting.

20 Madam Clerk?

21 MADAM CLERK: Yes, Mayor.

22 All persons addressing the Board of Commissioners
23 regarding community concerns should approach the microphone
24 and provide their name and address for the record. Unless
25 further time is granted by the board, each person shall

1 limit their address to five minutes. All remarks to the
2 board and its individual members must be addressed to the
3 mayor. The mayor may defer citizens' comments to the
4 appropriate member of the board.

5 Dialogue between citizens and others addressing
6 the board shall be allowed, unless the mayor or presiding
7 officer or the majority of the membership of the board shall
8 determine that the interests of decorum and/or the
9 expeditious conduct of municipal business are being
10 adversely affected by such dialogue.

11 MAYOR SCARPELLI: Anybody wish to address the
12 Board of Commissioners this evening?

13 MS. ROSSI: Yes, Tammy Rossi (ph), 28 Colonial
14 Terrace. Good evening. As one of the founders for the
15 Nutley Coalition for Change, I just want to inform you we
16 continue to receive signatures for the petition for term
17 limits on the quasi-judicial boards, including Planning
18 Board, Zoning Board, Rent-Leveling Board, and Library Board.
19 I know I've been asking each of you where your stance is on
20 term limits for these boards, and I just want to remind you
21 campaign season is around the corner, and the citizens of
22 Nutley are watching for each of your responses.

23 So I'd like to revisit this one more time tonight
24 and ask each of you where your stance is on term limits for
25 these boards, starting with Commissioner Rogers.

1 MAYOR SCARPELLI: Ms. Rossi, we're going to have
2 you -- you can make your public comment, and then, the
3 commissioners will respond to you at a later time. Okay?

4 MS. ROSSI: Okay.

5 MAYOR SCARPELLI: Just continue your comments.

6 MS. ROSSI: Okay. Well, then, my next question
7 would be, Mayor Scarpelli, at the last meeting, you said you
8 would be open to receiving applicants to fill the opening
9 positions. So from what I can see, the Planning Board has
10 four positions opening up in December. The Library Board
11 has one. The Rent-Leveling Board has two positions. The
12 Shade Tree Commission has six, and the Board of Adjustments
13 have five positions.

14 So, Mayor Scarpelli, will you announce these
15 positions on each of these boards on the Nutley Town email
16 notification system, as well as the town cable channel?

17 MAYOR SCARPELLI: Continue, Ms. Rossi.

18 MS. ROSSI: Okay, and then, my last question is
19 for Mr. Genitempo.

20 What is the status of the Employee Handbook, and
21 will there be an anti-nepotism policy included in the
22 Employee Handbook?

23 MAYOR SCARPELLI: Thank you, Ms. Rossi.

24 Anybody else wish to address the Board of
25 Commissioners this evening?

1 (Pause)

2 MR. HENNING: Neil Henning, 31 Terrace Avenue.
3 Besides the (indiscernible) are there any other tenants in
4 the Davis building at this time?

5 MAYOR SCARPELLI: Excuse me, Mr. Hadding. Can you
6 speak into the microphone?

7 MR. HENNING: Sorry.

8 MAYOR SCARPELLI: Could 't --

9 MR. HENNING: Besides the Saul's Upholstery (ph),
10 are there any other tenants in the Davis Building at this
11 time?

12 MAYOR SCARPELLI: Continue, Mr. Hadding.

13 MR. HENNING: If so, what is the rent? Has it
14 tried to rent any portion of that building, and what are the
15 plans for that building now? So we're just going to run
16 through all the questions and then, after? Fine.

17 MAYOR SCARPELLI: Correct.

18 MR. HENNING: Has Ciccolini Property been
19 subdivided yet? Now, we are two years owning that property.
20 My understanding is that we were going to subdivide it and
21 sell it off. What is the plan for that property now?

22 Can you tell me if each of the commissioners is
23 endorsing this school referendum in November? I'd like to
24 hear from each one if they are endorsing it and throwing
25 their full weight behind getting that passed.

1 And are there heavy commercial vehicles allowed to
2 be -- use municipal parking rent -- and like basically rent
3 municipal parking on a monthly basis? And if so, what is the
4 process for that, and what is the rent?

5 And lastly, I'd like to know if there's any
6 ongoing FBI investigations currently being done on any of
7 the municipal government agencies in town. Thank you.

8 MAYOR SCARPELLI: Anybody else wish to address the
9 Board of Commissioners this evening?

10 Seeing none, could I have a motion to close the
11 public comment?

12 COMMISSIONER ROGERS: I make that motion.

13 COMMISSIONER TUCCI: Second.

14 MADAM CLERK: Commissioner Rogers?

15 COMMISSIONER ROGERS: Aye.

16 MADAM CLERK: Commissioner Tucci?

17 COMMISSIONER TUCCI: Aye.

18 MADAM CLERK: Commissioner Evans?

19 COMMISSIONER EVANS: Aye.

20 MADAM CLERK: Commissioner Petracco?

21 COMMISSIONER PETRACCO: Aye.

22 MADAM CLERK: Mayor Scarpelli?

23 MAYOR SCARPELLI: Aye.

24 Commissioners wish to address any of the comments
25 this evening?

1 COMMISSIONER TUCCI: I want to address the one on
2 the Davis Building. The only tenant left in the Davis
3 Building is Sauls, the upholstering company there.

4 And you asked about our plans moving forward. As
5 I'm sure you're aware, Neil, we originally purchased that
6 building on behalf of the Board of Education in light of the
7 referendum and the needed expansion in the middle school,
8 and it is our intention and -- and any commissioner wants to
9 correct me -- to sell that property to the Board of
10 Education, so that, if and when, they pass a referendum that
11 is acceptable to the citizens of the township, that they'll
12 have the property available to expand.

13 MAYOR SCARPELLI: Thank you, Commissioner.

14 Does anybody else wish to address any of the
15 comments made tonight?

16 COMMISSIONER ROGERS: Yeah, Mr. Mayor, since I was
17 asked a question, I'll answer it about term limits.

18 Look, it's public knowledge I am fully, fully in
19 favor of term limits for boards.

20 Ms. Rossi, since the last meeting, I did some
21 research, and to my surprise, there are many, many, many
22 municipalities across this country that have passed
23 resolutions that would impose term limits on volunteer
24 boards. And the preamble to most of these resolutions was
25 to increase participation, to increase public engagement.

1 I think it's a healthy thing. So here's what I'm
2 doing. I'm putting together some framework for a resolution
3 with the idea of addressing some of the concerns that my
4 colleagues had, and they're legitimate concerns, about
5 people who have been on boards and who have a lot of
6 corporate knowledge over a period of time, but also, in the
7 event that there are not people stepping up to volunteer.

8 It's a good safety gap to make sure that the
9 Boards are continuing their work seamlessly. But I'm
10 putting together a framework and I'm going to sit down with
11 each of our -- my commissioners and discuss it, but I will,
12 without any doubt, the second meeting of November introduce
13 that resolution.

14 But I would ask, and I think this is important,
15 that whether it is yay or nays, that everyone's opinion is
16 respected. Just because I'm for it, it may mean that
17 another commissioner is not for it, for very legitimate
18 reasons. But this is what democracy is about to have a
19 civil, constructive discussion publicly about very critical
20 issues like this.

21 So my answer directly is yes. I gave you a time
22 table. I'm committed to that. Look, this is nothing new.
23 I've been all over the darn country on every T.V. station
24 talking about this issue. Well, I think I'm obligated to at
25 least address it here at home. Thank you.

1 MAYOR SCARPELLI: Commissioner?

2 COMMISSIONER PETRACCO: Thank you. As far as the
3 term limits, you know, I've been looking into that and I've
4 had many conversations with Commissioner Rogers about it
5 also. I just want to reflect back to when I was the mayor.
6 I could remember I was in a really difficult situation. You
7 know, there was someone I went to Nutley High School with
8 and their father was on one of the Boards. And he was
9 getting older, and not as interested in it as I thought at
10 the time, but a great guy, a great family, all that stuff.

11 And it very difficult for me to make that phone
12 call to him and let him know that I wasn't going to
13 reappoint him again. And you know, to my surprise, the guy
14 thanked me and he came to the Commission meeting and thanked
15 me too, because he really did have enough. And his son
16 called me and thanked me, and I was shocked, you know. And
17 it was kind of like a phone call where he said to me, "I
18 never thought you were going to ask for me to go." And he
19 did have enough.

20 So I think that -- I'll wait for the resolution,
21 Steve, you know, for you to present us with the resolution
22 and I'll review that. But I am leaning towards, you know,
23 that there should be something in place that, you know,
24 people do get tired of it. They're not as fresh as they
25 were. And it's very difficult for, you know, a Mayor, you

1 know when I was sitting in that seat, I actually took people
2 off the Boards too -- or I didn't -- I never took anybody
3 off, but I did not reappoint some people.

4 And it's a very tough situation to be in as the
5 mayor. And I have to tell you, that's one of the situations
6 I don't miss at all, you know, to be perfectly honest with
7 you. But I think that in the future -- I think, Tammy, the
8 world is changing and I think that, you know, Nutley has to
9 change a little bit as well. Thank you.

10 COMMISSIONER TUCCI: Mayor, can I also comment on
11 that?

12 MAYOR SCARPELLI: Sure.

13 COMMISSIONER TUCCI: Tammy, when you asked this
14 question last time, you know I was torn about this, all
15 right? Because there are some folks, as some of the others
16 already said, who have gotten tired and maybe not as
17 interested, but still care about the Town and love the Town,
18 all right? And there are those that are up and coming that
19 want to get involved, and what to participate.

20 Well, I do need to tell you that after having
21 several conversations with Commissioner Rogers about the
22 broad framework of what he's proposing, I am absolutely open
23 to the idea. It's not a commitment yet, but I am absolutely
24 open to listening and to seeing exactly how that shakes out.
25 And let's all just keep in mind that it's not like we have

1 thousands of people beating down the doors to serve on some
2 of these Boards. This takes a lot of time and a lot of
3 energy. Thank you, Mayor.

4 MAYOR SCARPELLI: In regards to the appointments,
5 I welcome anybody's resume. I actually got one this past
6 week. So I welcome anybody's resume that's willing to serve
7 on any of the Boards. As people's appointments come up,
8 we'll consider them, put in their service. And I think as
9 the appointing authority, that's your decision to be made.
10 If someone is getting tired, they need to be replaced,
11 that's fine. You have to make that decision. That's what
12 the appointing authority is there for.

13 And any new people that are out there want to
14 serve, we certainly welcome their resumes to be considered.

15 COMMISSIONER EVANS: Mayor, the only other comment
16 that I will add is that -- (indiscernible) and as you heard
17 me say the last time, I truly believe that people who serve
18 on these Boards, by and large, are very dedicated. All
19 right? You saw us tonight honoring Barry Kozyra for his
20 service. And when you think about his role, and what he
21 does, and the passion that he brings to that Board each
22 time, and the colleagues that I sit with, right? There's
23 much that I think -- that's valuable about the process.

24 I think we need to actually learn more about the
25 selection process, what that would be. I agree that the

1 measure should be one's willingness to commit to do the job
2 the way the job is meant to be done. And so when you think
3 about the corporate capital, the training that they have to
4 go through, just the experience that you have to go through,
5 and getting used to the idea that on these Boards -- the
6 Zoning Board especially and the Planning Board -- that
7 they're quasi-judicial Boards. You sit there as a judge.
8 You have to listen to testimony, not the emotion of what you
9 think, not the emotion of what you think other people think
10 you should do, but to sit there with the strength and the
11 fortitude to listen to objective testimony or what's in
12 front of you. And then to propose -- that says, "Look, if
13 we're approving something we don't like, make
14 recommendations to understand how, for example, our rules
15 should evolve because things are changing."

16 So I'm very interested. I didn't know about
17 Commissioner Rogers' position of putting together a
18 resolution. I'm very interested, Steve, in learning more
19 about that.

20 COMMISSIONER ROGERS: Nobody knew except -- until
21 tonight. So I hear you.

22 COMMISSIONER EVANS: So just that idea. And the
23 other thing is that I've watched the Mayor -- the present
24 Mayor struggle and the former Mayor struggle to search for
25 qualified candidates, people with a desire.

1 So one of the aspects that you have talked about
2 is, is there a process that could be in place that if people
3 are interested, they can submit an application and that they
4 can go be screened, to me, that would be a huge step
5 forward. So even if we were just able to accomplish two
6 things: make sure that the people that we're serving are
7 passionate about doing their job to the best that they can
8 do; and two, have a ready list of candidates that are
9 available and willing to do that, or willing to make the
10 commitment, (indiscernible), you know, that would be a giant
11 step forward in and of itself.

12 But I will reserve to see what Commissioner Rogers
13 crafts.

14 MAYOR SCARPELLI: Does anybody else want to
15 address anything else tonight?

16 COMMISSIONER ROGERS: Thanks, Mayor.

17 MAYOR SCARPELLI: The heavy equipment on Township
18 owned parking lots. The only heavy -- Mr. Henney (ph), the
19 only heavy equipment that is being rented currently is on
20 the Ciccolini property because they were there previous and
21 we honored the commitment that Mr. Ciccolini made to them.
22 Other than that, there's no other heavy equipment and I
23 believe they're paying \$100 a month.

24 Mr. Genitempo, do you want to comment if there's
25 any FBI investigation into any of the departments of the

1 Township of Nutley?

2 MR. GENITEMPO: Yes, Mr. Mayor. As far as I am
3 aware, there are no FBI investigations involving any aspects
4 of the Township. I believe I would be made aware, but I am
5 not aware of any such investigations.

6 MAYOR SCARPELLI: And the -- how about on the
7 subdivision of Ciccolini --

8 MR. GENITEMPO: Yes. Mayor, one of the reasons
9 why that hasn't been addressed is because we needed to know
10 what our COAH obligation might be and where we would have to
11 resolve it. Now that that's getting cleared up, I
12 anticipate that we can move forward as soon as that is
13 approved and start to take action with regard to Ciccolini.

14 MAYOR SCARPELLI: Any other comments,
15 Commissioners?

16 MR. GENITEMPO: Mayor, just one comment in
17 response to Tammy's question. I wish I could say that I
18 have it done, but I don't. I'm working on it. It's right
19 here. I'll -- it's this thick. I'm really working at it,
20 but it's just taking me more time. And I -- the
21 Commissioners will determine if there's going to be a
22 nepotism policy, but there is currently going to be one --
23 some type of form of one.

24 I don't know what it's going to finally look like,
25 but they have to make that determination.

1 COMMISSIONER TUCCI: Mayor, just as a point of
2 reference, and Alan, correct me if I'm wrong, but concerning
3 any nepotism policies and/or ethics policies that are not
4 addressed presently, I believe we revert to what, the state
5 policy?

6 MR. GENITEMPO: Yes. We are always subject to the
7 state policies on that and --

8 COMMISSIONER TUCCI: Right. So it's not that
9 we're without policies --

10 MR. GENITEMPO: Right.

11 COMMISSIONER TUCCI: -- it's just that we may be
12 sharing the state's policy.

13 MR. GENITEMPO: And as to the ethics, the handbook
14 will basically say we are subject to the state ethics policy
15 for the most part.

16 COMMISSIONER TUCCI: Great. Thank you.

17 MAYOR SCARPELLI: If nothing else, Commissioners,
18 I look for a motion to adjourn.

19 COMMISSIONER EVANS: Motion to adjourn.

20 COMMISSIONER ROGERS: Second.

21 MADAM CLERK: Commissioner Rogers?

22 COMMISSIONER ROGERS: Aye.

23 MADAM CLERK: Commissioner Tucci?

24 COMMISSIONER TUCCI: Aye.

25 MADAM CLERK: Commissioner Evans?

1 COMMISSIONER EVANS: Aye.

2 MADAM CLERK: Commissioner Petracco?

3 COMMISSIONER PETRACCO: Aye.

4 MADAM CLERK: Mayor Scarpelli?

5 MAYOR SCARPELLI: Aye.

6 MADAM CLERK: And the time is 9:18.

7 MAYOR SCARPELLI: Goodnight, everybody.

8 (Whereupon, this proceeding was concluded at 9:18 PM.)

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I, Nicole Yawn certify that the foregoing transcript is a true and accurate record of the proceedings.



Nicole Yawn

Date: November 2, 2018