

**MAYOR AND COUNCIL
REGULAR MEETING
February 28, 2024 @ 7:30 PM
Borough Hall – 100 Church Street – Alpine, NJ
(This meeting was recorded in its entirety)**

CALL TO ORDER/ PUBLIC ANNOUNCEMENT/PLEDGE OF ALLEGIANCE

The Mayor and Council, Borough of Alpine, convened for this Regular Meeting on February 28, 2024 at 7:30 P.M. in the Alpine Borough Hall. The Public Announcement was read: *In accordance with the provisions of the New Jersey Open Public Meetings Law, the notice of this Regular meeting has met the requirements of the law by being e-mailed to The Record, posted on the bulletin board of the lobby in the Borough Hall and a copy filed in the office of the Borough Clerk.*

ROLL CALL

Paul H. Tomasko, Mayor	Present	Gayle Gerstein, Council President	Present
Steven Cohen, Councilman	Absent	Vicki Frankel, Councilwoman	Absent
Arthur Frankel, Councilman	Present *phone	Scott Bosworth, Councilman	Present
David Kupferschmid, Councilman	Present		

Staff Present on Dais: Borough Attorney Levi Kool, Borough Engineer Perry Frenzel, Borough Clerk Stephanie Wehmann,

PUBLIC COMMENTS – Robert Policano thanked the Mayor and Council and DPW for rectifying a drainage issue on West Main Street. He questioned when, if adopted, Ordinance 824 would be posted on the website. Municipal Clerk Wehmann replied after publication it is sent to General Code for inclusion online.

REPORT OF THE FINANCE COMMITTEE ConnectOne Bank Current Operating Account \$4,345,969.18

Resolution #044:2'2024: Return of Bonds and Escrow

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

At a regular meeting of the Mayor and Council of the Borough of Alpine held on February 28, 2024 to return the following escrow and/or bonds:

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Type</u>	<u>Amount</u>
55	22-25	FE Alpine	Performance Bond	\$98,876.85
			Subdivision Escrow	2,706.25
			<u>Soil Moving/Engineering</u>	<u>181.25</u>
			Total:	\$101,764.35
21	12	8 Stone Tower Drive Alpine LLC	Soil Moving/Engineering	\$ 2,948.00

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED**

Resolution #045:2'2024: Authorizing the Transfer of 2023 Budget Appropriations Reserves (Transfer #2)

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

At a regular meeting of the Mayor and Council of the Borough of Alpine held on February 28, 2024 N.J.S.A 40A-59 Permits transfers of appropriation reserves from the preceding year to be made during the first three months of the following fiscal year. This section reads as follows:

- a. If during the first three months of any fiscal year, the amount of any appropriation reserve for the immediately preceding fiscal year is insufficient to pay the claims authorized or incurred during said preceding year which were chargeable to said appropriation, and there shall be an excess in any appropriation reserves over and above the amount deemed to be necessary to fulfill its purpose, the governing body may, by resolution adopt by not less than a 2/3 vote of the full membership thereof, transfer the amount of such excess to any appropriation reserve or an appropriation in the prior budget deemed to be insufficient to fulfill its purpose of for which no reserve was provided.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Alpine the Borough Treasurer be and is hereby authorized to make the following transfers in the 2023 Budget Reserve

Appropriations in accordance with N.J.S.A. 40A: 4-59:		<u>FROM</u>	<u>TO</u>
Streets & Roads S/W	3-01-26-290-010	\$4,254.01	
Fire Dept. O/E	3-01-25-265-020		\$4,254.01
TOTAL		\$ 4,254.01	\$4,254.01

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED**

Resolution #046:2'2024: Approval of Bills and Claims**OFFERED BY:** Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

At a regular meeting of the Mayor and Council of the Borough of Alpine held on February 28, 2024 to approve the bills and claims as outlined in the Finance Report.

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED****TAX ASSESSOR'S REPORT** Report on file.**MAYOR'S REPORT**

- Building Department Personnel: Resignation received from David Nizborski and a resolution to appoint a temporary replacement appears on consent agenda.
- Bergen County Board of Taxation provided annual figure of what Palisades Interstate Park Commission lands would owe Alpine if not tax exempt: \$4,652,465.00 which is almost the town's entire budget. They are happy to have the public be able to enjoy that land in perpetuity.
- The Governor announced his proposed \$55.9 billion budget representing a 3% increase and providing for a full pension payment, increased school aide and a \$134 million decrease in municipal aide. The budget now goes to the legislature where municipalities will make their needs known.
- Assembly Bill No. 4 proposing to overhaul affordable housing passed on February 12 and now goes to The Senate Committee on Budgets and Appropriations. Although amended from the original version the NJ League of Municipalities still finds the proposal problematic for municipalities and in need of further amendment. The committee meeting date may be March 14. The Senate break begins March 18. An opinion resolution is listed on the consent agenda.

REPORT OF THE STANDING COMMITTEES**Administration Department** No report**Building Department** Councilman Kupferschmid: 54 scheduled inspections, 5 tree permits, 1 soil moving application and 4 zoning review applications. The report is on file.**Department of Public Works** The Mayor read the report and commended DPW's work on clearing roads after ice and snow storms. They continue with COAH repairs which continue to take up an increasing portion of their time.**Fire Department** Councilwoman Gerstein advised statistics available for review.**Police Department** Chief Kent present. 35 motor vehicle summonses issued. Report is on file.**Resolution #047:02'2024: Accepting the Reports of the Standing Committees****OFFERED BY:** Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

At the regular meeting of the Alpine Mayor and Council held on February 28, 2024 to accept the reports of the Standing Committees.

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED****BOARD OF EDUCATION LIAISON'S REPORT** Councilman Kupferschmid happily recognized School Board member Shai Barbi and his wife, Keren (ASHA) present tonight. "The Magical Land of Oz" school musical is planned for April 4 & 5. Mr. Barbi discussed the ASHA fundraising gala planned for May 18 at Montammy Country Club geared to the whole community. Proceeds will benefit the School's STEM Project.

Mr. Kupferschmid also recognized George Abad, Planning and Zoning Board member who was present.

BOROUGH ATTORNEY'S REPORT Attorney Kool noted they continue to track the massive pending affordable housing legislation and will provide a summary of the impacts to planning to zoning.**BOROUGH ENGINEER'S REPORT** Mr. Frenzel advised on grant projects and with permission of the Mayor and Council responded to questions from Mr. Abad. They are pressing contractors for start dates for Glen Goin (2022 NJDOT Grant) and Marie Major Drive (2021 NJDOT Grant) Road Improvement projects. Bid packages being finalized for the Anderson Avenue Phase I (of three phases) Road Improvement Project (2023 NJDOT Grant) and the walking track funded by a DCA grant. Anderson Avenue Phase I begins at the Closter Dock Road intersection where the worst potholes are located. Phase II and II will be rebid separately.**UNFINISHED BUSINESS**

These minutes have been approved by the Mayor & Council.

Ordinance No. 824: An Ordinance Repealing Ordinance No. 725 and Chapter 10 of the Borough Code

Public Hearing: Opened to the public for comments and being none closed. Mayor Tomasko noted the state ruled the local ordinance cannot be stricter than the state standard. He noted current members have never fundraised which made the ordinance all but moot anyway.

Resolution #048:02'2024: Adoption of Ordinance No. 824: An Ordinance Repealing Ordinance No. 725 and Chapter 10 of the Borough Code

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

at a regular meeting of the Mayor and Council of the Borough of Alpine, held on February 28, 2024

BE IT RESOLVED, by the Mayor and Council of the Borough of Alpine in the County of Bergen and State of New Jersey, that an Ordinance entitled:

"AN ORDINANCE REPEALING ORDINANCE NO. 725 AND CHAPTER 10 OF THE BOROUGH CODE"

does hereby pass its second and final reading and is hereby adopted and Notice of same be published according to law.

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED**

NEW BUSINESS: CONSENT AGENDA RESOLUTIONS #049:2'2024 - #057:2'2024

Mayor Tomasko commended Municipal Clerk Wehmann noting that while the Consent Agenda requires only one vote individual resolutions represent a significant amount of work and communication with contributing officials.

Resolution #049:2'2024: Approval of Minutes Regular Meeting February 1, 2024

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

At the regular meeting of the Alpine Mayor and Council held on February 28, 2024 to approve the Regular Meeting Minutes of February 1, 2024.

VOTE: AYES: Bosworth, Gerstein, Kupferschmid **Abstain:** A. Frankel, **Absent:** Cohen, V. Frankel, **MOTION APPROVED**

Resolution #050:2'2024: Authorizing Sale of Solar Renewable Energy Credits (S-RECS)

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

at a regular meeting of the Mayor and Council of the Borough of Alpine held on February 28, 2024

WHEREAS, the Borough of Alpine has certain photovoltaic equipment that generates electricity; and

WHEREAS, the Borough of Alpine has earned valuable Solar Renewable Energy Credits (S-RECs), in recognition of the clean energy produced by its photovoltaic equipment; and

WHEREAS, these S-RECs are not needed for public use and may therefore be sold as surplus personal property; and

WHEREAS, S-RECs may be sold through an online auction process, pursuant to the Local Unit Technology Pilot Program and Study Act, P.L. 1002, c. 30 and the regulations promulgated thereunder; and

WHEREAS, the Division of Local Government Services, within the New Jersey Department of Community Affairs, has approved the use of Flett Exchange, LLC, to conduct online auctions of S-RECs;

NOW THEREFORE BE IT RESOLVED that the Mayor and Council authorizes the sale of its current S-RECs through an online auction conducted by Flett Exchange, LLC, and

BE IT FURTHER RESOLVED that the Borough of Alpine shall publish notice of the impending sale of the S-RECs in accordance with N.J.S.A. 40A:11-36 and a certified copy of this resolution shall be forwarded to the Division of Local Government Services and the Board of Public Utilities.

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED**

Resolution #051:2'2024: Authorization for Borough Engineer to Submit Quantity Estimates for 2024 Riverside Cooperative Road Improvement Program

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

at this regular meeting of the Mayor and Council of the Borough of Alpine held on February 28, 2024

WHEREAS, list of roads and quantity estimates were due to the Riverside Cooperative by February 9, 2024 for purposes of preparation of bid specifications as part of Alpine's 2024 Road Improvement Program; and

WHEREAS, per the review of the Borough Engineer and DPW Superintendent, it is recommended that the following roads be included in the 2024 Road Improvement Program:

- **Rionda Court**
- **Main Street** (portion only-extending easterly from existing pavement edge approximately 100 feet in length)

NOW THEREFORE BE IT RSOLVED, by the Mayor and Council of the Borough of Alpine that the list and quantity estimates submitted on February 7, 2024 on behalf of the Borough of Alpine be reaffirmed and retroactively authorized.

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED**

Resolution #052:2’2024: Closter Volunteer Ambulance & Rescue Corps – LOSAP 2023

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, February 28, 2024

WHEREAS, the Borough of Alpine has established a Length of Service Award Program (LOSAP) for Alpine Fire Department and has approved an Interlocal Agreement with the Borough of Closter for the Closter Volunteer Ambulance Rescue Corps, which services Alpine, and

WHEREAS, the Borough of Alpine has received a certification from the Closter Volunteer Ambulance Rescue Corps of the annual list for the year 2023, commencing January 1, 2023 and ending December 31, 2023 of all volunteer members who have qualified for credit under the LOSAP program, and

WHEREAS, the Borough of Alpine has reviewed the said list and does hereby believe that the same should be certified.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Alpine that the following named members of the Closter Volunteer Ambulance Rescue Corps have attained the minimum number of points and therefore qualify to receive an award for the 2023 reporting year:

Joseph Akselrod	Donald Albelli	Alfred Barretta
Margaret Buchanan (formerly Baretta)	Walter Dankiewicz	Terri DeLyon (formerly Komar)
Brooke Glidden	James Gordon	Jeremy Greenfield
Ross Herbert	Richard Incontro	Elaine Kim
Haim Levy	Anthony Lupardi, Jr.	Doron Maresky
Janine Micera	Thomas Migliore	Mark Safran
Noah Shim	Emily Yoo	

BE IT FURTHER RESOLVED, that copy of this Resolution shall be posted for a period of thirty (30) days on the bulletin boards in the lobby of the Alpine Borough Hall and in the Closter Volunteer Ambulance Rescue Corps and a copy be forwarded to the Borough of Closter.

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED**

Resolution #053:2’2024: Appointment of Chief Financial Officer & Certified Tax Collector Effective June 1, 2024

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

at a regular meeting of the Mayor and Council of the Borough of Alpine held on February 28, 2024

WHEREAS, the positions of Chief Financial Officer and Certified Tax Collector will become vacant effective June 1, 2024 upon the retirement of the current CFO/CTC Marilyn Hayward on May 31, 2024; and;

WHEREAS, N.J.S.A. 40A:9-140.10 as pertains to municipal chief financial officer states the term of office shall be four years, which shall run from the January 1 in the year in which the chief financial officer is appointed and the compensation shall be separately set forth in a municipal salary ordinance; and

WHEREAS, N.J.S.A. 40A:9-142 as pertains to tax collector states every municipal tax collector shall hold his office for a term of 4 years from the first day of January next following his appointment and vacancies other than due to expiration of term shall be filled by appointment for the unexpired term; and

WHEREAS, Judith Curran has the required certifications and meets the qualifications to fill the positions of Chief Financial Officer and Certified Tax Collector;

NOW, THEREFORE, BE IT RESOLVED, that Judith Curran is hereby appointed effective June 1, 2024 to serve as the Chief Financial Officer for a term expiring December 31, 2028 and Certified Tax Collector for the unexpired portion of the current four year term ending December 31, 2024 plus the subsequent four year term. Per the above statutes both terms will expire on December 31, 2028; salaries for both positions as provided for in the salary ordinance

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED**

Resolution #054:2'2024: Opposing Assembly Bill No.4/Senate Bill No. 50, Which Proposes to Overhaul the Fair Share Housing Act ("HFA") In A Way That Imposes Unrealistic Obligations With Unrealistic Deadlines Based Upon Onerous Standards

Due to length this resolution and the corresponding Mayor's letter are appended in full to the end of these minutes.

Resolution #055:2'2024: Authorizing Second Amendment to Lease Agreement (Verizon Wireless)

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

at this regular meeting of the Mayor and Council of the Borough of Alpine held on February 28, 2024

WHEREAS, the Borough of Alpine and New York SMSA Limited Partnership d/b/a Verizon Wireless ("Verizon") entered into a Lease Agreement ("Agreement") on or about February 24, 2000, with respect to a portion of the property known as Block 11, Lot 1, located on the Westerly side of State Highway No. 1 (U.S. Route 9W);

WHEREAS, the Borough and Verizon entered into an Amendment to Lease Agreement dated May 6, 2003;

WHEREAS, the Borough and Verizon are desirous of further amendments to said Agreement;

WHEREAS, the Borough and Verizon have agreed upon terms of a Second Amendment to Lease Agreement and Memorandum of Lease, which are incorporated herein; and

WHEREAS, such Second Amendment to Lease Agreement is in the best interests of the Borough;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Alpine that, the Second Amendment to Lease Agreement and Memorandum of Lease between the Borough and Verizon be and same are hereby approved; and

BE IT FURTHER RESOLVED that the Borough of Alpine hereby authorizes the Mayor and Borough Clerk to execute the Second Amendment to Lease Agreement and Memorandum of Lease and such other documents as may be required to effectuate said

BE IT FURTHER RESOLVED that a copy of this Resolution shall be filed with the Clerk of the Borough of Alpine.

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED**

Resolution #056:2'2024: Appointment of Temporary Acting Construction Code Official / Building Subcode Official / Inspector & Plumbing Subcode Official / Inspector

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

at this regular meeting of the Mayor and Council of the Borough of Alpine held on February 28, 2024

WHEREAS, the laws of the State of New Jersey require that the Borough of Alpine appoint a Construction Code Official, Building Subcode Official/Inspector and Plumbing Subcode Official/Inspector to be responsible for the administration and enforcement of the building subcode and plumbing subcode, respectively; and

WHEREAS, there exists a need to appoint a Temporary Acting Construction Code Official, Building Subcode Official/Inspector and Plumbing Subcode Official/Inspector to provide coverage for a recent vacancy in the positions;

WHEREAS, N.J.A.C. 5:23-4.4(a)6 permits the appointment of an acting Construction Code Official, Building Subcode Official/Inspector and Plumbing Subcode Official/Inspector so as to effectuate the orderly administration of the Uniform Construction Code and other duties mandated by the Borough; and

WHEREAS, the Building Commissioner has recommended the appointment of **John Scialla** to serve as **Temporary Acting Construction Code Official Building Subcode Official/Inspector and Plumbing Subcode Official/Inspector, retroactively effective February 27, 2024;**

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Alpine, County of Bergen, State of New Jersey that John Scialla be appointed as **Temporary Acting Construction Code Official Building Subcode Official/Inspector and Plumbing Subcode Official/Inspector** for the Borough of Alpine.

BE IT FURTHER RESOLVED that the salary shall be \$200.00 per day for inspections and plan review. These temporary acting appointments shall not include any benefits. These temporary acting appointments will be for an open extension period of time subject to approval by the Department of Community Affairs.

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED**

Resolution #057:2'2024: Endorse Planning Board Approval of Soil Moving Permit – 36 Buckingham Drive B:81.04/L:3

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

These minutes have been approved by the Mayor & Council.

at a regular meeting of the Mayor and Council of the Borough of Alpine, held on February 28, 2024.

WHEREAS, Borough Ordinance 183-3D(5) lays down the procedure for review of an application for a soil movement permit in compliance with N.J.S.A. 40:20D-26b; and

WHEREAS, the application was reviewed by the Planning Board at a hearing held **December 19, 2023**, and the Planning Board laid down their written recommendation to the Mayor and Council with respect to this application in a resolution approved at their regular meeting held on **February 27, 2024** (copy attached hereto); and

WHEREAS, the Mayor and Council has examined the application and the recommendations of the Planning Board and have considered the results of the public hearing before the Planning Board;

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Alpine find that the proposed soil movement will not create conditions inimical to the public health, welfare and safety, nor create any drainage, soil erosion or other conditions of danger and

BE IT FURTHER RESOLVED that the Mayor and Council hereby approve said application subject to all conditions as laid out in the Planning Board's resolution of **February 27, 2024**.

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED**
(Planning Board Resolution Appended to These Minutes)

End of Consent Agenda

COMMUNICATIONS: WRITTEN AND ORAL None

EXECUTIVE SESSION:

Resolution #058:02'2024: Executive Session

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

At a regular meeting of the Mayor and Council of the Borough of Alpine, held on February 28, 2024

WHEREAS, the Mayor and Council of the Borough of Alpine is subject to certain requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq.; and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specified purposes when authorized by Resolution; and

WHEREAS, it is necessary for the Mayor and Council of the Borough of Alpine to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b subsection designated below:

(b)(7) Matters Relating to Pending Contract Negotiation

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Alpine, assembled in public session on June 28, 2023, that an Executive Session closed to the public shall be held for the discussion of matters relating to the specific items designated above; and

BE IT FURTHER RESOLVED, that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Borough Council that the public interest will no longer be served by such confidentiality.

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED**

The Mayor & Council entered into executive session at 7:50 PM, reconvening the public session at 8:02 PM and immediately adjourned.

ADJOURNMENT

Upon a motion by Councilman Kupferschmid, seconded by Councilwoman Gerstein and approved by all this regular meeting of the Mayor and Council adjourned at 8:03 PM.

Respectfully submitted,

Stephanie Wehmann
Municipal Clerk

**BOROUGH OF ALPINE
ORDINANCE NO. 824
AN ORDINANCE REPEALING ORDINANCE NO. 725 AND CHAPTER 10
OF THE BOROUGH CODE**

Whereas, the "Elections Transparency Act" made various changes to New Jersey's pay-to-play laws; and
Whereas, the State has now prohibited municipalities imposing pay-to-play provisions that are more restrictive than those in State law; and

Whereas, as a result thereof, Alpine is required to repeal Ordinance No. 725 and Chapter 10 of the Borough Code.

Now, Therefore, Be It Ordained by the Mayor and Council of the Borough of Alpine, that Ordinance No. 725 and Chapter 10 of the Borough Code are hereby repealed in their entirety.

Be It Further Resolved that this Ordinance shall be deemed effective immediately upon adoption and publication pursuant to law.

INTRODUCED: February 1, 2024

ADOPTED: February 28, 2024



Borough of Alpine

100 Church Street, Alpine, NJ 07620-1095

Tel: 201-784-2900 Fax: 201-784-1407

February 7, 2024

Distribution Via the Following Email Addresses

EMAILS:

For the Governor-

Complete the form and upload letter here: [Office of the Governor | Contact Us \(nj.gov\)](#)

senscutari@njleg.org

asmcoughlin@njleg.org

sensingleton@njleg.org

asmlopez@njleg.org

RE: A4/S50

Dear Governor Murphy, Senate President Scutari, Assembly Speaker Coughlin, Chairman Troy Singleton of Senate Community And Urban Affairs Committee And Members of The Committee, Chairwoman Yvonne Lopez And Members of The Housing Committee of The Assembly:

I am submitting this letter regarding A4/S50 which, among other things, abolishes the Council on Affordable Housing (“COAH”) and substitutes both the DCA and the judicial mediation process to resolves disputes. The **Borough of Alpine** has engaged in the judicial process in finally obtaining its Judgment of Compliance and Repose (“JOR”) and the process took years to complete, taxed the resources of the **Borough of Alpine** and caused the expenditure of significant taxpayer dollars. Many municipalities have strained very hard to comply, but the Bill appears to be oblivious to the strains of compliance with Round 3 and apparently no effort has been made to assess how the impact of compliance with Round 3 obligations in the Round 4 time period will affect the ability of municipalities to address their Round 4 responsibilities.

In my view, the enactment of A4/S50 will seriously exacerbate a difficult situation instead of facilitating a balance. I would highlight the following problems:

- By imposing unrealistic and punitive timing requirements, the Bill punishes municipalities seeking to comply by stripping them of immunity far more easily than under existing laws -- which requires proof that the municipality is determined to be constitutionally noncompliant to warrant loss of immunity.
- The Bill disincentivizes voluntary municipal compliance by damaging the value of securing approval of an affordable housing plan by subjecting the municipality to still more litigation.
- The Bill exposes the **Borough of Alpine** to challenges to its fair share even if it accepts the affordable housing obligation assigned by the DCA.

- The Bill substitutes(a) three to seven retired judges who will review and decide objections within an unrealistic 30-day period under unknown and undefined “objective” standards for (b) a balanced agency, made up of four representatives of municipalities and four representatives of low and moderate income households and that is evenly split politically.
- The Bill appears to make municipalities somehow responsible if they zone as required and developers choose not to secure approvals and build inclusionary projects.
- The Bill eliminates the current 2 for 1 bonus credits for family rental projects upon which municipalities have relied for decades and replaces this longstanding standard with a complex highly conditioned bonus scheme.
- The Bill creates unrealistic obligations for vacant land municipalities.
- The Bill imposes obligations without regard to the demands of the marketplace and then punishes municipalities for failure to meet unrealistic obligations.
- The Bill ignores the impact of the massive development it would precipitate on the environment, school systems, fire and safety needs, traffic, sewer and water, the loss of nonresidential development and other legitimate public concerns.

There are many more impacts that also need to be addressed. As Mayor of the **Borough of Alpine**, I urge you to reject the Bill in its current form. While nobody disputes that we could improve our affordable housing laws, A4/S50 is not the answer.

Finally, the attached resolution further details our concerns with the Bill. It is on the agenda for **Wednesday, February 28, 2024.**

Thank you for your consideration.

Respectfully,

Mayor Paul H. Tomasko
Borough of Alpine

Resolution #054:2'2024: Opposing Assembly Bill No.4/Senate Bill No. 50, Which Proposes to Overhaul the Fair Share Housing Act (“HFA”) In A Way That Imposes Unrealistic Obligations With Unrealistic Deadlines Based Upon Onerous Standards

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Kupferschmid

at a regular meeting of the Mayor and Council of the Borough of Alpine held on February 28, 2024

WHEREAS, in 1983, the Supreme Court decided a landmark case, commonly referred to as Mount Laurel II, wherein it created an easy standard for developers to satisfy to secure a “builder’s remedy” and also established standards to provide general guidance to the newly appointed Mount Laurel judges as to an appropriate fair share formula; and

WHEREAS, the State exploded with builder’s remedy lawsuits in the wake of Mount Laurel II seriously depriving many municipalities of their home rule power to zone and control their destiny; and

WHEREAS, in 1984, Judge Serpentelli decided the AMG case in which he established a fair share formula that generated high fair share responsibilities that were widely regarded as grossly excessive; and

WHEREAS, the combination of the avalanche of builder's remedy lawsuits precipitated by Mount Laurel II and the grossly excessive fair share responsibilities generated by the AMG formula fueled a movement for a legislative response to the Mount Laurel doctrine; and

The Fair Housing Act of 1985

WHEREAS, a week after Judge Serpentelli issued the AMG decision, committees of the Legislature started to meet to develop affordable housing legislation; and

WHEREAS, the legislators on both sides of the aisle recognized that any legislation had to be bi-partisan to work; and

WHEREAS, those efforts culminated in the adoption of the Fair Housing Act ("FHA") by both houses early in 1985; and

WHEREAS, on July 2, 1985 -- less than a year after Judge Serpentelli decided the AMG case -- former Governor Kean signed the New Jersey Fair Housing Act ("FHA") into law to curb the excesses caused by Mount Laurel II and to restore balance to legitimate public purposes; and

WHEREAS, more specifically, the Legislature enacted the FHA to restore home rule, to bring the fair share numbers back to reality and to reduce the burdens of Mount Laurel compliance; and

WHEREAS, more specifically, the FHA sought to restore home rule by imposing a moratorium on the builder's remedy and by providing an administrative process that municipalities could voluntarily pursue wherein they would be insulated from developers seeking builder's remedies to try to compel them to capitulate their zoning demands; and

WHEREAS, the FHA sought to bring the fair share numbers back to reality by among other things defining the prospective need as the need "based on development and growth which is reasonably likely to occur" and by calling for the fair share to be adjusted to a number lower than the fair share formula generated if the municipality lacked sufficient land to satisfy the obligation generated by the fair share formula; and

WHEREAS, the FHA sought to reduce the burdens on municipalities by prohibiting any requirement for municipalities to expend their own resources to comply; and

The New Jersey Council on Affordable Housing

WHEREAS, the FHA created COAH and conferred "primary jurisdiction" on COAH to administer the FHA and to implement the affordable housing policies of our State; and

WHEREAS, FSHC argued "that COAH's enabling legislation established such a delicate balance of control, as evidenced not only by its use of the phrase "in but not of," but also by its detailed attention to the composition of its Council. Accordingly, the Legislature could not have intended to allow the Governor to unilaterally disrupt that balance" *In re Plan for Abolition of Council on Affordable Hous.*, 424 N.J. Super. 410, 419-420(App.Div.2012) 419-420; and

WHEREAS, COAH adopted regulations for Round 1 in 1986 and for Round 2 in 1994 to implement the FHA and processed applications by municipalities for approval of their affordable housing plans in accordance with the regulations it adopted; and

WHEREAS, all acknowledged -- even Fair Share Housing Center ("FSHC") -- that COAH functioned just fine in Rounds 1 and 2; and

WHEREAS, the regulations COAH adopted in Round 2 made the obligations for Rounds 1 and 2 cumulative and adjusted the cumulative number downwards because the State did not grow as much as was anticipated in Round 1; and

WHEREAS, COAH's new construction obligation for Rounds 1 and 2 **averaged 5,034.5 units per year**, or 50,345 units for every 10 years as noted in 36 N.J.R. 5748(a) (November 22, 2004), COAH's comment regarding 5:94: Appendix A; and

WHEREAS, COAH's Round 1 and/or 2 regulations permitted a 1-for-1 rental bonus credit for up to 25% of the obligations and provided flexible standards for adjustments predicated upon lack of adequate vacant developable land; and

WHEREAS, the same expert who calculated the Round 2 obligations provided a technical appendix in 2014 when COAH proposed regulations for Round 3; and

WHEREAS, COAH's expert in 2014 calculated a prospective need obligation (then 2014-2024) of less than 40,000 units for the 10-year cycle, plus roughly an additional 23,000 units for the "gap" which were to be phased in between 2014-2034 due to concerns over what could be reasonably anticipated as a result of market absorption; and

WHEREAS, housing advocates attacked the regulations COAH adopted for Round 3 the first time it adopted them in 2004, the second time it adopted them in 2008 and the third time it proposed them in 2014, thereby crippling COAH's ability to certify the plans that municipalities petitioned COAH to approve because the FHA required that COAH only certify municipalities consistent with its regulations; and

WHEREAS, COAH's inability to certify Round 3 plans severely limited the production of affordable housing in Round 3 because COAH found itself fending off attacks instead of certifying affordable housing plans that municipalities could implement; and

Mount Laurel IV

WHEREAS, in 2015, the Supreme Court issued a decision, commonly referred to as Mount Laurel IV, in response to a motion to transfer the responsibilities of COAH back to the courts; and

WHEREAS, in Mount Laurel IV, the Supreme Court returned the task of implementing the doctrine back to the Courts because COAH had failed to do its job; and

WHEREAS, notwithstanding the foregoing, the Court emphasized that it preferred the administrative remedy created by the FHA to a judicial one and hoped that one day COAH would be effective so that towns could comply once again through the administrative process created by the FHA; and

WHEREAS, transferring the implementation of the doctrine from COAH back to the courts deprived the citizens of our State of an evenly balanced administrative body with four representatives of municipalities and four representatives of low- and moderate-income ("LMI") households adopting regulations consistent with the FHA and processing petitions for substantive certification; and

WHEREAS, the Court process proved to be far more expensive than the COAH process and was ill-suited for resolving comprehensive planning disputes over affordable housing; and

WHEREAS, even municipalities that complied voluntarily in the newly minted court process were subject to intervention from developers, who were then able to leverage the process, litigate the municipalities into the ground, and often obtain site-specific rezoning contrary to one of the overriding public purposes of the FHA; and

WHEREAS, the judicial process the Supreme Court fashioned in Mount Laurel IV required municipalities to spend municipal resources not only on their own attorneys and planners, but also on Court appointed masters in a litigation process that was much more expensive than the administrative process the legislature established in the FHA; and

WHEREAS, as if that was not bad enough, FSHC routinely demanded that municipalities make a payment to them; and

WHEREAS, the Round 3 process was a disaster with judges pressing municipalities to comply before even establishing the obligations with which they must comply; and

WHEREAS, ultimately, on March 8, 2018, after a 41-day trial in Mercer County, Judge Jacobson issued an opinion in which she set forth a fair share methodology; and

WHEREAS, in that trial and in various other instances throughout the state, FSHC took the position that the Statewide obligation should exceed 300,000 affordable units to be produced between 2015 and 2025; and

WHEREAS, municipalities, through Dr. Robert Powell, presented evidence that the State could only absorb less than 40,000 affordable units, in a best case scenario, and thus argued that FSHC's calculations was not grounded in reality whatsoever; and

WHEREAS, the Court, having been constrained by the Supreme Court to prescriptively utilize a formula from 1993, ultimately concluded that the Statewide obligation to be constructed between 2015-2025 was roughly 153,000 units; and

The 354 Settlements with FSHC

WHEREAS, FSHC reports that it entered 354 settlements in Round 3; and

WHEREAS, many municipalities are reeling under the burden of satisfying their obligations under those settlements entered between 2015 and 2023; and

WHEREAS, Round 4 is set to begin in 2025 and there is no comprehensive analysis on the impacts of the 354 Round 3 settlements and over-zoning described above; and

WHEREAS, indeed, the A4/S50 Bill fails to consider the impact from affordable housing projects that were approved during the Third Round, but are still not yet under construction, as said projects, as well as additional future projects, will impact legitimate public concerns like infrastructure, the environment, schools, traffic, parking and open space; and

WHEREAS, the Round 3 process destroyed the balance achieved by the Fair Housing Act in 1985; and

A-4/S-50

WHEREAS, against the above backdrop, on December 19, 2023, the Housing Committee of the Assembly unveiled the Legislation(A-4) that it stated it had been working on for along time and scheduled the bill for a vote at a hearing scheduled less than 24 hours later; and

WHEREAS, on December 19, 2023, the Administrative Office of the Courts wrote to the Legislature and made clear that it could not structure the bill in the manner set forth in the proposed legislation; and

WHEREAS, notwithstanding the foregoing, the Housing Committee of the Assembly voted the bill out of Committee and announced that the bill needed to be ready for signing by the Governor before the end of the lame duck session on January 8, 2024; and

WHEREAS, the bill was not rammed through in the lame duck session and on January 16, 2024, the Legislature released a new version of the bill, Assembly Bill No. 4/Senate Bill No. 50 (hereinafter the "A4/S50" or "the Bill"); and

WHEREAS, A4/S50 Bill seeks to abolish the Council on Affordable Housing ("COAH") and purports to reform municipal responsibilities concerning the provision of affordable housing and

WHEREAS, the Bill would purportedly reduce litigation and municipal expenses; and

WHEREAS, A4/S50 details the methodology to be used for determining the fair share numbers of municipalities in Round 4 and in subsequent rounds; and

WHEREAS, the Bill is premised on the proposition that 40 percent of all households qualify as low or moderate; and

WHEREAS, A4/S50 calls for the determination of the prospective need by subtracting the number of households reported in the 2010 Decennial Census from the number of households reported in the 2020 Decennial Census and multiplying that figure by 40 percent; and'

WHEREAS, we calculate that number to be 84,690;

WHEREAS, A4/S50 calls for that number to be adjusted by the number of conversions and demolitions; and

WHEREAS, the statewide fair share would be increased from 84,690 to 96,780, if we assume the same number of demolitions and conversions used by Judge Jacobson in her formula for Round 3; and

WHEREAS, the 96,780 fair share compares to the roughly 211,000 COs issued between 2010 and 2020; and

WHEREAS, the 96,780 fair number divided by 211,000COs equals roughly 46 percent (45.867 percent to be more precise); and

WHEREAS, all municipalities should be able to cure any violations of the prohibition against exclusionary zoning with inclusionary zoning; and

WHEREAS, traditional inclusionary zoning ordinances generally require no more than 20 percent of the units to be affordable; and

WHEREAS, it is mathematically impossible to satisfy a 46 percent problem with a 20 percent solution and, therefore, the number generated by the statutory formula is patently excessive; and

WHEREAS, while this mathematical error conceptually may have existed at COAH, COAH utilized its discretion to reduce the statewide number to roughly 5,000 units per year in Rounds 1-2 (or lower for prospective need in its attempted regulations in 2014); and

WHEREAS, in addition, COAH's Round 2 regulations had flexible standards, Regional Contribution Agreements (RCAs), an achievable bonus structure, waivers and other flexible standards to further mitigate the problem; and

WHEREAS, had COAH not mitigated the problem, it is likely that the regulations would have been challenged by municipalities; and

WHEREAS, A4/S50 also, systemically, calcifies the Court process and indeed makes critical changes which severely prejudice municipal interests and undercut the incentive to comply voluntarily; and

WHEREAS, in stark contrast to current laws that preserve a municipality's immunity in the absence of proof that the municipality is "determined to be constitutionally noncompliant", A4/S50 creates multiple opportunities to strip municipalities of immunity and expose them to litigation; and

WHEREAS A4/S50 subjects municipalities to litigation not only as they seek approval of their Housing Element and Fair Share Plans, but also even after they secure approval of those plans; and

WHEREAS, more specifically, while A4/S50 provides municipalities a "compliance certification" if the municipality secures approval of its affordable housing plan, that certification only protects municipalities from builder's remedy lawsuits-not from exclusionary zoning lawsuits by FSHC or anyone else who is not seeking a builder's remedy; and

WHEREAS, in stark contrast to the goal of A4/S50 to reduce litigation, A4/S50 dramatically proliferates litigation by providing many opportunities to sue the subject municipality and through other means; and

WHEREAS, even if a municipality, via the adoption of a resolution, accepts the Fourth Round affordable housing obligation numbers that will be promulgated by the Department of Community Affairs (the "DCA") under the A4/S50 Bill, there is still a risk that the affordable housing obligation numbers will increase during the subsequent process required by the bill, as both housing advocates like FSHC and developers can subsequently challenge the fair share number the municipality accepts; and

WHEREAS, the A4/S50 Bill creates a judicial entity made up of 3-7 retired Mount Laurel judges called "The Program", which, unlike COAH, is not comprised of an equal number of municipal and housing representatives, and is not made up of an equal number of Republicans and Democrats, thereby depriving the citizens of our State of the carefully crafted COAH Board that included a diversity of interests and that was the centerpiece of the FHA adopted in 1985; and

WHEREAS, the A4/S50 Bill does not require the promulgation of affordable housing obligations, or the adoption of substantive regulations, in a way that utilizes an open and transparent process that COAH used and that gave all interested parties an opportunity to comment and receive COAH's response to their comments; and

WHEREAS, the A4/S50 Bill reduces, and in some cases completely eliminates affordable housing bonus credits, and creates an overcomplicated and difficult process to obtain the bonus credits that are still available under the bill; and

WHEREAS, the initial version of the A4/S50 Bill allowed for municipalities to utilize age -restricted affordable units to satisfy up to thirty-three percent (33%) of its Fourth Round obligation in recognition that roughly 33 percent of the demand for affordable housing came from this age group; however, the current version of A4/S50 unfairly and unceremoniously reduced the cap on age-restricted housing down to twenty-five (25%); and

WHEREAS, the Legislature previously capped the fair share of any municipality down to 1,000 in recognition that any obligation above 1,000 would be "onerous"; A4/S50 applies the 1,000-unit cap only to a component of the municipality's fair share -- the prospective need --and authorizes the imposition of an obligation that is onerous; and

WHEREAS, the A4/S50 Bill creates unfair requirements and ambiguity when it comes to the Vacant Land Adjustment process, which could lead to municipalities that lack sufficient vacant land being required to produce more affordable housing units than is practical; and

WHEREAS, the A4/S50 Bill includes many other provisions and changes to the FHA that are impractical and devoid of any consideration of the burdens created by the statute; and

WHEREAS, the Office of Legislative Services (OLS) has not evaluated the formula required by the A4/S50 Bill for calculating a municipality's Fourth Round or Prospective Need Obligation for its magnitude or reasonableness; and

NOW, THEREFORE, BE IT RESOLVED, that for all of the above reasons, the Mayor and Council of the Borough of Alpine, objects to and opposes Assembly Bill No. 4/Senate Bill No. 50, and requests that the bill be tabled, re-written and re-introduced in way that imposes achievable obligations and facilitates the ability of the municipality to satisfy its obligations.

NOW, THEREFORE, BE IT RESOLVED, this resolution reaffirms that on February 7, 2024 the Mayor of the Borough of Alpine sent a letter {copy of appended below} to the attention of Governor Murphy, Senate President Scutari, Assembly Speaker Coughlin, Chairman Troy Singleton of Senate Community And Urban Affairs Committee And Members of The Committee, Chairwoman Yvonne Lopez And Members of The Housing Committee of The Assembly urging rejection of the Bill in its current form.

A certified copy of this resolution shall be sent to the Legislators in the State Assembly and Senate representing our District.

VOTE: AYES: Bosworth, A. Frankel, Gerstein, Kupferschmid **Absent:** Cohen, V. Frankel, **MOTION APPROVED**

ALPINE PLANNING BOARD**RESOLUTION**

**ZHANNA TORRES
BLOCK 81.04, LOT 3
36 BUCKINGHAM DRIVE**

BE IT RESOLVED, by the Planning Board of the Borough of Alpine that the following Procedural History, Findings of Fact and Conclusions of Law are hereby adopted in reference to this matter.

PROCEDURAL HISTORY

An application was made before the Alpine Planning Board by Zhanna Torres (hereinafter "Owner" and "Applicant") as owner of the referenced property for site plan approval and a major soil movement permit for a volume of soil exceeding 1,000 cubic yards which requires Planning Board approval. The Applicant proposes to make several improvements to the property including two covered porches to be annexed to the existing dwelling that is currently under renovation, a two-car garage, cabana, a covered in-ground swimming pool, two-tiered retaining walls, and other site appurtenances. The property is located within the Borough's R-A Zone on the northerly side of Buckingham Drive approximately midway between Anderson Avenue to the west and Old Quarry Road to the northeast. The Applicant requires general site plan approval and a permit for major soil movement in excess of 1,000 cubic yards.

The application was deemed to be substantially complete by the Borough Engineer and was referred to the Planning Board for placement on its agenda.

Proof of compliance with the notice requirements of the Borough soil movement ordinance was provided to the satisfaction of the Board Secretary.

The application was heard by the Planning Board on December 19, 2023. Douglas Doyle, Esq. of DeCotiis, FitzPatrick, Cole & Giblin LLP presented the application on behalf of the Applicant. Tibor Latinesics, P.E., P.P. of Conklin Associates testified as an expert in civil engineering in support of the application. Board Engineer, Perry Frenzel, P.E., P.P. also provided comments.

FINDINGS OF FACT

1. The Board considered the following materials:
 - Application for Zoning Review, dated November 9, 2023;
 - Application for Soil Moving Permit and Checklist for Determination of Completeness for Review of Application for Soil Moving Permit, dated February 24, 2023;

- Plan titled “Survey, Lot 3 – Block 81.04, 36 Buckingham Drive, Borough of Alpine, Bergen County, New Jersey for Zhanna Torres,” dated April 29, 2023, prepared by Conklin Associates;
 - Plan titled “Cabana & Pool Plot Plan, Soil Erosion & Sediment Control Plan, Lot 3 – Block 81.04, 36 Buckingham Drive, Borough of Alpine, Bergen County, New Jersey for Zhanna Torres,” dated February 2, 2023, last revised April 26, 2023, prepared by Conklin Associates;
 - Architectural Plans titled “Proposed Alteration/Re-Build, 36 Buckingham Drive, Alpine, N.J.,” dated October 4, 2021, prepared by Joseph M. Donato, A.I.A.
2. A total soil moving volume of 4,853 cubic yards is proposed, of which 4,444 cubic yards will be exported from the site.
 3. Douglas Doyle, Esq. appeared on behalf of the Applicant. He stated that this application is for Soil Moving Permit approval. Mr. Doyle called Tibor Latincsics, P.E., P.P. of Conklin Associates, as an expert witness.
 4. Mr. Latincsics was sworn in and accepted by the Board as an expert in the field of civil engineering. Mr. Latincsics stated that the Applicant proposes rear yard grading to construct a pool, cabana, and a detached two-car garage. Additionally, two covered porches are proposed to be annexed to the existing dwelling which has been undergoing extensive renovations for the past year.
 5. Mr. Latincsics stated that the land slopes significantly downward from the rear lot line to Buckingham Drive, dropping about 66 feet. He stated that because of the topography, there is presently no rear yard, and creating a level backyard area for the proposed pool and accessory structures will require removal of a significant amount of soil and construction of a two-tier retaining wall with each tier being 6 feet tall.
 6. The Landscape Plan prepared by HK1a Landscape Architects indicates 25 trees to be removed and 51 trees to be planted, in addition to extensive landscaping.
 7. Mr. Latincsics stated that a trench drain is proposed at the base of the driveway. He stated that two seepage pits and a series of inlets at the base of the retaining wall will connect to an existing storm sewer that runs along the northern sideline, which will be an improvement in terms of stormwater management.
 8. At this time, Mr. Latincsics took questions from the Board including how far the bank is from the rear property line, the number of garage doors, and the height of the cabana.
 9. Mayor Tomasko asked if there are two separate septic systems on the property. Mr. Latincsics confirmed that there is one to the south of the home and the second is below the driveway. The Mayor asked if the septic system has been checked for proper operation. Mr. Latincsics responded that the bedroom count is not changing and the size of the fields is adequate, but there will be the customary maintenance and upgrades.

10. Ms. Herries asked for clarification regarding the waiver requested to allow disturbance of slopes steeper than 35%. Mr. Latincsiacs stated that as a practical matter there is no other alternative; there is no backyard, so in order to grade the property and create yard space, the Applicant will require a waiver. Mr. Latincsiacs noted that the area will be protected with the two-tier walls. He stated that calculations will be provided to the Borough Engineer and are subject to inspection by a third party with that information also provided to the Borough Engineer.
11. At that time, the meeting was opened to the public for questions and comments.
12. Joseph Perneti, an adjacent property owner, stated that he has resided at 32 Buckingham Drive with his wife, Marie, for 47 years. He stated that in 2022, they had had an extreme amount of water inundate their property which required extensive repair. He stated that in all of the years that they have lived there, they have had no prior problems. Mr. Perneti's son, who was also in attendance, added that there was never a problem prior to the construction at the Applicant's property and that the issue must be rectified.
13. Mayor Tomasko asked Mr. Perneti where his property is in relation to the Applicant's property. Mr. Perneti stated that he is on Lot 4, which is next door to the Applicant's property. Mr. Latincsiacs pointed out on the map that Mr. Perneti's property is uphill from the Applicant's property and that the water from the Applicant's property flows to the north, not to the south toward Mr. Perneti's property, suggesting that it may be coming from another site.
14. Sandra Nudelman, a resident of 10 Cassandra Drive, asked if the velocity of the water will change dramatically as a result of the proposed construction. Mr. Latincsiacs responded that the water will be intercepted by crushed stone behind the wall and piping at the base of the wall, so the velocity will not increase.
15. Mayor Tomasko asked for clarification regarding whether the construction at the Applicant's property has any bearing on the issues Mr. Perneti is experiencing on his property. Mr. Doyle responded that per the engineer, the water does not flow from the Applicant's property to Mr. Perneti's property. Mayor Tomasko noted that many residents are experiencing more run-off in the last couple of years than ever before due to the inordinate weather events.
16. The Mayor added that one thing we can do to help Mr. Perneti would be to invite the Board Engineer to look at the property to see where the water is coming from and what can be done about it. There were no objections from the Board, and Borough Engineer Frenzel agreed to follow up. Mr. Doyle stated that if anything happens inadvertently, the Applicant will do whatever he can and work with Mr. Latincsiacs to make sure the situation is corrected.
17. The Board concluded that the application as set forth on the submitted plans could be granted and the application approved subject to the conditions set forth below.

CONCLUSIONS

Upon hearing the testimony produced on behalf of the Applicant and studying the exhibits and other materials submitted, the Planning Board voted to approve the soil movement permit application including the waiver for soil movement in excess of 1,000 cubic yards, the waiver for disturbance of steep slope, and site plan approval concluding that such approval shall not adversely affect the Borough or substantially impair the intent and purpose of Chapter 185 of the Borough of Alpine Code, Soil Fill and Soil Removal, subject to Mayor and Council approval, and also subject to the following:

- A. Compliance with the conditions set forth in the list of recommendations in the engineering report of Perry E. Frenzel, P.E., P.P., dated December 4, 2023, a copy of which is annexed hereto and incorporated by reference.
- B. If applicable, prior to the commencement of any construction activity, the Applicant's Design Engineer shall provide a Certification indicating that the Stormwater Management Plan for the proposed improvements has been prepared in accordance with the current guidance from the New Jersey Department of Environmental Protection ("NJDEP"), and will not result in any increase when the pre-construction and post-construction projected stormwater impacts to adjoining properties are compared.
- C. If applicable, all Soil Testing for Stormwater Management Facilities shall be in full accordance with the protocols set forth in the NJDEP's Stormwater Management Regulations. A full printed report with all required information shall be provided to the Borough for review in conjunction with the proposed Stormwater Management Plan for the site.
- D. The Applicant shall make any necessary upgrades to the existing septic system to ensure proper operation.
- E. If applicable, a copy of drainage system shop drawings and acceptance by the Applicant's engineer shall be submitted to the Borough for review prior to installation.
- F. If applicable, prior to any disturbance of the site, the upland limit(s) of the wetlands/transition area shall be clearly "flagged" in the field to attempt to prevent any disturbance thereof, or discharge of unmanaged stormwater during the construction process.
- G. Applicant shall comply with all applicable special requirements in connection with any blasting to be performed on the property.
- H. Permits for tree removal must be obtained prior to any trees being cut down and removed.

- I. All fees, costs, bonds, and escrows shall be paid when due or becoming due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
- J. All representations made by Applicant or his agents shall be deemed conditions of this approval and any misrepresentations by Applicant contrary to the representations made before the Board shall be deemed a violation of this approval.
- K. The action of the Planning Board in approving this application shall not relieve the Applicant of responsibility for any damages caused by this project, nor does the Planning Board of the Borough of Alpine, or its reviewing professionals and agencies, accept any responsibility for design of the proposed improvement or for any damages that may be caused by this development.

This Application was approved by the Planning Board at its regular meeting on December 19, 2023 upon motion of Ms. McGuire and seconded by Ms. Gerstein upon the roll call as follows:

Ayes: Mr. Abad, Mr. Cybul, Ms. Gerstein, Ms. McGuire, Ms. Parilla, Mayor Tomasko
 Nays: Ms. Herries
 Absent: Ms. Cochi, Ms. Mattes, Ms. Sonpal

This Resolution constitutes a Resolution of Memorialization of the action taken by the Planning Board of the Borough of Alpine on December 19, 2023 and adopted on February 27, 2024 upon the motion of Paul Tomasko and seconded by Gayle Gerstein by a vote of 7 Ayes and 0 Nays.

Catherine Parilla
 CATHERINE PARILLA, Chairperson

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the Applicant, Borough Clerk, Construction Code Official and Zoning Officer of the Borough of Alpine.

I do certify that this is a true and correct copy of the Resolution as adopted by the Planning Board of the Borough of Alpine, County of Bergen and State of New Jersey in the within Application.

Marilyn Hayward
 MARILYN HAYWARD, Secretary