

**ALPINE MAYOR AND COUNCIL
REGULAR MEETING
Wednesday, June 24, 2015 @ 7:30 P.M.
Borough Hall - 100 Church Street**

CALL TO ORDER/ PUBLIC ANNOUNCEMENT/PLEDGE OF ALLEGIANCE

The Mayor and Council, Borough of Alpine, convened for this Regular Meeting on Wednesday, June 24, 2015 at 7:30 P.M. in the Alpine Borough Hall. The Public Announcement was read and the Pledge of Allegiance recited.

In accordance with the provisions of the New Jersey Open Public Meetings Law, the notice of this Regular Meeting held Wednesday, June 24, 2015 has met the requirements of the law by being published in The Record as part of the Annual Notice, posted on the bulletin board of the lobby in the Borough Hall and a copy filed in the office of the Borough Clerk. This meeting was recorded in its entirety.

ROLL CALL

Paul Tomasko, Mayor	Present	Vicki Frankel, Council President	Present
Michael Cacouris, Councilman	Present	Gayle Gerstein, Councilwoman	Present
John Halbreich, Councilman	Present	Laurence Shaddek, Councilman	Present
Arthur Frankel, Councilman	Present		

Staff Present on Dais: Borough Engineer Gary Vander Veer, Borough Attorney Russ Huntington, Acting Municipal Clerk Nancy Wehmann

PUBLIC COMMENTS

Gary W. Whyte, 289 Old Tote Road, Mountainside, NJ requested consideration of a proclamation or resolution to help raise awareness about Fibrodysplasia Ossificans Progressiva (F.O.P.) a rare genetic condition. He became involved back in 2002 when a friend's child was diagnosed and, locally, a girl from Fort Lee is severely affected by this illness. His family raises money for research at the University of Pennsylvania. A drug to potentially treat the disease is now in clinical trials. With this awareness initiative they hope to obtain resolutions or proclamations from all 565 NJ municipalities to be archived with the NJ Historical Society. They have obtained from 426 towns. Mayor Tomasko explained the Borough receives many such requests, thanked Mr. Whyte for bringing this to their attention personally and asked how Council wished to proceed. Councilman Frankel and Councilman Cacouris asked that the Mayor and Council be copied on Mr. Whyte's info for consideration at the next meeting.

REPORT OF THE FINANCE COMMITTEE A copy is on file in the Borough Clerk's office. Mayor Tomasko thanked Treasurer Marilyn Hayward for including a copy of the budget through the first quarter with the Finance Report.

Bank Of America Current Operating Acct

\$2,000,411.73

Resolution #136:6'2015: Approval of Bills and Claims

OFFERED BY: Councilman Cacouris **SECONDED BY:** Councilwoman Frankel

at the regular meeting of the Alpine Mayor and Council held on Wednesday, June 24, 2015 to approve the bills and claims, a copy of which are appended.

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shaddek

MOTION CARRIED

Resolution #137:6'2015: Approve Return of Bonds and/or Escrow

OFFERED BY: Councilman Cacouris **SECONDED BY:** Councilwoman Frankel

at the regular meeting of the Alpine Mayor and Council held on Wednesday, June 24, 2015 to approve the return of the following bonds and escrow subject to review and approval by the Borough Engineer.

<u>Name</u>	<u>Block/Lot</u>	<u>Type</u>	<u>Amount</u>
Park, Fa Y. & Hyeran	74/7	Escrow	\$812.75
Green, Mr. & Mrs. Jay	72/19	Driveway Escrow	\$166.25
Taub, Mr. & Mrs. Ira	49/31	Driveway Escrow	\$86.00
Zahedi, Mr. & Mrs. T.	39.01/9.06	Escrow	\$316.00
Fox, Mr. & Mrs. R	39.01/9.15	Escrow	\$298.05
Kim, John Chong	79.03/8.01	Escrow	\$822.75
Stio, Raul	30/10	Escrow	\$339.50
Zelenov, Mr.	81.04/18.07	Escrow	\$1,325.50
Wist, Andrew	39.02/17	Escrow	\$668.75
Lerner, Mr. & Mrs.	90/3.011	Revegetation Bond	\$3,500.00
		Performance Bond	\$10,479.38
		Escrow	\$2,160.75
Suzuki, Mr. & Mrs. Y.	70/16	Tree Bond	\$300.00
Walker, Robert	71/22	Escrow	\$2,841.75
		Escrow	\$214.75
TOTAL:			\$24,332.18

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shaddek

MOTION CARRIED

Tax Assessor's Report. On file.

MAYOR'S REPORT The Mayor reported on the following:

- Letter from Board of Education President Philip Simotas citing need for additional parking at Alpine School. As much of the land available for parking is controlled by the Borough and not the Board of Education he wants to work with the governing body to address this issue. Mayor Tomasko acknowledged receipt of the letter and advised Mr. Simotas that on June 9th he discussed the issue with the Borough Engineer, DPW Superintendent and (via phone) School Superintendent. As a result the Mayor asks Council to authorize the Borough Engineer to review and provide recommendations.

Resolution #138:6'2015: Authorizing The Borough Engineer To Review and Provide Recommendations on Options for Increasing School Parking

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilwoman Frankel
at this regular meeting of the Alpine Mayor & Council, County of Bergen, State of New Jersey held on June 24, 2015

BE IT RESOLVED by the Mayor and Council of the Borough of Alpine that the Borough Engineer is hereby authorized to review options to increase school parking.

Vote: Ayes: V. Frankel, Gerstein, Halbreich, A. Frankel, Shaddek **Nays:** Cacouris

- Letter from Memorial Day Grand Marshall Eric McGuire: "I am writing to thank you again for the great honor bestowed upon me and my family by naming me as the Grand Marshall of the Memorial Day parade for 2015. I had a thoroughly enjoyable time made all the more special by the opportunity I had to share the honor with my family and grandchildren. The USS New Jersey served as the flagship of Admiral William F. "Bull" Halsey, Commander of the US Navy Third Fleet. Admiral Halsey was a very fine leader who once said, "There are no extraordinary men, just extraordinary circumstances that ordinary men are forced to deal with." In serving this country

during World War II, I was surrounded by extraordinary men, all of whom were called to duty to serve this country. Those of us who are surviving more than seventy years after the end of World War II proudly carry forth the memory of those who sacrificed so greatly. Again, thank you for bestowing such a tremendous honor upon a proud vet. Very Truly Yours, Eric McGuire Sr."

- Alpine School graduated 20 students last week and Tenafly High School's graduation was held last evening. Mayor Tomasko attended both events.
- LG has agreed to settle issues to keep its proposed Englewood Cliffs building at or below the tree level. Mayor Tomasko thanked Council for the resolution they adopted 15 months ago opposing the taller height. It was also noted Environmental Commission members attended hearings on this issue. Many other towns and concerned citizens and groups helped bring the settlement about which is described as a win-win for all.

REPORTS OF THE STANDING COMMITTEES

Administration Department No report

Building Department Councilman Halbreich read the report's main statistics: 48 inspections, 2 driveway permits, 1 fence permit, 12 tree permits, and 6 zoning review applications. The rest of the report is on file.

Department of Public Works Councilman Frankel noted catch basin and pot hole repairs are ongoing. The balance of the report is on file.

Fire Department Councilwoman Gerstein is in receipt of an application for Junior Fireman as recommended by Fire Chief Hoffmann.

Resolution #139 :6'2015: Approve Junior Firefighter Application: Samuel Messer

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

at the regular meeting of the Alpine Mayor and Council held on Wednesday, June 24, 2015 to approve the application for **Samuel Messer** for Junior Membership in the Alpine Volunteer Fire Department.

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shaddek

MOTION CARRIED

Police Department Councilwoman Frankel advised there were 98 summonses issued, 11 motor vehicle accidents with 3 injuries and the rest of the report is on file.

Resolution #140 :6'2015: Accepting the Reports of the Standing Committees

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein

at the regular meeting of the Alpine Mayor and Council held on Wednesday, June 24, 2015 to accept the reports of the Standing Committees.

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shaddek

MOTION CARRIED

BOARD OF EDUCATION LIAISON'S REPORT Councilman Shaddek provided correct information to a resident who thought only 60-80 students were enrolled in the Alpine School. Per the Superintendent there are 163 students in K-8, 62 attend Tenafly H.S. and 2 attend Bergen Academy. Additional students attend the privately run pre-K within Alpine School.

BOROUGH ATTORNEY'S REPORT No report.

BOROUGH ENGINEER'S REPORT Engineer Vander Veer distributed his report and highlighted:

- **2015 Road Improvement Program / Riverside Cooperative** The preconstruction meeting was held. We're awaiting return of signed contract. The milling and paving work on Autumn Terrace, Overlook Road and Warren Lane is anticipated for August.
- **Alpine School Field Renovation** Field survey work is being done in preparation to bid. Will try to expedite so that work can begin sometime this Fall if possible.

UNFINISHED BUSINESS None

NEW BUSINESS

Mayor Tomasko introduced Gene Amsel and Roberta Weisenger from KO Realty Alpine LLC (d/b/a Prominent Properties) who are here in relation to the resolution for consent for repairs on the lane adjacent to their facility listed on the Consent Agenda.

Councilman Cacouris questioned Item A.6 Resolution to Endorse Planning Bd. Approval Soil Moving Permit Application: Cho Block 39.01 Lot 9.12, 28 Graham Street which was pulled from the Consent Agenda for consideration to follow.

CONSENT AGENDA RESOLUTIONS Resolutions #141:6'2015 - #149:6'2015

1. Approval of Minutes

a. Resolution #141:6'2015: Approval of Minutes Regular Meeting May 27, 2015

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 24, 2015 to approve the minutes of the regular meeting held May 27, 2015.

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shadek

MOTION CARRIED

b. Resolution #142:6'2015: Approval of Minutes Executive Session May 27, 2015

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 24, 2015 to approve the minutes of the regular meeting held May 27, 2015.

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shadek

MOTION CARRIED

2. Resolution #143:6'2015: Authorizing Acting Municipal Clerk to Administer Games of Chance Licenses for 2015

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein at this regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 24, 2015

BE IT RESOLVED by the Mayor and Council of the Borough of Alpine that the Acting Municipal Clerk is hereby authorized to administer, sign and execute all Games of Chance Licenses for the year 2015 contingent that applicants have met all State and Borough requirements and all fees have been paid.

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shadek

MOTION CARRIED

3. Resolution #144:6'2015: Authorizing Engineer to Advertise for Bids: Soccer Field Upgrade Phase II

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein

at this regular meeting of the Alpine Mayor & Council, County of Bergen, State of New Jersey held on June 24, 2015

BE IT RESOLVED by the Mayor and Council of the Borough of Alpine that the Borough engineer is hereby authorized to advertise for bids for the Soccer Field (Hillside Avenue/School field) Upgrade Phase II Project.

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shadek

MOTION CARRIED

4. Resolution #145:6'2015: Resolution Authorizing The Filing Of A Declaratory Judgment Action In The Superior Court Of New Jersey, Law Division And A Motion Seeking Temporary Immunity From Third Party Lawsuits While Pursuing The Declaratory Judgment Action And Taking All Ancillary Actions Associated Therewith To Accomplish That Objective

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein

WHEREAS, in 1975 the Supreme Court of New Jersey in South Burlington County N.A.A.C.P. v. Township of Mount Laurel, 67 N.J. 151 (1975), ruled that the developing municipalities in the State of New Jersey exercising their zoning power, in general, had a constitutional obligation to provide a realistic opportunity for the construction of their fair share of the region's low and moderate income housing needs; and

WHEREAS, in 1983, the Supreme Court refined that constitutional obligation in South Burlington County N.A.A.C.P. v. Township of Mount Laurel, 92 N.J. 158 (1983), to apply to those municipalities having any portion of their boundaries within the growth area as shown on the State Development Guide Plan; and

WHEREAS, in 1985, the New Jersey Legislature adopted, and the Governor signed the Fair Housing Act ("FHA") which transformed the judicial doctrine which became known as the "Mount Laurel obligation" into a statutory one and provided an alternative administrative process in which municipalities could elect to participate in order to establish a Housing Element & Fair Share Plan ("HE&FSP") that would satisfy its constitutional obligation by creating an administrative agency known as the Council on Affordable Housing ("COAH") to develop regulations to define the obligation and implement it; and

WHEREAS, COAH proceeded to adopt regulations for the first round obligations applicable from 1987 to 1993 and second round obligations that created a cumulative obligation from 1987 to 1999; and

WHEREAS, prior to the expiration of the second round regulations, COAH embarked upon a process to develop third round regulations utilizing a different methodology for the calculation of a municipality's affordable housing obligation that became known as the growth share methodology; and

WHEREAS, the Borough of Alpine ("Borough") was awarded a Judgment of Repose in 2000 for its Second Round Housing Element and Fair Share Plan from the Superior Court at New Jersey Law Division, addressing its cumulative second round affordable housing obligation; and

WHEREAS, COAH adopted the first iteration of growth share regulations in 2004 which were invalidated by the Appellate Division in 2007; and

WHEREAS, COAH adopted a second and third iteration of the third round regulations in an attempt to accommodate the Appellate Division's decision in 2008; and

WHEREAS, the Borough filed its December 16, 2008 Third Round Housing Element & Fair Share Plan with COAH and petitioned for Substantive Certification on December 26, 2008, in accordance with the third iteration of the third round regulations; and

WHEREAS, the Borough adopted an amended Third Round Housing Element & Fair Share Plan on May 25, 2010 and re-petitioned COAH for Substantive Certification on June 1, 2010; and

WHEREAS, the third iteration of the third round regulations were invalidated by the Appellate Division in 2010, which determined, among other things, that the growth share methodology was invalid

These minutes have been approved by the Mayor & Council.

and that COAH should adopt regulations utilizing methodologies similar to the ones utilized in the first and second rounds, i.e. 1987-1999; and

WHEREAS, on September 26, 2013, the Supreme Court of New Jersey affirmed the Appellate Division's invalidation of the third iteration of the third round regulations, sustained their determination that the growth share methodology was invalid, and directed COAH to adopt new regulations based upon the methodology utilized in the first and second rounds; and

WHEREAS, COAH proceeded to propose such regulations in accordance with the schedule established by the Supreme Court; and

WHEREAS, on October 20, 2014, COAH deadlocked on the adoption of the revised regulations; and

WHEREAS, Fair Share Housing Center ("FSHC"), an interested party and housing advocacy group filed a motion with the Supreme Court to enforce litigant's rights in light of COAH's deadlock and subsequent inaction; and

WHEREAS, on March 10, 2015 the Supreme Court issued its decision on FSHC's motion to enforce litigant's rights and in doing so established a procedure for municipalities to utilize to transition their applications pending before COAH to the judicial system in order to achieve similar protections that the municipality would have received had the COAH process proceeded; and

WHEREAS, the procedure established by the Supreme Court requires that by July 8, 2015 a participating municipality (of which the Borough is one), bring a Declaratory Judgment action in the Law Division of the Superior Court before the designated Mount Laurel judge on notice and an opportunity to be heard to a variety of entities, to declare the municipality's HE&FSP as being constitutionally compliant; and

WHEREAS, the Supreme Court gave the Borough the right to seek temporary immunity from third party lawsuits while it pursues its Declaratory Judgment action; and

WHEREAS, on April 9, 2015 the Appellate Division issue its decision in the case entitled In re Failure of the Council on Affordable Housing to Adopt Trust Fund Commitment Regulations, Docket No. A-5257-11T4 and Docket No. A-0122-13T3 wherein they divested COAH of jurisdiction to effect a forfeiture of Affordable Housing Trust Funds not spent or committed to be spent within four years of their receipt and transferred jurisdiction over any such actions to the 15 Mount Laurel designated judges who would also be hearing the Declaratory Judgment actions abovementioned; and

WHEREAS, there remains pending before COAH unapproved Spending Plans potentially preventing municipalities from utilizing their Affordable Housing Trust Funds in an appropriate manner; and

WHEREAS, in light of the transition of jurisdiction to effect a forfeiture of Affordable Housing Trust Funds to the Court, it is appropriate to seek approval for any unapproved Spending Plan by the Court as part of the Declaratory Judgment action, if circumstances warrant; and

WHEREAS, the Borough desires to authorize the initiation of a Declaratory Judgment action in order for the Borough to proceed to validate a HE&FSP to be prepared by the Borough Planner; to seek temporary immunity while it pursues the Declaratory Judgment action; and to take all ancillary actions associated therewith to accomplish that objective.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borough of Alpine, County of Bergen, State of New Jersey as follows:

1. Robert A. Kasuba, Esq. / Bisgaier Hoff LLC is hereby authorized and directed to initiate a Declaratory Judgment action in the Superior Court of New Jersey, Law Division, to seek a declaration that the Borough's HE&FSP, to be prepared by the Borough Planner, is constitutionally compliant and satisfies the Borough's affordable housing obligation for the period ending in Year 2025, or such other time period as may be determined by subsequent proceedings and to seek approval of its Spending Plan, if appropriate.

2. Said Declaratory Judgment action shall be filed no later than July 8, 2015, the deadline set forth in the Supreme Court decision above referenced, for the filing of such an action.

3. Simultaneous with the filing of the Declaratory Judgment action, Robert A. Kasuba, Esq. / Bisgaier Hoff LLC is hereby authorized and directed to seek and obtain temporary immunity from any third party lawsuits associated with the Borough's affordable housing obligation, for a minimum period of five months or such other time as the Court may direct, in

order to allow the Borough and its Planner to complete a revised HE&FSP to reflect and accommodate the Borough's affordable housing obligation through Year 2025, or such other time period as may be determined by subsequent proceedings.

4. The governing body requests the Planning Board to authorize the Borough Planner to prepare a revised HE&FSP as part of the Master Plan of the Borough which, among other things, will establish the affordable housing obligation of the Borough through year 2025, or such other time period as may be determined by subsequent proceedings, and further establish a mechanism to satisfy that obligation.

5. The Borough requests that the governing body representatives participate in the review of the HE&FSP prior to its public hearing and disposition by the Planning Board inasmuch as the Borough will be required to endorse the same as part of its proceedings to obtain the protections to be afforded to it through the Declaratory Judgment action abovementioned.

6 Robert A. Kasuba, Esq. / Bisgaier Hoff LLC and Burgis Associates, Inc. and all other appropriate Borough professionals, employees, elected, and appointed officials are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution.

7. This Resolution shall take effect immediately.

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shaddek

MOTION CARRIED

5. Resolution #146:6'2015: Permission to Use Ballfields: Tenafly / Alpine Soccer

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein

at the regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 24, 2015 to approve the request by the Tenafly United Soccer Club for:

Use of the Borough Church Street field:

- Monday through Friday between 3:30 PM and 6:45 PM from August 24, 2015 through November 24, 2015; and

Use of the Borough (Hillside Avenue/school field)

- Saturdays and Sundays between 8:30 AM and dark from August 29 through November 22, 2015 ;

If the Borough Hillside Avenue /school field becomes unavailable due to construction permission is given to use the Borough Church Street field:

- Saturdays and Sundays between 8:30 AM and dark from August 29 through November 22, 2015 ; and

Such use is also subject to the Borough's Risk Management Policies for Use of Facilities, including but not limited to provision of a Certificate of Insurance listing the Borough as additional insured and Hold Harmless Agreement. Use of Hillside Avenue/school field is also subject to coordination of use with Alpine School who has priority use of the field. Notwithstanding the foregoing approval for use of the Borough's Hillside Avenue/school field, said use may be limited or terminated relative to pending field reconstruction dates as yet to be determined.

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shaddek

MOTION CARRIED

(Note: Item 6 was pulled from consent agenda and follows)

7. Resolution #147:6'2015: Endorse Planning Bd. Approval Soil Moving Permit Application

Deglomini Li Enterprises, LLC Block 22 Lot 14 15 Stone Tower Drive

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein

at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 24, 2015

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, a soil movement application for Deglomini Li Enterprises, LLC Block 22 Lot 14 15 Stone Tower Drive was reviewed by the Alpine Planning Board at a public hearing held on May 26, 2015; and

WHEREAS, the Alpine 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 June 23, 2015 (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 June 23, 2015.

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shadek

MOTION CARRIED

**8. Resolution #148:6'2015: Endorse Planning Bd. Approval Soil Moving Permit Application
Bill Cin Kim Block 79.03 Lot 3 40 Allison Road**

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein
at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 24, 2015

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, a soil movement application for Bill Cin Kim Block 79.03 Lot 3 40 Allison Road was reviewed by the Alpine Planning Board at a public hearing held on May 26, 2015; and

WHEREAS, the Alpine 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 June 23, 2015 (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 June 23, 2015.

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shadek

MOTION CARRIED

**9. Resolution #149:6'2015: CONSENT FOR REPAIRS LANE ADJACENT BLOCK 49 LOT 7
OFFERED BY:** Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein

at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 24, 2015

WHEREAS, there exists in the Borough of Alpine an unnamed lane which services as single family home site designated as Lot 7, Block 42 and a real estate office known as Lot 7, Block 49, as shown on the survey prepared by Lantelme, Kurens & Associates annexed as a Rider hereto; and

WHEREAS, it appears from the public records that the lane may have been dedicated as a street but not accepted, maintained or opened by the Municipality as a conforming street; and

WHEREAS, travel conditions on the lane are difficult in that curbs are nonexistent and the pavement has heaved and deteriorated in certain areas; and

WHEREAS, the abutting property owner of Lot 7, Block 49, K. O. Realty Alpine, L.L.C., has agreed to perform certain repairs to improve the travel conditions upon the lane; and

WHEREAS, the Borough of Alpine believes that it is in the best interest of the Municipality to permit K.O. Realty Alpine, L.L.C. to undertake the repairs described on the Rider hereto.

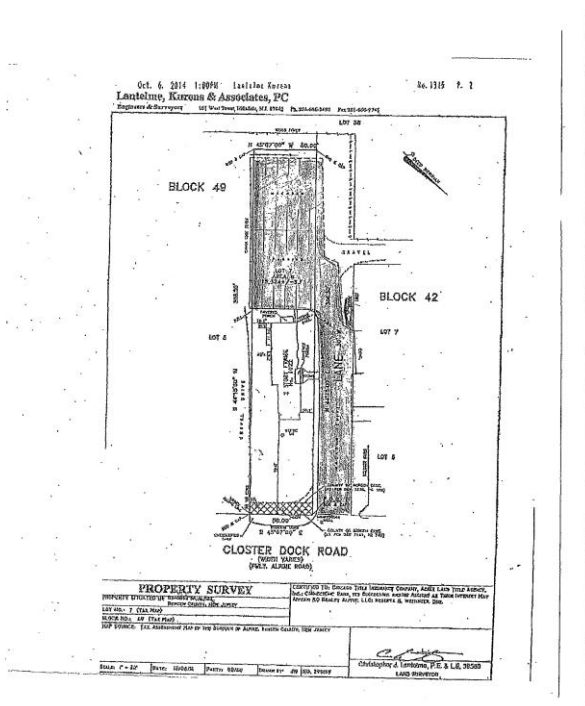
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Alpine hereby consents to the repairs limited to repaving the areas presently paved of the lane adjacent to Lot 7, Block 49, as described by the shaded portion of the Rider annexed hereto; and

BE IT FURTHER RESOLVED that this Agreement is not an acceptance of responsibility for maintenance or plowing by the Borough; and

BE IT FURTHER RESOLVED that the K.O. Realty Alpine, L.L.C. agrees to indemnify and hold the Borough of Alpine harmless from any claims for personal injury or property damage arising out of the conditions of the aforementioned lane and its repair.

Vote: Ayes: V. Frankel, Cacouris, Gerstein, Halbreich, A. Frankel, Shaddek

MOTION CARRIED



Mayor Tomasko provided a copy of the draft resolution to Mr. Amsel and Ms. Weisinger and advised a copy of the formal resolution would be forthcoming.

**End of Consent Agenda Resolutions
Resolution removed from Consent Agenda:**

Soil Moving Permit Application Cho Block 39.01 Lot 9.12, 28 Graham Street

Discussion: Mayor Tomasko opened the floor to Councilman Cacouris regarding the proposed resolution. Councilman Cacouris reviewed: a property owner on Graham Street has applied for a soil moving permit to move over 10,000 cubic yards of soil which the Planning Board approved with a number of conditions attached. Council is asked to endorse that Board's decision that this permit would not be detrimental. He distributed a photo and graphic to help conceptualize the large volume. He finds it hard to sign off that this would not cause environmental or other problems.

Mayor Tomasko thanked Councilman Cacouris for his comments. He reminded Councilwoman Gerstein and himself sit on the Planning Board and assured the body deliberated for some time on the matter before moving it forward. He asked Borough Engineer Vander Veer to comment. Mr. Vander Veer noted he did not have the file with him this evening but explained the figure represents total volume of soil moved and not necessarily the amount being imported or exported; it may be mostly cut and fill amounts on site. In addition, most of the soil moving activity related to installation of the septic systems already installed as it is the Planning Board's policy not to hear an application for soil moving until after the septic systems are substantially installed. Fill for the septic system may be offset by excavation of soil for the basement and the specific details are on file.

(6.) Resolution #150:6'2015 Table Endorsement of Planning Bd. Approval Soil Moving Permit Application Cho Block 39.01 Lot 9.12, 28 Graham Street

OFFERED BY: Councilman Frankel **SECONDED BY:** Councilman Cacouris

at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 24, 2015 to table matter to obtain additional information.

Discussion: Mayor Tomasko felt the Planning Board had spent considerable time on the matter and recommended they move the matter forward advising Planning Board of their concerns for future applications. Councilman Shaddek questioned practical implications of a delay. Mr. Vander Veer stated the owner could only proceed at their own risk. Councilwoman Frankel, having served on the Planning Board, voiced confidence in their recommendations. Councilman Cacouris echoed this respect but noted it is Council's approval being sought and he would like more information; this is a record volume of soil movement. Mr. Vander Veer could not give a precise number of times but recalled such amounts have been approved before. Councilman Frankel cited due diligence oversight responsibility where he does not feel he has sufficient information. Mayor Tomasko noted this is the same situation as last month: being asked to go back and obtain information they could have sought out prior to the meeting. He does not think that's fair. The person who picks up on a question needs to get all the information so they can provide a full picture to the governing body rather than making people wait another 30 days for action.

Vote: Ayes: Cacouris, A. Frankel, Halbreich **Nays:** Shaddek, V. Frankel, G. Gerstein

Tie: Mayor Tomasko voted **Nay**

MOTION FAILED

Mayor Tomasko invited a motion to endorse the Planning Board resolution.

**(6.) Resolution #151:6'2015: Endorse Planning Bd. Approval Soil Moving Permit Application
Cho Block 39.01 Lot 9.12, 28 Graham Street**

OFFERED BY: Councilman Shadek **SECONDED BY:** Councilwoman Frankel

at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 24, 2015

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, a soil movement application for Cho Block 39.01 Lot 9.12, 28 Graham Street was reviewed by the Alpine Planning Board at a public hearing held on May 26, 2015; and

WHEREAS, the Alpine 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 June 23, 2015 (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 June 23, 2015.

Vote: Ayes: Shadek, V. Frankel, G. Gerstein **Nays:** Cacouris, A. Frankel, Halbreich

Tie: Mayor Tomasko voted **Aye**

MOTION CARRIED

COMMUNICATIONS: WRITTEN AND ORAL Draft quarterly newsletter distributed for review.

ADJOURNMENT

Upon a motion by Councilwoman Frankel, seconded by Councilwoman Gerstein and approved by all to adjourn the regular meeting of the Mayor and Council of the Borough of Alpine, held on Wednesday June 24, 2015 at 8:02 P.M.

Respectfully submitted,

Nancy Wehmann,
Deputy Borough Clerk / Acting Clerk