

**MAYOR AND COUNCIL
WORK SESSION/REGULAR MEETING
BOROUGH HALL ANNEX
November 15, 2010
7:30pm**

1. **FLAG SALUTE**

2. **ROLL CALL** Mayor Heveran (), Councilpersons Norgaard (), Brennan Choi (), Hawkins (), Knott (), Raucci (), Borough Attorney Brian Giblin (), Jack Terhune, Borough Administrator (), Borough Clerk, Fran Lehmann

3. **OPEN MEETING STATEMENT**

Conditions of the Open Meeting Act have been met by Notice placed on the Bulletin Board at Borough Hall and notice sent to the Official Newspaper

4. **PRESENTATION**

5. **APPOINTMENTS**

6. **COMMENTS FROM THE PUBLIC**

Limited to two (2) minutes per speaker (20-minute duration)

7. **APPROVAL OF MINUTES**

Council Meeting November 1, 2010

8. **RESOLUTIONS**

10-240 Authorizing Tax Appeal Settlement for block 1319, Lot 8

10-241 Authorizing the Borough Engineer to Advertisement of Bids for Wood Park

10-242 Authorizing a Chapter 159 for Cops Law Enforcement Technology Grant

10-243 Authorizing a Chapter 159 for Drunk Driving Enforcement Funds

10-244 Urging the State of New Jersey to Investigate the Intersection of Station Parkway and Grand Avenue

A motion was made by Councilperson _____ seconded by Councilperson _____ to approve Resolutions

ROLL CALL Councilperson, Norgaard (), Brennan (), Choi () Hawkins () Knott () Raucci ()

9. **REPORTS**

Standing Committees

Finance Administration & Personnel

Laws & Ordinances
Police
Fire
Ambulance
Public Works
Economic Development
Borough Administrator
Mayor
Special Bodies

10- INTRODUCTION OF ORDINANCE

11 ADOPTION OF ORDINANCE

Adoption of Ordinance 14-10 entitled:

**AN ORDINANCE TO AMEND CHAPTER 275 OF THE LAND USE
ORDINANCE OF THE BOROUGH OF LEONIA, TITLED "TREES" TO
PRESERVE AND REGULATE THE REMOVAL OF TREES WITHIN
THE BOROUGH.**

Public Hearing

A Motion made by Councilperson _____, seconded by Councilperson
_____ to approve on final reading Ordinance 14-10.

ROLL CALL Councilpersons Norgaard (), Brennan (), Choi (), Hawkins (),
Knott (), Raucci

12. UNFINISHED BUSINESS

a) 222 Christie Street (Brian Giblin)

13 NEW BUSINESS

- a) Road closures Fort Lee Police Department (Mayor Heveran)
- b) Ambulance Corps Duty Crew 6 PM to 6 AM (Mayor Heveran)

14. COMMENTS FROM THE PUBLIC

Limited to five (5) per speaker at the discretion of the Chair (duration 30
minutes)

15 CORRESPONDENCE

16. CLOSED SESSION (L)

17. ADJOURNMENT (10:00pm unless motion to extend)

FORMAL ACTION ON ANY BOROUGH BUSINESS MAY BE TAKEN

Aye Nay Abstain

Norgarrd
Brennan
Choi
Hawkins
Knott
Raucci

Dated:

Resolution No. 10-240

By:
Seconded by:

Whereas, Scott Assouline ("the taxpayer"), filed real property tax appeals for 2008, 2009 and 2010 for taxpayers real property located at 1599 Bergen Blvd., Leonia Block 1319, Lot 8; and

Whereas, the tax assessments for 2008, 2009 and 2010 are as follows:

	<u>2008</u>	<u>2009</u>	<u>2010</u>
Land	\$ 240,000.00	\$ 540,000.00	\$ 540,000.00
Improvements	<u>264,000.00</u>	<u>600,000.00</u>	<u>335,000.00</u>
Total	\$ 504,000.00	\$1,140,000.00	\$ 875,000.00

and

Whereas, the 2008, 2009 and 2010 tax assessments may be settled as follows:

	<u>2008</u>	<u>2009</u>	<u>2010</u>
Land	withdrawn	\$ 540,000.00	\$ 540,000.00
Improvements	assessment	<u>385,000.00</u>	<u>260,000.00</u>
Total	unchanged	925,000.00	\$ 800,000.00

and

Whereas, said settlement will produce a loss in real property tax revenue lesser in amount than the costs of a successful defense of said appeal; and

Whereas, the Mayor and Council have been advised by the Borough Assessor and by contractual personnel that said settlement is in the Borough's interest;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF LEONIA that said settlement be and the same is hereby approved; and

BE IT FURTHER RESOLVED that all appropriate Borough officials or the contractual personnel be and are hereby authorized to take all steps necessary to effect said settlement; and

BE IT FURTHER RESOLVED that all actions taken by all appropriate Borough officials or contractual personnel in effecting said settlement be and they are hereby ratified and confirmed.

The within Resolution was duly adopted
by the Borough Council at their meeting
on _____, 2010

Fran Lehman
Municipal Clerk

Borough of Leonia
312 Broad Avenue
Leonla, NJ 07605
Phone: 201-592-5748

**Office of the Tax
Assessor**

Memo

To: Robert Drexel, Esq., Special Tax Counsel
From: Timothy J. Henderson, Tax Assessor
CC:
Date: 11/3/2010
Re: Scott Assouline vs. Borough of Leonia

As per the guidelines set forth by the governing body of the Borough of Leonia, when requesting that they approve proposed tax appeal settlements the request must be accompanied by a detailed explanation of the settlement. As a result, below please find all of the pertinent details of the settlement of the above listed State Tax Court Appeal.

The property under appeal consists of a 12-unit apartment building and is located at 1599 Bergen Boulevard. The property was under appeal for the 2008, 2009 and 2010 Tax Years, and was assessed for \$504,000 in 2008 which equates to a true value of \$1,077,844 or \$89,820 per unit after you factor in the equalization ratio of 46.76%. For 2009, which was the year of our revaluation, the property was assessed for \$1,140,000 or \$95,000 per unit and for 2010 the assessment is \$875,000 due to the fact that after some significant settlement negotiations with the plaintiff I lowered the assessment for 2010 to reduce our potential refund. At \$875,000 the true value equates to \$947,500 or \$79,000 per unit after you factor in the 2010 equalization ratio of 92.35%.

The plaintiff submitted a preliminary appraisal that valued the property at \$785,000 for 2008, \$770,000 for 2009 and \$725,000 for 2010. Based on those values the indicated assessments would be \$367,534 for 2008, \$770,000 for 2009 and \$669,538 for 2010 with a total potential refund of \$18,159.70. It should also be noted that the plaintiff submitted the recent sale of the subject property for \$800,000 on May 14, 2007 as evidence of its market value.

I decided that prior to having an appraisal done by our Expert Appraiser Robert McNeerney that I would do an analysis of the property based on the income and expense information provided by the plaintiff in order to see what our exposure was. After my analysis, I felt that the value of the property was \$850,000 for 2008, \$825,000 for 2009 and \$815,000 for 2010. Based on those values the indicated assessments would be \$397,460 for 2008, \$825,000 for 2009 and \$752,653 for 2010 with a total potential refund of \$13,858.95. Based on those values it was apparent that the Borough had some exposure in this matter, which Mr. McNeerney corroborated after a review of my analysis, and as a result we attempted to settle this matter amicably rather than prepare an appraisal in anticipation of a trial.

In the end we were able to settle this matter whereby the plaintiff would withdraw the 2008 appeal and agree to an assessment of \$925,000 for 2009 and \$800,000 for 2010. Based on this settlement agreement the total tax refund would be \$6,380.75, which is significantly less than the \$18,159.70 sought by the plaintiff based on their appraisal values and also less than the potential refund after my analysis of \$13,858.95. Overall, we feel that this settlement is a very good one for the Borough since we were able to get them to withdraw the 2008 appeal and agree to assessments for 2009 and 2010

which are much higher than the ones I arrived in my analysis. Also, by settling these matters we were able to save the significant costs of an appraisal and a trial.

If you have any further questions with regards to this matter, feel free to contact me at my office.

SCHNECK LAW GROUP LLC
301 South Livingston Avenue, Suite 105
Livingston, New Jersey 07039
(973) 533-9300
Attorneys for PLAINTIFF

TAX COURT OF NEW JERSEY

DOCKET NO.: 011025-2008
DOCKET NO.: 008640-2009
DOCKET NO.: 007224-2010

ASSOULINE, SCOTT

Plaintiff

Civil Action

vs.

STIPULATION OF SETTLEMENT
(Without Affidavit)

BOROUGH OF LEONIA

Defendant.

1. It is hereby stipulated and agreed that the assessment of the following property be adjusted and a judgment be entered as follows:

BLOCK: 1319

LOT: 8

Year: 2008	<u>ORIGINAL ASSESSMENT</u>	<u>COUNTY BOARD JUDGMENT</u>	<u>TAX COURT JUDGMENT</u>
LAND	\$240,000	\$240,000	\$240,000
IMPROVEMENTS	<u>\$264,000</u>	<u>\$264,000</u>	<u>\$264,000</u>
TOTAL	\$504,000	\$504,000	\$504,000

Year: 2009	<u>ORIGINAL ASSESSMENT</u>	<u>COUNTY BOARD JUDGMENT</u>	<u>TAX COURT JUDGMENT</u>
LAND	\$540,000	0	\$540,000
IMPROVEMENTS	<u>\$600,000</u>	<u>0</u>	<u>\$385,000</u>
TOTAL	\$1,140,000	0	\$925,000

Year: 2010	<u>ORIGINAL ASSESSMENT</u>	<u>COUNTY BOARD JUDGMENT</u>	<u>TAX COURT JUDGMENT</u>
LAND	\$540,000	0	\$540,000
IMPROVEMENTS	<u>\$335,000</u>	<u>0</u>	<u>\$260,000</u>
TOTAL	\$875,000	0	\$800,000

2. The undersigned have made such examination of the value and proper assessment of the property(ies) and have obtained such appraisals, analysis and information with respect to the valuation and assessment of the property(ies) they deem necessary and appropriate for the purpose of enabling them to enter into the Stipulation. The assessor to the taxing district has been consulted by the attorney for the taxing district with respect to this settlement and has concurred.

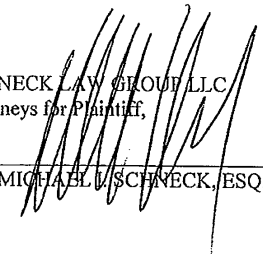
3. Based upon the foregoing, the undersigned represent to the Court that the above settlement will result in an assessment at the fair assessable value of the property(ies) consistent with assessing practices generally applicable in the taxing district as required by law.

4. All refunds as a result of the settlement set forth herein shall be paid by refund check, made payable to: 'Michael I. Schneck, Esq., Attorney for ASSOULINE, SCOTT', and forwarded to Michael I. Schneck, Esq. 301 South Livingston Ave., Livingston, NJ 07039 within sixty (60) days of the date of the Judgment.

5. Statutory interest pursuant to N.J.S.A. 54:3-27.2 is waived by the taxpayer and shall not be paid on the condition the refund is received pursuant to Paragraph 4 hereof within 60 days from the date of the entry of the Judgment.

6. The provisions of paragraph 4 and 5 shall survive Judgment even if not included on the Judgment issued by the Tax Court of New Jersey.

SCHNECK LAW GROUP LLC
Attorneys for Plaintiff,

BY: 
MICHAEL V. SCHNECK, ESQ.

DATED: 1/28/10

DEFENDANT

BY: _____
Robert A. Drexel, Esq.

DATED:

BOROUGH OF LEONIA RESOLUTION

Council	Motion	Second	Yes	No	Abstain	Absent
Norgaard						
Brennan						
Choi						
Hawkins						
Knott						
Raucci						
Heveran						

#10-241
DATE
Carried
Defeated
Tabled
Approved

RESOLVED, by the Mayor and Council of the Borough of Leonia the Borough Engineer is hereby authorized to advertise for bids for Wood Park Renovations in accordance with the Green Acres Grant and the Open Space Trust Grant and Bergen county Community Development; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to sign and the Borough Clerk to attest to the Contract of same.

**THIS IS TO CERTIFY THAT THE ABOVE RESOLUTION WAS ADOPTED
BY THE MAYOR AND COUNCIL ON _____**

BOROUGH CLERK

11/10/2010

3

BOROUGH OF LEONIA RESOLUTION

Council	Motion	Second	Yes	No	Abstain	Absent
Brennan						
Choi						
Hawkins						
Knott						
Norgaard						
Rauci						
Heveran						

10-242

DATE: _____, 2010

Carried []

Defeated []

Tabled []

Approved on Consent Agenda []

WHEREAS, N.J.S.A.40A:87 provides that the Director of the Division of Local Government Services may approve the insertion of any special Item of Revenue in the budget of any county of municipality when such item shall have been made by law and the amount thereof was not determined at the time of the budget, and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount, and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Leonia hereby requests the Director of the Division of Local Government Services to approve the insertion of an additional item of revenue in the budget of the year 2010 in the sum of \$33,000.00, which is now available as revenue from the U.S. Department of Justice, Community Oriented Policing Services in the amount of \$33,000.00.

BE IT FURTHER RESOLVED, that a like sum of \$33,000.00 is hereby appropriated under the caption of;

COPS LAW ENFORCEMENT TECHNOLOGY GRANT

and

BE IT FURTHER RESOLVED, that the above is the result of funds from the U.S. Department of Justice, Community Oriented Policing Services in the amount of \$33,000.00.

I, _____, Municipal Clerk of the Borough of Leonia in the County of Bergen in the State of New Jersey, do hereby certify that the forgoing is a correct and true copy of a resolution adopted by the Mayor and Council of the Borough of Leonia in the County of Bergen in the State of New Jersey.

**THIS IS TO CERTIFY THAT THE ABOVE RESOLUTION WAS ADOPTED BY
THE MAYOR AND COUNCIL ON _____, 2010**

BOROUGH CLERK

BOROUGH OF LEONIA RESOLUTION

Council	Motion	Second	Yes	No	Abstain	Absent
Brennan						
Choi						
Hawkins						
Knott						
Norgaard						
Raucci						
Heveran						

10-143

DATE: _____, 2010

Carried []

Defeated []

Tabled []

Approved on Consent Agenda []

WHEREAS, N.J.S.A.40A:87 provides that the Director of the Division of Local Government Services may approve the insertion of any special Item of Revenue in the budget of any county of municipality when such item shall have been made by law and the amount thereof was not determined at the time of the budget, and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount, and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Leonia hereby requests the Director of the Division of Local Government Services to approve the insertion of an additional item of revenue in the budget of the year 2010 in the sum of \$6,815.22, which is now available as revenue from the Division of Highway and Traffic Safety, Division of Motor Vehicles in the amount of \$6,815.22.

BE IT FURTHER RESOLVED, that a like sum of \$6,815.22 is hereby appropriated under the caption of;

DRUNK DRIVING ENFORCEMENT FUND

and

BE IT FURTHER RESOLVED, that the above is the result of funds from the Division of Highway and Traffic Safety, Division of Motor Vehicles in the amount of \$6,815.22.

I, _____, Municipal Clerk of the Borough of Leonia in the County of Bergen in the State of New Jersey, do hereby certify that the forgoing is a correct and true copy of a resolution adopted by the Mayor and Council of the Borough of Leonia in the County of Bergen in the State of New Jersey.

THIS IS TO CERTIFY THAT THE ABOVE RESOLUTION WAS ADOPTED BY

THE MAYOR AND COUNCIL ON _____, 2010

BOROUGH CLERK

BOROUGH OF LEONIA RESOLUTION

Council	Motion	Second	Yes	No	Abstain	Absent
Norgaard						
Brennan						
Choi						
Hawkins						
Knott						
Raucci						
Heveran						

#10-244
DATE
Carried
Defeated
Tabled
Approved

Whereas, 26 motor vehicle crashes have occurred in or right by the intersection of Grand Avenue and Station Parkway in Leonia from 2007 to the present, and

Whereas, the configuration of the roadway may be a contributing factor in some of these accidents, and

Whereas, the Leonia Mayor and Council desires to create an environment as safe as possible for the free passage of pedestrians and vehicles in its jurisdiction, and

Whereas, the placement of signs, warning devices or other roadway improvements on Grand Avenue by the Station Parkway intersection may contribute toward this goal, and

Whereas, Grand Avenue is a State roadway,

Now, Therefore, Be it Resolved that the Leonia Mayor and Council request that the New Jersey Department of Transportation consider and employ devices and or improvements to the intersection of Grand Avenue and Station Parkway to achieve the goal of creating a safer environment for the free passage of pedestrians and motorists.

**THIS IS TO CERTIFY THAT THE ABOVE RESOLUTION WAS ADOPTED
BY THE MAYOR AND COUNCIL ON _____**

BOROUGH CLERK

BOROUGH OF LEONIA
ORDINANCE 14-10

AN ORDINANCE TO AMEND Chapter 275 of the Land Use Ordinances of the Borough of Leonia, titled "Trees," to preserve and regulate the removal of trees within the Borough.

WHEREAS, this ordinance is intended to control and regulate the indiscriminate or excessive removal, cutting, and destruction of trees, in order to regulate and prevent conditions which cause increased storm water runoff, sewer erosion, and impair the stability and value of real estate, all of which would be detrimental to the public health safety and general welfare by encouraging owners and developers of land to save and replace as many native trees as possible when making improvements to real property

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Leonia that the Land Use Ordinances of the Borough are amended as follow:

Section 1: Chapter 275 of the Land Use Ordinance of the Borough of Leonia, titled "Trees," is amended by deleting and replacing Section 275-20 with a new section 275-20 titled "Preservation of Trees" as follows:

A. Definitions as used in this ordinance, the following terms shall have the meanings set forth below:

Tree: Any live woody plant having a diameter of greater than 8 inches and/or a circumference greater than 25 inches when measured at ground level.

B. Whenever an application for development is filed with the Planning Board or Board of Adjustment, which plan for development shall include the removal of any existing trees, the application shall be forwarded to the Shade Tree Commission for its review and recommendation concerning replacement trees.

C. No person (as defined in Ordinance 275-7) shall remove any tree from private property unless said

removal is permitted by the Planning Board, Zoning Board of Adjustment or Shade Tree Commission as the case may be.

D. Exceptions:

I. The Planning Board or Zoning Board of Adjustment may waive the replacement of existing trees if necessary due to existing or proposed conditions on the property.

II. In the event that the Planning Board or Zoning Board of Adjustment waives the requirement for the developer to plant replacement trees, the Board shall impose a requirement that the developer contribute the reasonable value of the cost of replacement trees to the Borough of Leonia Shade Tree Commission Fund so that the Borough may plant trees at other locations.

Attest:

Approved:

Fran Lehmann,
Borough Clerk

Mary Heveran,
Mayor

Introduced: , 2010
Adopted: , 2010