

**BOROUGH OF MOUNT ARLINGTON
COUNCIL MEETING MINUTES
OCTOBER 7, 2014**

1. Call to Order

- 2. Adequate notice** of this meeting of the Mayor and Borough Council of the Borough of Mount Arlington was given as required by the Open Public Meetings Act as follows: Notice was published in the Daily Record and Roxbury Register on January 2, 2014; notice was posted on the bulletin board in the main hallway of the Municipal Building on December 20, 2013 and has been available to the public; notice of this meeting is on file in the office of the Borough Clerk.

In accordance with the Open Public Meetings Act (N.J.S.A. 10:4-1 et seq.), the Borough Council opens every public meeting for comments of the public. However, in accordance with N.J.S.A. 10:4-12: "Nothing in this Act shall be construed to limit the discretion of a public body to permit, prohibit or regulate the active participation at any meeting....."

Speakers at Borough meetings shall have five minutes to present their comments to the Borough Council so as not to consume time that would otherwise be allotted to other persons who wish to speak.

3. Flag Salute

The Mayor asked for a moment of silence to remember all those who put themselves in harm's way to protect our freedoms. Please remember our local Police Officers (in attendance) who do such a great job protecting Mount Arlington and keeping us all safe, and the elected officials that we have lost this past month.

4. Roll Call

Councilwoman Danchuk, Councilman Cangiano, Council President Sorge, Councilman Sadow, Councilman Windish, Councilman Stanzilis, Mayor Ondish, Matthew O'Donnell, Esq., Borough Attorney, and Carolyn Rinaldi, CFO/Municipal Administrator, were also present.

5. Presentations/Mayor's Appointments

- Proclamation To Designate January 11 Each Year as Human Trafficking Awareness Day.
The Mayor read the Proclamation into the record.

Council President Sorge made a Motion to Move Resolution #2014-111 to this point in the meeting.

Second: Councilman Windish.

Roll Call:

All in Favor: Aye.

None Opposed.

Motion Approved

- 2014-111** Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Appointing Christopher Coupe as Police Sergeant of the Borough of Mount Arlington Police Department.

The Mayor read the Resolution into the record.

Motion to Approve: Council President Sorge.

Second: Councilman Sadow

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis

None Opposed.

Motion Approved.

Borough Attorney O'Donnell administered the Oath of Office. The Mayor publicly recognized the Mount Arlington Police Department, former Sergeant Bill Lowry and the Netcong Police Chief, who were in attendance.

6. Utility Receipt Report for the Month of August, 2014.

The Clerk read the Utility Receipt Report for August, 2014 into the record.

Grand Total: \$187,085.40

Tax Collectors' Report for the Month of August, 2014.

The Clerk read the Tax Collector's Report for August, 2014 into the record.

Total Receipts: \$3,249,627.19

Utility Receipt Report for the Month of September, 2014.

The Clerk read the Utility Receipt Report for September, 2014 into the record.

Grand Total: \$78,853.31

Tax Collectors' Report for the Month of September, 2014.

The Clerk read the Tax Collector's Report for September, 2014 into the record.

Total Receipts: \$189,566.12

7. Finance Report for the Month of August, 2014

Current Fund:

Total Receipts: \$3,722,240.37

Total Disbursements: \$1,868,784.15

Finance Report for the Month of September, 2014.

Current Fund:

Total Receipts: \$ 420,555.74

Total Disbursements: \$1,524,492.07

8. OPRA Report

- The Mayor briefly explained the OPRA process and monthly report. There were 52 OPRA requests this month with three exceeding the \$100 threshold: 1) from Paula Danchuk, copy of bond ordinances, \$182; 2) from J. Koch, Professional Finders, financial records, et al, \$175; and, 3) from Nancy Absalon, Borough's completed road study, \$156. Total cost \$2,095.
- Attorney O'Donnell stated the request from Mr. Kugelman for Borough e-mail distribution lists has been denied, as per the GRC findings.
- Councilman Windish had an OPRA request for documents pertaining to legal documents from 2006 regarding Lake Rogerene, the Borough and ShadowWoods. The Mayor said there was some discussion at the last Land Use Board meeting, which he was not able to attend, and asked Councilwoman Danchuk why she said Lake Rogerene won a lawsuit against the Borough, which is completely false. Councilwoman Danchuk stated members of Lake Rogerene did go to court over ShadowWoods; she was under the impression that the result of the court hearing was that Orben Drive has to be safe. Councilman Windish distributed a copy of the case and the court's finding to all on the dais and requested the documents be attached to the Minutes of tonight's meeting; the Mayor requested these documents be attached to the Land Use Board meeting minutes as well.
- Council President Sorge directed to Councilwoman Danchuk that she had received two letters from the Prosecutors addressed to her at the Borough address, marked confidential; Council is very interested in hearing the contents of the letters. Councilwoman Danchuk stated since the envelopes were marked confidential, she will call the Prosecutors office to make sure it is okay to publicly discuss their correspondence. Attorney O'Donnell suggested that Councilman Windish can complete an OPRA request for the letters. Attorney O'Donnell stated that as the Borough Attorney, the information has to be disclosed to him; it is a public record. If not, Councilwoman Danchuk will have to retain separate counsel. Council President Sorge stated that if the mail was sent to Borough Hall, the contents should be revealed; you have accused this Council of certain things, you never told us what you accused us of and now you won't even tell us what the Prosecutor said. Councilwoman Danchuk said she is not opposed to revealing the contents, she just wants clearance from the Prosecutors Office.

9. Approval of Minutes

September 2, 2014

Regular Meeting

Motion to Approve: Council President Sorge

Second: Councilman Cangiano

Roll Call:

Aye: Cangiano, Council President Sorge, Sadow, Windish, Stanzilis

Abstain: Danchuk

None Opposed.

Motion Approved.

10. Mayor's Report

- No formal report this month.

11. Chief of Police Report

- Attended meeting earlier for Sergeant Coupe's Resolution/Oath.

12. Municipal Administrator's Report

- 2014 Best Practices Inventory.

Each municipality is required to complete and submit the Best Practices Worksheet to the Division of Local Government Services to determine how much of each municipality's final 5% allocation of COMPTRA and ERT aid will be disbursed as per Local Finance Notice 2014-16, dated September 10, 2014. As stated in this Notice, the inventory encourages municipalities to embrace practices that promote financial accountability, sound management and transparency. The Chief Financial Officer is responsible for completing the questionnaire but must be discussed with the Governing Body at a public meeting to assure that they are apprised of the responses. The deadline for submission is October 17, 2014. Administrator Rinaldi stated that as per the criteria for withholding aid, Mount Arlington's questionnaire responses indicate that we are compliant with Best Practices Standards and will continue to receive 100% of our aid. Administrator Rinaldi went through the various categories of the Report. The Mayor added that we have always received 100% and have always complied with the Best Practices Standards.

13. Council Committee Reports**Councilman Stanzilis:**

- Attended the recent Finance Committee meeting along with Council representatives and resident members.
- Attended the Joe Wargo 5K this past weekend; thanked the volunteers, CERT Team and Recreation Department. Councilman Stanzilis stated it is amazing to have a tragic event turn into something so positive that will live on forever. The Mayor thanked Councilman Stanzilis for his attendance at the race; the Mayor was unable to attend.
- Zack Miller of Mount Arlington is working on his Eagle Scout project; building a fire pit and small patio at the Elks Club to use for retiring American and service flags.

Councilman Windish:

- The Technology Committee is doing well, everything in place. The website contract renewal resolution is on tonight's agenda and Councilman Windish recommends approval.
- Attended Code Committee meeting and Land Use Board meeting; working on updating both Borough Code and Land Use ordinances.

Councilman Sadow:

- Reminder that October is Breast Cancer Awareness Month; urged women to be tested annually, remind their friends and neighbors, and to support breast cancer foundations.
- Toys for Tots initiative has grown very nicely over the past couple years. It was spear-headed by Nolan's Ridge and has expanded to the Girl Scouts. This year, Toys for Tots will be a Borough-wide campaign; enlisted are the schools, Borough Hall, Police, Fire Department, Recreation and local businesses are being solicited as well. Toys for Tots Mount Arlington is a 501C3, accepting toys and cash, which will be used to purchase toys. There will be a kick-off at the Nolan's Ridge Clubhouse on December 6, 2014; the Marines, Santa, Fire Department trucks and refreshments will be at the Kick-Off. Councilman Sadow asked the Council to authorize expenditure for a banner to go across Howard Boulevard, cost not to exceed \$500.

Motion to Approve \$500 Expenditure for Toys For Tots Banner: Council President Sorge

Second: Councilman Stanzilis

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis

None Opposed.

Motion Approved.

- Attended the Finance Committee meeting and we are in good shape with current fund, capital reserves and proceeding with projects we had slated to be done. The only downside is the foot-dragging of Roxbury on the improvements to Succasunna Road, which has pushed us back to start this project in March, 2015. The next project was to be Bensel/Oneida/Howard to straighten out the hairpin turn that leads to Oneida, we need to get water up the hill and we need to resurface those roads. Talked about the Fireman's Field improvement project, to modernize it for more sports and tie it into the Beach Project; these projects are already budgeted. The Borough will also include much needed traffic control at Altenbrand and Howard. During this time our bond rating has gone up which enables us to obtain a more favorable rate when if we decide to go in that direction. This demonstrates the fiscal prudence the Finance Committee and the Council have exercised. The Mayor publicly thanked Councilman Sadow for his job chairing the Finance Committee.

Council President Sorge;

- Attended the Code Committee meeting and attended a Personnel Meeting, which Council will discuss in Closed Session.
- Congratulated Councilman Sadow on his work with Toys For Tots and announced that he will personally donate \$100.

Councilman Cangiano:

- Attended a Board of Health meeting regarding code updates and code consolidation.
- Attended Sewer/Water Committee meeting, discussed planned projects to future projects. Discussed replacing individuals meters because most of the meters in town are 29 years old and don't read correctly. We could work with our same vendor and replace the meters with upgraded versions that read the flow in a different way; they are easier to read, remote reading (less labor) and provide a more accurate reading with a 20 year guarantee. Councilman Cangiano stated the MUA has a master meter that records the Borough's usage and with these upgraded meters, the Borough can recover wasted water. Councilman Cangiano stated the project should be financed by the water and sewer users and not the whole Borough. The Mayor stated every municipality has a water loss, however, every year Paul Nelson has a gentleman that goes around and surveys the entire system, looking for large leaks. The Mayor stated the Borough started water conservation efforts years ago.
- Attended a Code Committee meeting.
- Attended Personnel Committee meeting.
- Publicly commended Councilman Stanzilis on the 5K Walk/Run. Thanked all the volunteers, Recreation, Police, Fire Department; commended Recreation for their winter calendar of events.
- Councilman Cangiano reminded the Mayor that we were going to follow-up with United Water.
- The Mayor stated the Water/Sewer Committee approved the letter to residents regarding the sewer fees and bonding. The Mayor was convinced for years that when the loan was paid off on the sewers, the bills would drop. However, twenty years later we need funding to replace, repair and handle emergencies, so the fee will not drop in half. Councilman Cangiano suggested scheduling a joint committee meeting of the Finance Committee and the Sewer/Water Committee to take the next step in determining the sewer fees now and for the long term.
- Spoke with Bob Gallo, representative from NJ Natural Gas; they are on schedule to provide the ShadowWoods Development with gas service and will contact Lake Rogerene residents in early spring regarding interest in hooking up.

Councilwoman Danchuk:

- The residents in the Lake Rogerene area who are within 200 feet of the ShadowWoods development received letters last week indicating blasting would be starting.
- The DPW has been busy; Paul Nelson's report was distributed to all Council.
- Councilwoman Danchuk and Zoning Officer Tom Mahoney will be attending the Shade Tree Commission certification class; the requirement is two certifications for the Borough. Councilwoman Danchuk spoke with Administrator Rinaldi regarding a grant we received a few years ago to complete a Forestry Management Plan, with former engineer Suburban Consulting, but the plan

- was never completed; we still have the \$3,000 grant money to do the plan. Once we have the certification, once we provide a Forestry Management Plan, then we can go for the additional funds.
- Attended the Morris County Flood Mitigation meeting.

Councilman Sadow was asked by a senior resident if the Council meeting audio tapes could be made available at the library for residents to borrow. This would also alleviate the OPRA requests for such meeting tapes. The Mayor stated we had considered placing the disks on the website but they would take up too much space. Councilwoman Danchuk stated you have to download the program on to your computer before you can listen to the disk. Councilman Sadow stated that this would alleviate requests to the Clerk's Office; the amount of time and money spent on OPRA's is sizable. Anything we can do to decrease the time on OPRA is money back in the taxpayer's pocket. Administrator Rinaldi stated it is time to re-evaluate our system, we have some wiring issues, and has asked for a representative to come in; it will then go on to the Technology Committee.

14. Public Comment

Jack Delaney, 375 Howard Boulevard:

- Mr. Delaney commended all those who volunteered for the 5K Run/Walk, especially the members of the CERT Team.

Gene Paradiso, 206 Howard Boulevard:

- Mr. Paradiso stated at the last Council meeting he requested a link to the consolidation study website be placed on our website. Borough Attorney O'Donnell stated the Borough reviewed his request and it was denied. Mr. Paradiso commented that the Borough is not willing to put a link onto the website for the consolidation study but will spend money on a banner on an entity that does not really belong to the activity of the municipal government. The Mayor stated that municipal websites are very strict; when we add a link, we are responsible. Borough Attorney O'Donnell reiterated that the council has denied this request.
- Mr. Paradiso asked the Mayor about his appointments for the study commission and requested a summary of the individuals' skills be made available as well. The Mayor stated he needs an official documented letter before he can make his appointments. The Clerk stated she had contacted Nancy Malool, NJDCA, for the official notice, who in turn contacted Chris Rogers, Roxbury Township. The Clerk has yet to receive any response or official notification. Attorney O'Donnell stated the Clerk wants formal notice from the State and once that is received, the Mayor will make his appointments. The Mayor stated that as long as we are following the guidelines of the DCA, he will appoint a voting member and alternate at the next Council meeting.
- Mr. Paradiso stated that he finds it ironic or hypocritical that a person would make a statement that accusations have consequences and all kinds of hyperbole about that statement but yet that same person accused me of violating school ethics. Only an accusation, if it were true, he could have gone down to the school board and filed it but he didn't, he just made the accusation. So making accusations seems to be a nice desired pattern for him, but yet he accuses everybody else of doing it. Council President Sorge stated this has no bearing on the Council and the Mayor said Mr. Paradiso made his statement and dismissed furthering the conversation.

Sheila Studint, 88 Ridgeview Lane:

- Ms. Studint publicly thanked Beth Dwyer and Linda DeSantis for their assistance with the Seniors bingo and raffle licenses; the Senior are very appreciative of their efforts.
- Ms. Studint stated that last Friday there was an accident on Howard Boulevard at the egress of Cracker Barrel, and she happened to be the first car after the accident. The members of the Police Department were just awesome. Ms. Studint is concerned about the traffic; the parking lot of Cracker Barrel is Roxbury but Howard Boulevard is Mount Arlington. Ms. Studint asked if our Council can work with Roxbury or the DOT to put up signage or traffic lights; this accident occurred when traffic was light and wanted to know how we can protect our residents. The Mayor stated that any intersection presents a risk.

Becky Rubenstein, Lee Moreau, Walter Wurster, Lake Hopatcong Foundation:

- Ms. Rubenstein discussed the Lake Loop scheduled for October 12th, sponsored by the Lake Hopatcong Foundation, which has already raised over \$18,000. Mayor Ondish and all the Mayors of the Lake's surrounding towns will be participating; Marty Kane will be their host. Ms. Rubenstein thanked the Borough for all their assistance, signs, Police Department assistance, and support. Mr. Wurster commended the Borough on the recent 5K. He stated there are 2 loops scheduled, one is 20 miles, one is 40 and mapped out the two routes, including the roads being used in Mount

Arlington. The money raised from this event will help to repair the fountain at the state park, an environmental study for the train station and re-do the train station; he also detailed the history of the fountain.

15. New Business

None.

16. Old Business

None.

17. Resolutions

2014-101 Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Approving the Check Register Dated October 7, 2014.

Motion to Approve: Council President Sorge

Second: Councilman Cangiano

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis

None Opposed.

Motion Approved.

2014-102 Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Authorizing The Solicitation of Qualifications for Professional Services Pursuant to N.J.S.A. 19:44A-20.4, 20.5 et seq. Pursuant to a "Fair and Open" Process.

Motion to Approve: Councilman Sadow

Second: Council President Sorge

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis

None Opposed.

Motion Approved.

2014-103 Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, To Waive the License To Operate An Individual Subsurface Sewage Disposal System Fee for the Borough of Mount Arlington, Lake Rogerene Firehouse, for 2014.

Motion to Approve: Council President Sorge

Second: Councilman Stanzilis

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis

None Opposed.

Motion Approved.

2014-104 Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Authorizing the Execution of a Contract Between Digital Strategy Associates, LLC and the Borough of Mount Arlington.

Motion to Approve: Council President Sorge

Second: Councilman Windish

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis

None Opposed.

Motion Approved.

- 2014-105** Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Supporting Borough Participation in the G.I. Go Jeans for Troops Day to Honor Veteran's Day.

Motion to Approve: Council President Sorge

Second: Councilman Sadow

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
None Opposed.

Motion Approved.

- 2014-106** Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Authorizing Temporary Suspension of Parking Restrictions on One Side of Seasons Drive (The Outer Loop of Seasons Drive) As Set Forth in New Jersey Traffic Code 39:4-138.

Motion to Approve: Council President Sorge

Second: Councilman Sadow

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
None Opposed.

Motion Approved.

- 2014-107** Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Determining the Form and Other Details of Not to Exceed \$4,500,000 Principal Amount of General Obligation Refunding Bonds, Authorizing The Execution of An Escrow Deposit Agreement, Authorizing the Sale and Delivery of Such General Obligation Refunding Bonds to Janney Montgomery Scott, LLC and Authorizing Certain Officers of the Borough to Make Disbursements for Costs of Issuance Incurred by the Borough Relating to the Sale and Delivery of Said Bonds and to Make Disbursements for the Purchase of Obligations of the United States of America.

Motion to Approve: Councilman Sadow

Second: Council President Sorge

John Hudak, Esq., Bond Counsel was present and stated we previously adopted the bond ordinance which authorizes the issuance of the bonds and this resolution authorizes the sale of the bonds. We are completing all the required documentation to have the sale so when the markets hit, we are ready to go. The 3% is a requirement of the State to be a 3% net value savings in order to do the refunding. The Borough is not incurring any additional debt; we are saving money by doing the refunding.

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
None Opposed.

Motion Approved.

- 2014-108** Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Declaring the Month of November as "Pancreatic Cancer Awareness Month" in the Borough of Mount Arlington.

Motion to Approve: Council President Sorge

Second: Councilman Sadow

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
None Opposed.

Motion Approved.

- 2014-109** Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Naming National Benefit Services LLC as the Borough's Flexible Spending Account Provider.

Motion to Approve: Council President Sorge

Second: Councilman Cangiano

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
None Opposed.

Motion Approved.

- 2014-110** Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Authorizing Execution of an Agreement with Lake Hopatcong Elks for Senior Citizens Meetings.

Motion to Approve: Councilman Sadow

Second: Council President Sorge

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
None Opposed.

Motion Approved.

- 2014-112** Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Authorizing Execution of an Interlocal Agreement with the Township of Roxbury.

Motion to Approve: Councilman Sadow

Second: Council President Sorge

The Mayor stated this has been a very frustrating process; the Borough has been trying to do the road improvements for a very long time, however part of the road is in Roxbury and it has been difficult to get Roxbury to agree to the improvements and the cost.

Attorney O'Donnell publicly thanked Borough Engineer Sabine Watson for her patience and perseverance with Roxbury.

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Stanzilis
Abstain: Windish
None Opposed.

Motion Approved.

18. Ordinances – Introduction

- 09-14** An Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington Authorizing the Howard Boulevard Realignment Project and Appropriating \$125,000 for Said Improvement Authorized to be Undertaken In and By the Borough of Mount Arlington in the County of Morris, New Jersey.

The Mayor read Ordinance 09-14 by Title.

Motion: Council President Sorge stated that Ordinance 09-14 be introduced by Title and passed on First Reading and that a meeting be held on November 6, 2014 at 7:00 p.m. at the Municipal Building, 419 Howard Boulevard, Mount Arlington, NJ, for a Public Hearing, consideration of Second Reading and Passage of said Ordinance, and that the Clerk be directed to publish, post and make available said Ordinance in accordance with the requirements of law.

Second: Councilman Cangiano

The Mayor stated \$125,000 is the amount the Borough is putting forth for design and permitting fees. Council President Sorge stated that when Suburban Consulting was our engineer, the cost was \$60,000, which we paid. Administrator Rinaldi stated this \$125,000 is for all the required permitting, design work and construction spec's. Borough Engineer Sabine Watson provided the detail of all of the costs to be incurred by the Borough, which does not include sidewalks as the County did not agree to take on the sidewalk portion. Attorney O'Donnell asked Ms. Watson to research the previous ordinance and cost analysis prior to the second reading of this ordinance. Councilman Cangiano stated that \$125,000 is a reasonable range for the work to be done. Engineer

Watson stated the previous permitting has expired and due to the fact that it is in the Highlands, we have further reporting in order to go forward with the re-permitting process. Council President Sorge said we spent \$60,000 already; the Mayor re-iterated that we have no choice but to start all over again. Administrator Rinaldi stated the County has agreed to the construction of this in their 2015 budget, which is why we are pushing to get our portion completed in order to lock in with the County. Attorney O'Donnell asked Ms. Watson if she would check with the County as to any way we could get a credit for the \$60,000. Administrator Rinaldi stated we are hoping to get a grant for the sidewalk portion.

Roll Call:

Aye: Danchuk, Cangiano, Sadow, Windish, Stanzilis

Opposed: Council President Sorge

Motion Approved.

- 10-14** An Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington Authorizing the Succasunna Road Improvement Project and Appropriating \$590,000 for Said Improvement Authorized to be Undertaken In and By the Borough of Mount Arlington in the County of Morris, New Jersey.

The Mayor read Ordinance 10-14 by Title.

Motion: Council President Sorge stated that Ordinance 10-14 be introduced by Title and passed on First Reading and that a meeting be held on November 6, 2014 at 7:00 p.m. at the Municipal Building, 419 Howard Boulevard, Mount Arlington, NJ, for a Public Hearing, consideration of Second Reading and Passage of said Ordinance, and that the Clerk be directed to publish, post and make available said Ordinance in accordance with the requirements of law.

Second: Councilman Sadow

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Stanzilis

Abstain: Windish

None Opposed.

Motion Approved.

- 11-14** An Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington Providing for Amending Ordinance 13-07 and Appropriating \$40,000 Authorized to be Undertaken In and By the Borough of Mount Arlington in the County of Morris, New Jersey.

The Mayor read Ordinance 11-14 by Title.

Motion: Council President Sorge stated that Ordinance 11-14 be introduced by Title and passed on First Reading and that a meeting be held on November 6, 2014 at 7:00 p.m. at the Municipal Building, 419 Howard Boulevard, Mount Arlington, NJ, for a Public Hearing, consideration of Second Reading and Passage of said Ordinance, and that the Clerk be directed to publish, post and make available said Ordinance in accordance with the requirements of law.

Second: Councilman Stanzilis

Administrator Rinaldi stated this is not additional funding, it is an amendment. Ordinance 13-07 does not have money left on the construction side, it's on the engineering/administrative costs side so we are just re-purposing.

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis

None Opposed.

Motion Approved.

19. Ordinances – Second Reading

None.

20. Motions

None.

21. Executive Session

2014-113 Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, New Jersey, Authorizing An Executive Session of the Mayor and Borough Council and Excluding the Public from That Portion of the Meeting.

- Attorney-Client Privilege:
 - Approval of Executive Minutes of September 2, 2014.
 - Scott Holzhauser, Tax Appeal Appraiser and Sabine Watson, Borough Engineer
 - Property Appraisal
 - Personnel

Action May or May Not Be Taken.

Motion to Go Into Executive Session: Council President Sorge

Second: Councilman Stanzilis

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
None Opposed.

Motion Approved

Motion to Return to Open Session: Council President Sorge

Second: Councilman Windish

Roll Call:

All in Favor: Aye
None Opposed.

Motion Approved

Attorney O'Donnell added Potential Litigation to the Executive Session discussion; no action to be taken on that matter.

Motion to Approve Executive Minutes of September 2, 2014: Council President Sorge

Second: Councilman Stanzilis

Roll Call:

Aye: Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
Abstain: Danchuk
None Opposed.

Motion Approved

Added**Resolutions:**

2014-114 Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Naming Debra-Ann Halik as Board of Health Administrator.

Motion to Approve: Councilman Cangiano

Second: Council President Sorge

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
None Opposed.

Motion Approved

2014-115 Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Naming Debra-Ann Halik as Tax and Utility Clerk.

Motion to Approve: Council President Sorge

Second: Councilman Sadow

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
None Opposed.

Motion Approved

- 2014-116** Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Appointing Jonathan S. Rheinhardt as the Borough Tax Collector.

Motion to Approve: Council President Sorge

Second: Councilman Stanzilis

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
None Opposed.

Motion Approved

- 2014-117** Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Appointing Debra-Ann Halik as Tax Search Officer.

Motion to Approve: Council President Sorge

Second: Councilman Cangiano

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
None Opposed.

Motion Approved

- 2014-118** Resolution of the Mayor and Borough Council of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, Hiring Valerie Kourtz, Police Secretary, as Police Station Cleaning Person.

Motion to Approve: Council President Sorge

Second: Councilman Cangiano

Roll Call:

Aye: Danchuk, Cangiano, Council President Sorge, Sadow, Windish, Stanzilis
None Opposed.

Motion Approved

The Mayor announced that on November 13, 2014 there will be a Public Hearing on a Green Acres Diversion at MAPS at 7:00 p.m.

22. Adjourn

Motion to Adjourn: Council President Sorge

Second: Councilman Windish

Roll Call:

All in Favor: Aye.
None Opposed.

Motion Approved



Linda DeSantis, RMC
Borough Clerk

Minutes Approved At Council Meeting of November 7, 2014.

**PROCLAMATION TO DESIGNATE JANUARY 11 EACH YEAR AS
HUMAN TRAFFICKING AWARENESS DAY**

WHEREAS, human trafficking is a borderless crime against individuals that violates the most basic human rights and deprives victims of every shred of personal freedom; and

WHEREAS, human trafficking occurs when a person is recruited, harbored, obtained, or exported through force, fraud, or coercion for the purposes of sexual or labor exploitation, involuntary servitude, and other types of mental and physical abuse; and

WHEREAS, human traffickers target impoverished and marginalized children, women and men, isolating them from society and supportive networks and exploiting them for personal and monetary gain; and

WHEREAS, human trafficking is the fastest growing criminal enterprise in the world today, and is tied with arms smuggling as the second largest international criminal industry, falling only behind the illicit drug trade; and

WHEREAS, the United Nations' International Labor Organization has estimated that at least 12.3 million adults and children worldwide are currently in forced labor, bonded labor, or forced prostitution; and it is estimated that more people are now harmed by Human Trafficking worldwide than have been at any other point in human history. Approximately 80% of the victims are women and girls, and 50% are younger than age 18; and

WHEREAS, many victims trafficked into the U.S. do not speak or understand English and are unable to communicate to seek rescue. Under U.S. law, any person under 18 involved in the commercial sex industry is considered a Human Trafficking victim; and victims include U.S. citizens and documented immigrants; and

WHEREAS, we recognize that New Jersey is a prime location for Human Trafficking because it is a major national and international transportation corridor and a culturally diverse state; and

WHEREAS, human trafficking is modern-day slavery, a practice that is in direct opposition to the fundamental principles of liberty and human rights upon which our nation was founded; and

WHEREAS, on February 1, 1865, President Abraham Lincoln signed the 13th Amendment to the United States Constitution. Once ratified, it officially outlawed slavery and involuntary servitude except as punishment for a crime; and

WHEREAS, although the federal government and the State of New Jersey have enacted laws to prosecute human traffickers and protect the victims of human trafficking, traffickers use techniques to keep their victims enslaved that severely limit self-reporting and that require broad public awareness of human trafficking issues for enforcement and prevention to occur; and

WHEREAS, the New Jersey State Constitution declares that all persons are by nature free and independent and have certain natural and unalienable rights; and

WHEREAS, the people of New Jersey, regardless of political persuasion, creed, race, or national origin, stand together with the global community to protect the fundamental freedoms and rights of all persons, to fight the proliferation of human trafficking in all of its forms, and to assist survivors of modern day slavery; and

WHEREAS, the Borough of Mount Arlington stands committed to protecting human rights and individual freedom by eliminating human trafficking.

WHEREAS, the Borough of Mount Arlington is resolved to support the goals and ideals of observing a National Day of Human Trafficking Awareness on January 11 of each year and to support all efforts by individuals, businesses, organizations, and governing bodies to raise awareness of and opposition to Human Trafficking.

WHEREAS, the Borough commends the work of the NJ Coalition Against Human Trafficking for its statewide efforts to end human trafficking through education, advocacy, and assistance to survivors and to increase coordination and visibility of New Jersey's commitment to end human trafficking.

NOW, THEREFORE, the Mayor and Borough Council hereby proclaim January 11 of each year as Human Trafficking Awareness Day in the Borough of Mount Arlington, to raise awareness about the signs and consequences of human trafficking, to promote opposition to human trafficking in all of its forms, and to encourage support for the survivors of human trafficking throughout the State of New Jersey and across the world to put an end to this criminal activity and restore freedom and dignity to its survivors.

Arthur R. Ondish, Mayor

October 7, 2014

BOROUGH OF MT. ARLINGTON
UTILITY RECEIPT REPORT

MONTH OF AUGUST 2014

Dated: September 10, 2014

Completed by Patricia E. Simari, CTC

<u>AMOUNT</u>	<u>DESCRIPTION</u>	<u>COLLECTED IN AUGUST 2013</u>
\$34,442.24	SOLID WASTE RECEIPTS	\$45,643.69
\$95,256.86	SEWER RECEIPTS	\$115,859.58
\$57,386.30	WATER RECEIPTS	\$61,544.90
\$0.00	SEWER CONN FEE INSTALL PLAN	\$0.00
\$187,085.40	GRAND TOTAL	\$223,048.17

Mayor & Council
C. Rinaldi
cc:\utilitytrialbalaug2014
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BOROUGH OF MT. ARLINGTON
TAX & UTILITY OFFICE

To the Mayor & Council of the Borough of Mt. Arlington
I hereby submit my report of receipts and disbursements for:

The Month of August 2014

Dated: September 10, 2014

Completed by Patricia E. Simari, CTC *PS*

Collections:

Current Taxes (4-01-17-001-001)	<u>\$3,240,078.72</u>
2013 Taxes (4-01-15-499-200)	
2013 Taxes (Collected at Tax Sale)	
Pre-Paid Taxes (4-01-17-001-004)	<u>\$5,658.66</u>
Municipal Redemption (4-01-17-004-001)	
Interest & Costs (4-01-08-112-000)	<u>\$2,557.80</u>
Interest & Costs (Collected at Tax Sale)	
Return Check Fee (4-01-16-500-017)	<u>\$20.00</u>
Tax Searches (4-01-08-105-010)	
Duplicate Bills (4-01-16-500-016)	<u>\$102.00</u>
O/S Lien Red./Subs (4-01-17-004-002)	<u>\$1,089.96</u>
O/S Lien Red. Int. (4-01-17-004-003)	<u>\$18.05</u>
O/S Lien Red. 6% YEP (4-01-16-500-025)	
O/S Lien Rec. Fee (4-01-17-004-003)	<u>\$52.00</u>
Misc. Copies (4-01-16-500-017)	
Tax Sale Costs (4-01-16-500-018)	
Tax Sale Costs (Collected at Tax Sale)	
Tax Sale Premiums (Trust Account)	
6% YEP/Year End Penalty (4-01-16-500-025)	
Tax Paid Certification (4-01-16-500-013)	
Redemption Calculation Fee	<u>\$50.00</u>
<u>Total Receipts</u>	<u>\$3,249,627.19</u>
<u>Total Receipts August 2013</u>	<u>\$1,862,537.05</u>

BOROUGH OF MT. ARLINGTON
UTILITY RECEIPT REPORT

MONTH OF SEPTEMBER 2014

Dated: October 2, 2014

Completed by Patricia E. Simari, CTC

Q5

<u>AMOUNT</u>	<u>DESCRIPTION</u>	<u>COLLECTED IN SEPTEMBER 2013</u>
<u>\$8,776.57</u>	<u>SOLID WASTE RECEIPTS</u>	<u>\$7,189.00</u>
<u>\$60,445.74</u>	<u>SEWER RECEIPTS</u>	<u>\$13,913.89</u>
<u>\$9,631.00</u>	<u>WATER RECEIPTS</u>	<u>\$5,266.77</u>
<u>\$0.00</u>	<u>SEWER CONN FEE INSTALL PLAN</u>	<u>\$8,925.00</u>
<u>\$78,853.31</u>	<u>GRAND TOTAL</u>	<u>\$35,294.66</u>

Mayor & Council
C. Rinaldi
cc:\utilitytrialbalsept2014
doepg01

BOROUGH OF MT. ARLINGTON
TAX & UTILITY OFFICE

To the Mayor & Council of the Borough of Mt. Arlington
I hereby submit my report of receipts and disbursements for:

The Month of September 2014

Dated: October 2, 2014

Completed by Patricia E. Simari, CTC

PS

Collections:

Current Taxes (4-01-17-001-001)	<u>\$116,622.04</u>
2013 Taxes (4-01-15-499-200)	
2013 Taxes (Collected at Tax Sale)	
Pre-Paid Taxes (4-01-17-001-004)	<u>\$10,062.24</u>
Municipal Redemption (4-01-17-004-001)	
Interest & Costs (4-01-08-112-000)	<u>\$2,207.03</u>
Interest & Costs (Collected at Tax Sale)	
Return Check Fee (4-01-16-500-017)	<u>\$20.00</u>
Tax Searches (4-01-08-105-010)	
Duplicate Bills (4-01-16-500-016)	<u>\$12.00</u>
O/S Lien Red./Subs (4-01-17-004-002)	<u>\$56,817.33</u>
O/S Lien Red. Int. (4-01-17-004-003)	<u>\$3,721.48</u>
O/S Lien Red. 6% YEP (4-01-16-500-025)	
O/S Lien Rec. Fee (4-01-17-004-003)	<u>\$104.00</u>
Misc. Copies (4-01-16-500-017)	
Tax Sale Costs (4-01-16-500-018)	
Tax Sale Costs (Collected at Tax Sale)	
Tax Sale Premiums (Trust Account)	
6% YEP/Year End Penalty (4-01-16-500-025)	
Tax Paid Certification (4-01-16-500-013)	
Redemption Calculation Fee	
<u>Total Receipts</u>	<u>\$189,566.12</u>
<u>Total Receipts September 2013</u>	<u>\$166,196.16</u>

BOROUGH OF MOUNT ARLINGTON
FINANCE OFFICE

Finance Report Current Fund

August 2014

Receipts	3,722,240.37
Disbursements	1,868,784.15

BOROUGH OF MOUNT ARLINGTON
FINANCE OFFICE

Finance Report Current Fund

September 2014

Receipts	420,555.74
Disbursements	1,524,492.07

Borough of Mt. Arlington
Department of Public Works
419 Howard Blvd.
Mt. Arlington, NJ 07856
Tel: 973-398-4200
Fax: 973-398-3344

Paul A. Nelson, CPWM
Supervisor of Public Works

October 2, 2014

To: Councilwoman Paula Danchuk

Monthly Report for September 2014:

Buildings and Grounds:

The borough hall, police station, concession stand bathrooms and the civic center are cleaned every Monday, Wednesday and Friday borough hall is cleaned on Tuesdays on meeting nights. Garbage's are emptied, floors vacuumed and floors mopped. Bathroom fixtures and cleaned and sanitized and all paper products are restocked. Light fixtures are check and bulbs or ballast are replaced as needed. Outside areas are policed for debris and garbage and for any evident problems. Exit signs and emergency lighting are checked on a weekly basis. Already bagged garbage and recycling is collected from the library 2 or more times per week.

Weekly town garbage cans are emptied at the parks beach and playgrounds. These areas are also checked for debris and hazards. All playgrounds components are checked for any damage or unsafe conditions and safety surface is redistributed evenly thru out area. This procedure is everyday do to use. This is completed in the spring, summer and fall months only. Winter months are bi weekly

- Grass was mowed 2 times at all locations not on landscape contract.
- Yearly sprinkler system inspection at Borough hall basement system
- Replace broken attic stairs at fire house
- Drag baseball field infield for softball games 5 times
- Annual fire alarm inspections completed at all boro buildings with fire alarms
- Power wash Boro hall and police station building exteriors
- Replace faulty electric outlets at concession stand.
- Beach ladders, ropes and lifeguard stand were removed

Roads:

Check and clean catch basins for rain storms

-2 storm water catch basins have been rebuilt 1 on James St, and 1 on henmar Dr . Once stone has settled, asphaltting around basin will be done.

-Remove and replace 80 feet of old metal storm water drainage pipe that had rusted out and was cause sink hole.

-Replace and repair curbing at Robert Terr and kadel dr due to lighting strike.

- Replace old faded Do Not Enter sign on lake view Terr.

- Stop bars at intersections are being repainted along with cross walks.

Vehicle Maintenance:

Vehicle checks are performed daily before the work day starts this includes, all fluids, lights, tires and overall body and interior inspection. Fluids are added if needed, when repair condition is present it is noted on the daily vehicle check sheet. If repair is not an emergency or a safety related problem vehicle may be used only after mechanic clears it.

Routine maintenance was performed on DPW vehicles.

Start maintenance on salt machines

Maintenance performed during the month included:

See Chief Licatas report on police vehicles repaired

Sewer Utility:

All 5 pump stations are inspected every Monday, Wednesday and Friday. Every inspection day pump hours are logged, all alarms are inspected for proper operation, emergency generators fluids are checked and topped off when needed, bioxide system is checked and gallons used and left in tank are logged waste pit debris baskets are checked and cleaned if necessary. Every Friday waste pits are washed and the walls scraped down to remove grease from them.

Emergency generators are exercised once a week, this only happens when the air quality standards permit this function. I obtain this information from NJ Air. Time, date and hour meter before test and after test are logged into the generator log book, there is one log per pump station and generator sight.

-10 sewer utility mark outs were completed

- 4 grinder pumps were replaced at 71,83 and 137 McGregor Ave and 4 Edgemere Ave
- Clear sewage clog on Hillard rd
- All 5 waster/water pump station generators were serviced and inspected for proper voltage and operation.

Water Utility:

Monthly coli-form water samples were taken and delivered to the lab. 2 samples are collected from the main water system and 1 sample is collected from the Kadel water system. The chain of custody forms are filled out by myself and signed by the lab when the samples are delivered to them. Copies are kept on file in my office as well as the utility office.

- 10 water utility mark outs were completed.
- Water tower pressure regulator and level indicator was repaired.
- 3 new water meters were installed
- Quarterly chlorine residual report was completed and mailed to NJ DEP
- 3rd Quarter town water meter readings were completed.
- Repaired leaking fire hydrant on Logan Way

Recycling Center:

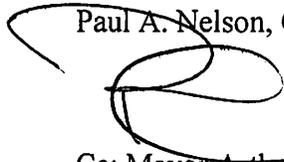
The recycling center is only open on Saturdays from 8am to 1pm. There is a rotating schedule in place for DPW personal to work the center. There is a total for the month of January of 20 man hours of over time to run the center. Dumpster are packed to capacity before they are removed by the MUA for proper disposal..

Dumpsters pulled for the month are as follows:

Cardboard -4 Times
Co-Mingled -2 Time
Newspaper/Junkmail -0 Times
Scrap Metal- 1 Times
Grass/Leafs-2Time
E-Waste - 1 Time

General Information

Paul A. Nelson, CPWM Supervisor Public Works



Cc: Mayor Arthur Ondish
Administrator Carolyn Rinaldi

See 9/26/14
due 10/6/14



Comp 10/2/14

**BOROUGH OF MOUNT ARLINGTON
OPEN PUBLIC RECORDS ACT REQUEST FORM**

419 Howard Boulevard
Mount Arlington, NJ 07856
Linda DeSantis
ldesantis@mtarlingtonboro.com
973-398-6832 Ext. 112 - Fax 973-398-8662
Beth Dwyer
bdwyer@mtarlingtonboro.com
973-398-6832 Ext. 125 - Fax 973-398-8662

Important Notice

The last page of this form contains important information related to your rights concerning government records. Please read it carefully

Requestor Information - Please Print

First Name JOHN MI _____ Last Name WINDISH

E-mail Address JOHNW76072@MSN.COM

Mailing Address 650 SUCCASUNNA ROAD

City LANDING State NJ Zip 07850

Telephone 201-287-5049 FAX _____

Preferred Delivery Pick Up US Mail _____ On-Site Inspect _____ Fax _____ E-mail

If you are requesting records containing personal information, please circle one. Under penalty of N.J.S.A. 2C:28-3 I certify that I HAVE / HAVE NOT been convicted of any indictable offense under the laws of New Jersey, any other state or the United States

Signature [Signature] Date 9/26/2014

Payment Information

Maximum Authorization Cost: \$ _____

Select Payment Method

Cash Check Money Order

Fees Letter size pages - \$0.05 per page
Legal size pages - \$0.07 per page
Other materials (CD, DVD, etc) - actual cost of material

Delivery Delivery / postage fees additional depending upon delivery type

Extras Special service charge dependent upon request

Record Request Information: Please be as specific as possible in describing the records being requested. Also, please note that your preferred method of delivery will only be accommodated if the custodian has the technological means and the integrity of the records will not be jeopardized by such method of delivery.

Please provide electronic copies of the following documents:

- Lake Rogerene Civic Association vs. Borough of Mount Arlington Land Use Board, Borough of Mount Arlington; Valley Road Development, Seasons Associates, Robert Atkins, Seasons Glen Homeowners Association Lawsuit 2006
- 2006 correspondence from Michael Selvaggi representing Borough of Mount Arlington answer to above lawsuit 2006
- June 2006 correspondence from Michael Selvaggi pre trial memorandum
- File copy of Paula Danchuk, Lake Rogerene Civic Association letter to Lake Rogerene Residents regarding trial of September 15, 2006
- Order of Judgement in favor of the defendants and dismissing lawsuit September 15, 2006

Jan 0215

1. All government records are subject to public access under the Open Public Records Act ("OPRA"), unless specifically exempt.
2. A request for access to a government record under OPRA must be in writing, hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian. N.J.S.A. 47:1A-5.g. The seven (7) business day response time does not commence until the records custodian receives the request form. If you submit the request form to any other officer or employee of the **Name of Agency**, that officer or employee must either forward the request to the appropriate custodian, or direct you to the appropriate custodian. N.J.S.A. 47:1A-5.h.
3. Requestors may submit requests anonymously. If you elect not to provide a name, address, or telephone number, or other means of contact, the custodian is not required to respond until you reappear before the custodian seeking a response to the original request.
4. The fees for duplication of a government record in printed form are listed on the front of this form. We will notify you of any special service charges or other additional charges authorized by State law or regulation before processing your request. Payment shall be made by cash, check or money order payable to the **Name of Agency**.
5. You may be charged a 50% or other deposit when a request for copies exceeds \$25. The **Name of Agency** custodian will contact you and advise you of any deposit requirements. You agree to pay the balance due upon delivery of the records. Anonymous requests in excess of \$5.00 require a deposit of 100% of estimated fees.
6. Under OPRA, a custodian must deny access to a person who has been convicted of an indictable offense in New Jersey, any other state, or the United States, and who is seeking government records containing personal information pertaining to the person's victim or the victim's family. This includes anonymous requests for said information.
7. By law, the **Name of Agency** must notify you that it grants or denies a request for access to government records within seven (7) business days after the agency custodian of records receives the request. If the record requested is not currently available or is in storage, the custodian will advise you within seven (7) business days after receipt of the request when the record can be made available and the estimated cost for reproduction.
8. You may be denied access to a government record if your request would substantially disrupt agency operations and the custodian is unable to reach a reasonable solution with you.
9. If the **Name of Agency** is unable to comply with your request for access to a government record, the custodian will indicate the reasons for denial on the request form or other written correspondence and send you a signed and dated copy.
10. Except as otherwise provided by law or by agreement with the requester, if the agency custodian of records fails to respond to you within seven (7) business days of receiving a request, the failure to respond is a deemed denial of your request.
11. If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the **Name of Agency** to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council ("GRC") by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at PO Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The Council can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.
12. Information provided on this form may be subject to disclosure under the Open Public Records Act.

STERN & KILCULLEN, LLC
 75 Livingston Avenue
 Roseland, New Jersey 07068
 973-535-1900
 Attorneys for Defendants Seasons Associates, LLC,

FILED

OCT 04 2006

**A. THEODORE BOZONELIS, A.J.S.C.
 JUDGE'S CHAMBERS
 MORRIS COUNTY COURTHOUSE**

Lake Rogerene Civic Association,
 Inc.

Plaintiffs,

vs.

Borough of Mount Arlington Land
 Use Board, Borough of Mount
 Arlington, Valley Road Development,
 LLC, Seasons Associates, LLC,

Defendants.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION: MORRIS COUNTY
 Docket No.: MRS-L-000869-06

CIVIL ACTION

ORDER OF JUDGMENT

THIS MATTER having come before the Court by way of action in lieu of prerogative writ filed by Joel Murphy, Esq., attorney for Plaintiff Lake Rogerene Civic Association, Inc. ("Plaintiff") against the Defendants Borough of Mount Arlington Land Use Board (the "Board"), Borough of Mount Arlington (the "Borough"), Valley Road Development, LLC ("Valley Road") and Season's Associates, LLC ("Seasons"), and the parties hereto having each filed trial briefs which were reviewed and considered by this Court, and the Court having conducted a trial on September 15, 2006, at which time it heard oral argument on behalf of the Plaintiff through its attorney, Joel A. Murphy, Esq., and on behalf of the Board and the Borough through its attorney, Michael S. Scivaggi, Esq. of Courter, Kobert and Cohen, PC; and on behalf of Seasons through its attorney, John P. Inglesino, Esq. of Stern & Kilcullen, and the Court having considered the aforementioned briefs, oral arguments and the full record of the proceedings before the

Board below, including any and all exhibits submitted during such proceedings, and for good cause having been shown;

IT IS on this 4th day of October, 2006;

ORDERED as follows:

1. Judgment is hereby granted in favor of the Defendants and against the Plaintiff for the reasons set forth in detail on the record by this Court on September 15, 2006; and
2. The decision of the Land Use Board of the Borough of Mount Arlington, as set forth in its Resolution dated February 8, 2006 and captioned "In the Matter of Seasons Associates, LLC Preliminary and Final Major Site Plan and Preliminary Major Subdivision Approval Lot 42.03, Block 61; Lots 1 and 3, Block 72; Lot 1, Block 82, Lots 9, 12, and 15, Block 83" is hereby affirmed in its entirety for the reasons set forth in detail on the record by this Court on September 15, 2006; and
3. The matter is hereby dismissed with prejudice and without costs to any parties; and
4. A copy of this Order shall be served on all counsel of record within _____ days of the receipt of the Order.


 THEODORE B. BOZONELIS, A.J.S.C.

0111

Shadow Woods Trial Friday, September 15, 2006

Dear Lake Rogerene Residents:

Our lawsuit against the Borough of Mt. Arlington regarding the Shadow Woods application is scheduled for trial on Friday, September 15, 2006 at 10:00 a.m. at the Superior Court in Morristown in front of Judge B. Theodore Bozonelis. The judge will have reviewed all the briefs filed by the Plaintiff, the Lake Rogerene Civic Association, and the defendants, the Mount Arlington Land Use Board and the Borough of Mount Arlington, and will be making his decision on that day.

It would be to the neighborhood's benefit if we had a packed courtroom. The Association is sponsoring bus transportation from Lake Rogerene on the morning of the 15th to take all interested parties to the trial. The bus will return to Lake Rogerene when the trial is concluded which should be around noon. The Association will be paying for the bus. However, we will gladly accept a donation of \$10.00 to cover the cost of a seat.

This is a critical time in our fight against the Shadow Wood's project using Orben Drive as their access road. Please come to the courtroom on September 15 to show your support and concern for the safety of our neighborhood. We need everyone!! No excuses!!

If you are interested in riding on the bus to Morristown on Friday, September 15 at 8:30 a.m. or will be attending and driving there on your own, please call 973-770-2274. I will keep everyone informed of how many people will be able to attend. The courtroom will hold 40 people. The Association has spent over \$10,000 of your money to get us to this point. All able-bodied men, women and children need to be in court. Take off from work. Take off from school. This is it!!

Paula Danchuk LRCA

Joel A. Murphy, Esq
40 Baldwin Road
Parsippany, NJ 07054
973-265-2828 Fax: 973-257-4325
Attorney for Plaintiff

RECEIVED
2006 MAR 23 PM 3:01
CIVIL DIVISION

Lake Rogerene Civic Association, Inc.
Plaintiff

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION

DOCKET # *L-869-06-PW*

vs.

Borough of Mount Arlington Land Use Board;
Borough of Mount Arlington; Valley Road
Development, LLC; Seasons Associates, LLC;
Robert Atkins; Seasons Glen Homeowners
Association

CIVIL ACTION
COMPLAINT IN LIEU OF
PREROGATIVE WRIT

Defendants

The Lake Rogerene Civic Association, Inc., being located in 14 Rogerene Way, Mount Arlington, Morris County, New Jersey, by way of Complaint says:

FIRST COUNT

1. The Plaintiff is a Corporation in the State of New Jersey representing homeowners and taxpayers for properties around or in close proximity to the Lake, known as Lake Rogerene in Mount Arlington, Morris County, New Jersey.
2. The Plaintiffs herein reside in both Roxbury Township and the Borough of Mount Arlington in Morris County. There are some additional people (homeowners) not members of the Civic Association, but who join in this litigation. (Names to be supplied upon request).
3. The Defendants are persons or entities associated with the Land Use approval of the "Preliminary and Final Major Site Plan and Preliminary (and) Major Subdivision Approval" granted by the Mount Arlington Land Use Board on February 8, 2006.
4. The Mount Arlington Land Use Board is a product of N.J.S.A. 40:55D-25c., created by the Borough of Mount Arlington, a municipal Corporation of the State of New Jersey.

5. Robert Atkins is (was) the developer primarily involved in the development of Seasons Glen, Valley Road Development, LLC and Seasons Associates, LLC; and, in his individual capacity exercised influence and control during the course of these developments over the past 15 years.
6. The site plan/subdivision in question is the Shadow Woods Condo (60 units) and single family homes (10 in number) to be built on lots 42.03, Block 61; Lots 1 and 3, Block 72; Lot 1, Block 82; and Lots 9, 12, and 15 in Block 83. This development is immediately to the west of Season's Glen (contiguous thereto) and to the north of the Lake Rogerene homeowners.
7. The Shadow Woods Development has all its traffic directed to the streets (mainly Orben Drive) of Lake Rogerene, with the ultimate traffic destination being out of Mount Arlington in and to Roxbury Township at the intersection of Orben Drive and Shipenport Road.
8. All parties to this litigation, over the past years, fully assumed that the traffic generated by the present development would be directed East to Howard Boulevard in the Borough of Mount Arlington.
9. In and along Howard Boulevard there are stores, banks, restaurants, hotels, public transportation (bus and rail), park and ride, and easy access to Route 80 Interstate, both East and West bound.
10. The testimony at the Hearing before the Board was that Mr. Atkins offered Season's Glen a million to a million and a half dollars to permit Shadow Woods traffic access to Howard Boulevard, but Seasons Glen denied the request and forced Atkins to go elsewhere.
11. Pursuant to the Board approval, traffic from Shadow Woods is to go out to Orben Drive, an inferior road barely 16' wide in places, no shoulders or sidewalks, and without ample sight distances to assure safety; and with no plans for improvement, by the municipality or the developer. (And, it cannot be assumed that the requisite improvements can all be made because of the type of development existing in Lake Rogerene – e.g. wide roads, shoulders or sidewalks).
12. Neither the applicant, the Board or the Borough discussed, considered or reviewed plans for the safe conduct of traffic over Orben Drive; and, they did not consider or discuss whether or not sufficient improvements could ever be installed to adequately handle the traffic on Upper Orben Drive, neither pedestrian or vehicular. Neither were any studies done to evaluate the preservation or effect of development to Lake Rogerene itself.

13. All traffic analysis presented concerned the lower portion of Orben Drive at its most rural intersection with Shipenport Road, at least ½ to a mile from where the danger points are.
14. Orben Drive, at its upper end, has no sidewalks, curbs, drainage, shoulders or sufficient width for parking.
15. Applicant terms it a “collector street” when it is little more than narrow pavement winding south to a paved road.
16. Residents urged the Board to consider improvements to Orben Drive if the Board would not find an alternate means of directing the traffic to Howard Boulevard.
17. The Board did neither. They refused to consider a plan to get traffic out to Valley Road, and ignored the present safety hazards created on Orben Drive when Shadow Woods traffic exits off site on to upper Orben Drive.
18. This creates a one-way-in, one-way-out from Shipenport Road to Shadow Woods where Valley Road would provide safe access in a second, albeit, a primary direction.
19. The Board erred in,
 - a) not insisting on plans for the improvement of Orben Drive (see 1999 and 2005 Borough of Mount Arlington Master Plan); and,
 - b) not insisting on engineering input regarding the feasibility of Valley Road being a prime means of ingress or egress for traffic to Shadow Woods, from either the applicant or the Borough.
20. Objectors to the application, and Plaintiffs herein, testified to the Valley Road feasibility and presented an engineering plan supporting the premise of an alternate means of access to Shadow Woods.
21. Defendant Board refused to consider the proposal, deeming it out-of-time, when in fact it was testified to and submitted prior to any vote on the site plan/subdivision approval.
22. No other engineering plans concerning Valley Road were submitted as part of this application, only suggestive testimony by the applicant’s engineer that the access would be too steep and/or too costly.
23. The objector/Plaintiffs testified that Orben Drive is unsuitable and unsafe for the Shadow Woods traffic.

24. The Board, and the Municipality, were legally obligated to explore all avenues for the ingress and egress of traffic to Shadow Woods, as well as the physical ability of Orben Drive to handle the traffic as well as its ability to be improved.
25. The Board and Municipality have the obligation to explore the safety of Lake Rogerene residents with regard to the traffic flow from Shadow Woods. (Understanding, also, that this is not the end of development in this area, which necessarily now will be directed to Orben Drive).
26. This they did not do, receiving and considering testimony only to the end of the Shadow Woods property, but not considering the affect of traffic on substandard roads (Orben Drive). Therefore, there is no rational basis for the Board's decision to put traffic out on Orben Drive.
27. The Board and the Borough ignored or otherwise put off the complaints of the residents of Lake Rogerene in the interests of development in direct contravention of N.J.S.A. 40:55D-2a, 2e and 2h.
28. As such the Board's action in approving this application were arbitrary, capricious, unreasonable and detrimental to the health, safety, and welfare of the homeowners in Lake Rogerene, and contrary to the Mandates of the MLUL, Title 40:55D-1 et seq., and should be reversed and remanded for further review.

WHEREFORE PLAINTIFFS DEMAND Judgment reversing the Board's decision and remanding the application to the Land Use Board for hearings and actions designed to protect the health, safety and welfare of the residents of Lake Rogerene, Plaintiffs herein.

SECOND COUNT

1. Plaintiff repeats each and every allegation and fact as stated in the First Count as if the same were restated for this Count.
2. In the Resolution of Approval of the Board, the Board refers to prior litigation between the Board, the Borough and Valley Road Development.
3. The Board and the Borough entered into a Consent Order on August 6, 2003 affecting the subject property.

4. The Board cited the Order as providing “the approval of the subdivision for residential purposes shall not be construed as an agreement to approve any particular site plan...which approval can only be given in compliance with the....Municipal Land Use Law”.
5. It was also understood or otherwise implicit in the Order that traffic from this development would not be a safety issue and not adversely impact a neighborhood (which it does now) and would ostensibly go out to Howard Boulevard.
6. Neither the Board nor the Borough concerned itself with the needs and rights of the residents of Lake Rogerene when the Consent Order was signed.
7. Said signing was in fact, ultra vires in that it did not protect the Plaintiffs, and in direct contravention of the rights of the Plaintiffs.
8. The passage on February 8, 2006 by the Board of the Seasons Associates, LLC application does not comply with the stated or implicit requirements of the August 6, 2003 Consent Order. Seasons apparently is the purchaser under Contract from Valley Road Development.
9. During the course of the Hearings the Board and the Borough made statements referring to the Consent Order, that they had little discretion with regard to the Application based on the Consent Order.
10. The Consent Order did not negate or forget the rights of the Plaintiffs, only its signatories did.
11. In its Resolution of Approval there are 10 findings of fact and 34 conditions of approval. None relate to the traffic impact on or the improvements necessary for Orben Drive.
12. Creating a dangerous traffic condition in Lake Rogerene flies in the face of the Consent Order and represents an arbitrary, capricious and unreasonable exercise of the Board’s rights and powers.

WHEREFORE PLAINTIFFS DEMAND Judgment, pursuant to law, for the Borough and the Board’s failure to comply with the mandates of the Consent Order of August 6, 2003, and for the approval to be set aside as not being consistent with the Consent Order or the MLUL.

THIRD COUNT

1. Plaintiff repeats each and every allegation and facts as stated in the First and Second Count as if the same were restated in this Count.
2. Under the mandates agreed to by the signers of the Consent Order, sixty (60) units were to be created.
3. Seasons Associates, LLC, purchasers from Valley Road Development, applied to create 70 units, 60 condo and 10 residential.
4. Plaintiff's belief, and the record so implies, that all parties anticipated that traffic from Shadow Woods would go out to Howard Boulevard; the natural, safe and logical destination for traffic from this and other similar developments.
5. That may be implicit in the signing of the Consent Order and it is a fact that the Consent Order did not anticipate an additional 10 homes traffic being directed out to Orben Drive.
6. This was not an oversight but a variance from the spirit, intent and mandate of the Consent Order.
7. The Resolution of Approval neither properly or legally concerns itself with the rights, needs and safety of the residents of Lake Rogerene.
8. On page 10 of the Approving Resolution, the terse statement appears as a consideration of Lake Rogerene. "After Lake Rogerene Civic Association concluded its presentation, other interested parties appeared to offer comments and/or objections to Season's proposal. These comments focused upon environmental issues, landscaping, and buffering traffic, water quality, access and traffic".
9. There are no findings or facts or professional studies done, or accepted by the Board to consider or recognize these residents concerns or the concerns of Lake Rogerene Civic Association.
10. As a matter of fact, all references to Lake Rogerene on page 10 of the Resolution were minimized with the only recognition of safety or traffic being a reference to Valerie Hrael, P.E. saying, without engineering input, it "was not practical" to extend traffic to Valley Road. This provides no rational basis to prefer Orben Drive over Valley Road.
11. Kevin O'Brien, a Civil Engineer homeowner, later presented an engineered plan to the Board to refute said statement. The plan was rejected by the Board and not made a part of the record.

12. The Borough and the Board were obligated to comply with the Consent Order. They have not.
13. The Borough and Board, in ignoring the spirit of the Consent Order and in failing to address the needs and safety of the Lake Rogerene streets and roadways, have acted arbitrarily, capriciously, unreasonably and have forgotten, ignored and denied the legal rights of the citizens of Lake Rogerene. These legal rights include the needs and safety of the Lake Rogerene residents being considered, and protected in parimateria with those of the developer.

WHEREFORE, PLAINTIFFS DEMAND Judgment against the Board for declaratory judgment in juncture relief, damages, interest, attorneys fees, and costs of suit.

FOURTH COUNT

1. Plaintiff repeats each and every allegation and facts as stated in the First, Second and Third Count as if the same were restated in this Count.
2. As a result of the passage of the P.U.D. and the Consent Order of August 8, 2003, the Board and Borough have an implicit obligation to review and be guided by the Master Plan of the Borough.
3. In putting traffic out to Lake Rogerene the Board and Borough ignored the mandates of the current and previous Master Plan of the Borough.
4. With traffic being diverted to Orben Drive, and no improvements, studies or engineering being extant so as to guarantee the safety and well being of the residents of Lake Rogerene, the Planned Unit Development, Zoning and the Board's approval of Seasons application do not conform with the Master Plan of 2005 or 1998.
5. The Board's decision and the PUD zoning does not and is not designed to effectuate the Master Plan's protection of Lake Rogerene.
6. The Court should declare the PUD ordinance invalid and ultra vires, and the approval of Seasons' application should be reversed because neither provided for traffic to be channeled to Howard Boulevard, a logical, preferred and safe destination for all developments in Mount Arlington, in and around the subject site.

WHEREFORE, PLAINTIFFS DEMAND Judgment reversing the Board approval, and voiding the PUD Zoning as not complying with the Consent Order or the mandates of the Master Plan; or, in the alternative, directing Defendants to provide access of all traffic out to Howard Boulevard, in said Borough.

FIFTH COUNT

1. Plaintiff repeats each and every allegation and facts as stated in the First, Second, Third and Fourth Count as if the same were restated in this Count.
2. Robert Atkins, the Principal member of Seasons and an owner of Valley Road Development, and an original developer in the creation and development of Season's Glen, at all times over the past 15 or 20 years, had the opportunity to create, maintain and perfect ingress and egress of traffic, and all other traffic, out to Howard Boulevard.
3. His testimony before the Mount Arlington Land Use Board that he offered over a million dollars to Season's Glen was an act of desperation, intended to cover up the mistake of years past in not reserving a means of ingress and egress to the subject property.
4. The Borough of Mount Arlington and the Land Use Board are complicit in the same thinking, as through rezoning and settling the Valley Road Development lawsuit, the approvals for Seasons Glen, and the creation of zoning for the PUD, they neither thought about nor took steps to resolve the traffic question.
5. This was in contravention of the existing or past Master Plans, good planning, or the mandates of N.J.S.A. 40:55d-2a,k.
6. It also denied the protection of life and welfare of the residents of Lake Rogerene by creating an instance where all traffic was to be diverted out through Lake Rogerene to Roxbury's Shipenport Road. Shadow Woods is not the end of development whose traffic is to be so diverted.
7. This traffic flow is unsafe and will adversely affect the quality of life for many residents of Lake Rogerene.

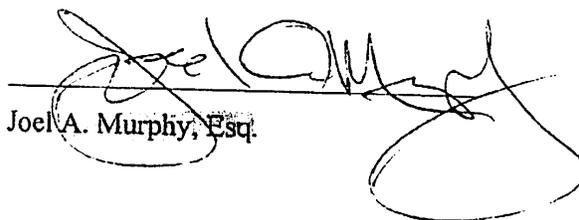
8. Defendant Atkins' negligent or intentional acts in not anticipating traffic consequences, directly impacts, adversely, the residents of Lake Rogerene.
9. As a direct consequence of his acts or omissions, his ability to now direct traffic to Orben Drive away from Howard Boulevard, should be enjoined and estopped in the interest of safety and equity.
10. The Board and the Borough are equally in error and wrong by not protecting the safety and interests of the residents either now or in the past.
11. All named Defendants had the opportunity and the ability to provide for a competent, comprehensive and safe means of directing traffic out to Howard Boulevard both prior to and during the past 15 years of development.
12. It is only now, after the Consent Order was signed, to which Lake Rogerene was not a party, that it becomes obvious that Lake Rogerene was a forgotten equity, and that fact did not surface until the hearing of the Seasons application.
13. Atkins first choice was to go out through Season's Glen with his traffic; the ultimate and preferred destination being Howard Boulevard.
14. He then switched to Orben Drive because of his negligent course of conduct in not preserving a R.O.W. both beneficial to Lake Rogerene as well as all those who buy his homes.
15. Neither the Borough nor the Board responded to that decision on behalf of Lake Rogerene, required no studies, proposed no improvements, nor did they exhaust other plans or studies to protect Lake Rogerene from this or other development traffic.
16. These parties acted in total disregard of the health, safety, and welfare of the residents of Lake Rogerene, and should be enjoined from going any further until safety is assured, good planning and the Lake Rogerene development is afforded road and sidewalk improvements, and the opportunity to participate in their destiny.

WHEREFORE, THE PLAINTIFFS demand Judgment enjoining and estopping Seasons and Atkins, the Land Use Board, and the Borough of Mount Arlington, from further development of Shadow Woods until the traffic question has been resolved, for compensatory damages and attorneys fees, and for interest and costs of suit.

CERTIFICATION PURSUANT TO R.4:5-1

I hereby certify, to the best of my knowledge, that the within matter is not the subject of any other action pending in Court or of any pending arbitration proceeding and that no other such actions are contemplated. Further, I know of no other party who should be joined in this action.

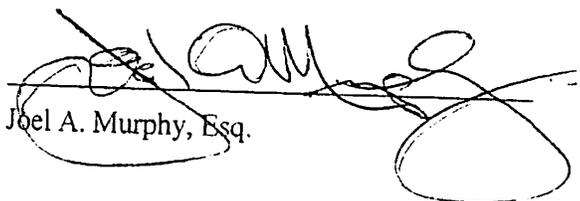
I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


Joel A. Murphy, Esq.

Dated: 3-23-06

CERTIFICATION OF ATTORNEY

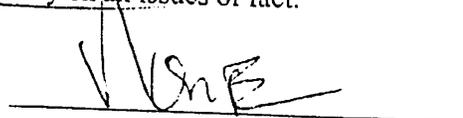
I hereby certify that trial counsel in this matter will be Joel A. Murphy, Esq.


Joel A. Murphy, Esq.

Dated: 3-23-06

DEMAND FOR JURY TRIAL

The Plaintiff herein demands trial by Jury on all issues of fact.


Joel A. Murphy
Attorney for Plaintiff

Dated: 3-23-06

BOROUGH OF MT. ARLINGTON
OFFICE OF THE BOROUGH CLERK

419 HOWARD BOULEVARD
MT. ARLINGTON, NEW JERSEY 07856

REQUEST FOR PUBLIC RECORDS

Name: Lake Rogerene Civic Assoc. Inc.
Address: 14 Rogerene Way
Landing 2 J0 07850
Telephone (Day): (973) 770-2274 Paula Danchuk

Information Requested:

Copy of Minutes [specify board or entity, date, topic or other identifying information]

Copy of Ordinance or Resolution [specify date, number, or other identifying information]

Other [specify] all transcripts for the
Shadow Woods Land Use Mtgs
(except vol 3+4, Sept 28, 05 + Oct 26, 05.)

License Information [specify]

Information on a Specific Property

Address _____
Block _____ Lot _____

Municipal Lien Search Fee: \$10.00
Municipal Lien Searches are provided by the designated search officer and will be provided within 15 days after the request is received and the fee paid, as provided in N.J.S.A. 54:5-11, et seq.

List of Property Owners within 200' Fee: _____
As provided in N.J.S.A. 40:55D-12, the fee is the greater of \$.25 per name or \$10.00

A request for a copy of Public Records should be submitted on this form which has been adopted by the Municipal Clerk as the Custodian of Records. Some records will be immediately available during normal business hours. Some records will require time to compile and to make the copies requested, but will normally be available during normal business hours and within seven (7) business days. If any document or copy which has been requested is not a public record or cannot be provided within the seven (7) business days, you will be provided with a response with that information within the seven (7) business days. Some records requested have specific fees or other response times established by statute. There is no fee involved in simply inspecting a document during normal business hours. This request may be filed electronically. In general:

- Immediate access is ordinarily available for budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information. Minutes of public meetings will be generally available immediately after the minutes have been approved.
- Records which are not readily available or which will require a search of records will be made available as soon as possible and the applicant will be provided with an interim report within seven (7) business days indicating the time which will be required to provide the records.
- Except as otherwise provided by law or regulation, the fee assessed for the duplication of a printed record shall be: first page to tenth page, \$0.75 per page; eleventh page to twentieth page, \$0.50 per page; all pages over twenty, \$0.25 per page; for a police accident report there is an additional fee when the request is not made in person of \$5.00 for the first 3 pages and \$1.00 for each additional page, as provided by N.J.S.A. 39:4-131.
- Where a request is for a copy in a format other than a photocopy, reasonable efforts will be made to provide the information in the format requested. The cost will be based on the costs of producing the format requested.
- Where a legal determination must be made as to whether records are "public records" as provided by law, the request will be reviewed by the Municipal Attorney.

The term "public records" generally includes those records determined to be public in accordance with N.J.S.A. 47:1A-1. The term does not include employee personnel files, police investigation records, public assistance files or other matters in which there is a right of privacy or confidentiality or which is specifically exempted by law.

The Applicant hereby acknowledges receipt of a copy of this form with the date on which the information is expected to be available and the estimated cost. The applicant hereby certifies that he or she has not been convicted of any indictable offense under the laws of this State, any other State or the United States and is not seeking government records containing personal information pertaining to the victim or the victim's family as provided by N.J.S.A. 47:1A-1 et seq.

This form, when signed by the municipal official shall constitute a receipt for any deposit received.

The information will be ready on _____

Estimated Number of Pages _____

Estimated Cost _____

Deposit _____

(required where the anticipated cost of reproduction exceeds \$5.00)

Galareh
Applicant

Tim M. Mayer
Municipal Official

Date: _____

Date: 3/21/06

White: Borough Clerk — Yellow: Department — Pink: Requestor

cc: Joanne Sandler, Borough Administrator (w/encl.)
Carolyn Rinaldi, Land Use Board Secretary (w/encl.)
Joel A. Murphy, Esq. (w/encl.)
John P. Wyciskala, Esq. (w/encl.)
Arnold J. Calabrese, Esq. (w/encl.)
Avrom J. Gold, Esq. (w/encl.)

Truly - True Means of Excellence

MSS:car
Enclosures

Very Truly Yours,
Michael S. Selvaaggi

Thank you.

Dear Judge Bozonellis:
Enclosed please find an original and one (1) copy of Defendants', Borough of Mount Arlington Land Use Board and Borough of Mount Arlington, Pretrial Memorandum.
Please return the "filed" copy in the enclosed self-addressed, postage-paid envelope.

Re: Lake Rogereene Civic Association v. Borough of Mount Arlington Land Use Board, Borough of Mount Arlington, et al.
Docket No. MRS-L-869-06

The Honorable B. Theodore Bozonellis, A.J.S.C.
Morris County Courthouse
Washington and Court Streets
PO Box 910
Morristown, NJ 07963-0910

June 2, 2006

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JEFFREY A GUTHRIE 2004

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MICHAEL BEHRNS
CHRISTOPHER J WEBER
*CERTIFIED BY THE
SUPREME COURT OF NEW JERSEY
AS A CIVIL TRIAL ATTORNEY
*MEMBER OF N.J. BAR
*MEMBER OF N.J. S.D. BAR
*MEMBER OF N.J. E. BAR

I. STATE AND SUMMARIZE THE NATURE OF ACTION

The Defendant, Seasons Associates, L.L.C., filed a fully-conforming land use application with the Borough of Mount Arlington Land Use Board on February 23, 2005 seeking preliminary and final site plan approval and preliminary major subdivision approval. The application contemplated the construction of sixty (60) townhouses and ten (10) single-family homes on Lots 1 and 3 in Block 72, Lot 1 in Block 82 and Lots 9, 12 and 15 in Block 83.

After seven (7) public hearings, the Defendant, the Borough of Mount Arlington Land Use Board approved the application. Following the Board's adoption of its memorializing Resolution, the Plaintiff initiated this lawsuit by the filing of its Complaint in Lieu of Prerogative Writs.

The Plaintiff contends that the Board's decision is arbitrary, capricious and unreasonable, because it allows access to the proposed development by way of Orben Drive. The Plaintiff alleges that Orben Drive is not a satisfactory roadway to handle the additional traffic to be generated by the project. The Plaintiff argues further that the Board did not require Seasons Associates to explore other means of access to its property, despite the fact that there was no credible evidence to suggest that Orben Drive was not satisfactory to handle the anticipated traffic.

II. STATE WHETHER THE ACTIONS ARE TO BE LIMITED TO THE RECORD BELOW

The Borough Defendants believe that this matter will be limited exclusively to the record compiled below which includes transcripts from the various public hearings and the exhibits submitted by Seasons and various objectors.

III. LIST ALL DOCUMENTS, TRANSCRIPTS AND EXHIBITS CONSTITUTING THE RECORD BELOW.

The transcripts will need to be provided to the Court from the public hearings held on the following dates:

May 25, 2005
June 22, 2005
September 28, 2006
October 26, 2005
November 30, 2005
December 7, 2005
January 11, 2006

Additionally, the following documents will be provided:

A-1 Shadow Woods subdivision plan of Block 1, Lot 42 prepared by Omland Engineering.

A-2 Consent Order regarding settlement agreement in the Valley Road Development v. Borough of Mount Arlington, et al. matter.

A-3 Written proposals made by Atkins Development Corp. to the Seasons Glen Condominium Association regarding access through the Seasons Glen development.

A-4 Opinion letter by Benjamin Lambert, Esq. regarding Seasons Glen's authority to enter into an access agreement without the consent from homeowners.

A-5 Letter from Arnold Calabrese, Esq. on behalf of Seasons Glen rejecting the request by Atkins Development to gain access to its property from Seasons Glen.

A-6. Letter from Dan Horgan, Esq. to Seasons Glen regarding access.

- A-7 Contours and aerial photo color rendering the property.
- A-8 Aerial photo of Block 61, Lot 42.
- A-9 Aerial photo entitled "Shadow Woods Overall Area."
- A-10 Aerial photo entitled "Shadow Woods Project Area."
- A-11 Letter dated July 22, 2005, from Eric Keller to Amy Fenwick Frank of the Department of Community Affairs regarding the road classification for Orben Drive.
- A-12 Letter dated July 25, 2005, from the Department of Community Affairs responding to Mr. Keller's July 22, 2005 letter.
- E-1 E-mail from Larry Torick of the New Jersey Department of Environmental Protection to Jacklyn Enfield.

IV. STATE A PROPOSED BRIEFING SCHEDULE

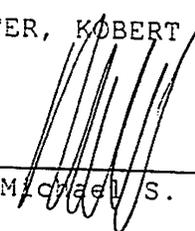
The Borough Defendants believe that the Plaintiff's trial brief should be submitted forty-five (45) days after the pre-trial conference scheduled for June 8, 2006. Thereafter, all Defendants shall be given thirty (30) days to file opposition briefs. The Plaintiff shall then have ten (10) days to file any reply brief, if necessary.

V. STATE A PROPOSED TRIAL DATE

The Borough Defendants believe that trial should be scheduled for September 13, 2006.

Dated: June 2, 2006

COURTER, ROBERT & COHEN, P.C.

By: 
Michael S. Selvaggi, Esq.

JIM COURTER
JOEL A KOBERT
LAWRENCE P. COHEN*
EDWARD S. NAGORSKY*
KEVIN M. HAHN
MURRAY E. BEVAN
MICHAEL S. SELVAGGI^o
ANTHONY J. ZARILLO, JR.*
RICHARD A. GIUDITTA, JR.
WILLIAM K. MOSCA, JR.^o
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MICHAEL W. ROSATI^o
MICHAEL BEHRENS
CHRISTOPHER J. WEBER

*CERTIFIED BY THE
SUPREME COURT OF NEW JERSEY
AS A CIVIL TRIAL ATTORNEY
^o MEMBER OF N.J. & N.Y. BAR
^o MEMBER OF N.J. & PA. BAR
^o MEMBER OF N.J. & D.C. BAR
^o MEMBER OF N.J. & L.A. BAR
^o MEMBER OF N.Y. BAR

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SUITE 1500
NEW YORK, N.Y. 10007

OF COUNSEL
HARRY K. SEYBOLT
PETER J. COSSMAN
JEFFREY A. GUTH (2000-2004)

May 15, 2006

Clerk of the Superior Court
Morris County Courthouse
Washington & Court Streets
P.O. Box 910
Morristown, New Jersey 07963-0910

Re: Borough of Mount Arlington Land Use Board, et al.
adv. Lake Rogerene Civic Association, Inc.
Docket No. L-869-06

Dear Sir or Madam:

This office has been retained to represent the defendants, the Borough of Mount Arlington Land Use Board and the Borough of Mount Arlington. Enclosed please find an original and one (1) copy of the aforesaid defendants' Answer to the plaintiff's Complaint in Lieu of Prerogative Writs.

Kindly file the Answer and return a stamp-receipted acknowledgment copy to me in the envelope I have provided. I have also enclosed a check in the amount of \$135.00 representing the filing fee.

Since the defendants are anxious to have this matter decided as expeditiously as possible, they are respectfully requesting an immediate status conference with Judge B. Theodore Bozonelis, A.J.S.C. Any assistance in this regard would be most appreciated.

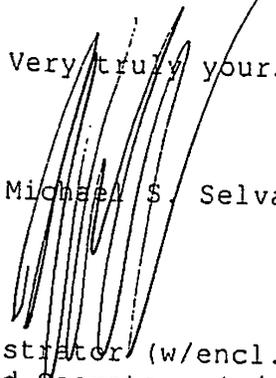
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Thirty-Five Years of Excellence

Clerk of the Superior Court
May 15, 2006
Page 2

Thank you.

Very truly yours,


Michael S. Selvaggi

MSS:car
Enclosures

cc: Joanne Sendler, Borough Administrator (w/encl.)
Carolyn Rinaldi, Land Use Board Secretary (w/encl.)
Joel A. Murphy, Esq. (w/encl.)
John P. Wyciskala, Esq. (w/encl.)

COURTER, KOBERT & COHEN
A Professional Corporation
1001 Route 517
Hackettstown, NJ 07840
(908) 852-2600
Attorneys for Defendants,
Borough of Mount Arlington Land Use Board
and Borough of Mount Arlington

LAKE ROGERENE CIVIC ASSOCIATION,
INC.

Plaintiff,

v.

BOROUGH OF MOUNT ARLINGTON LAND
USE BOARD, BOROUGH OF MOUNT
ARLINGTON, VALLEY ROAD DEVELOPMENT,
LLC, SEASONS ASSOCIATES, LLC,
ROBERT ATKINS, and SEASONS GLEN
HOMEOWNERS ASSOCIATION

Defendants.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION - MORRIS COUNTY

: Docket No. MRS-L-869-06

Civil Action

ANSWER TO COMPLAINT IN
LIEU OF PREROGATIVE WRIT

The Defendants, Borough of Mount Arlington Land Use Board and Borough of Mount Arlington (hereinafter collectively referred to as "Borough Defendants"), each having a business address at 419 Howard Boulevard, Mount Arlington, New Jersey 07856, by way of answer to the Plaintiff's Complaint in Lieu of Prerogative Writ, say as follows:

FIRST COUNT

1. The Borough Defendants neither admit nor deny the allegations contained in Paragraph 1 of the First Count of the

Plaintiff's Complaint in Lieu of Prerogative Writ and leave the Plaintiff to its proofs.

2. The Borough Defendants neither admit nor deny the allegations contained in Paragraph 2 of the First Count of the Plaintiff's Complaint in Lieu of Prerogative Writ and leave the Plaintiff to its proofs.

3. The Borough Defendants deny the allegations contained in Paragraph 3 of the First Count of the Plaintiff's Complaint in Lieu of Prerogative Writ insofar as the Borough of Mount Arlington and the Seasons Glen Homeowners Association were not associated with the subject land use approval.

4. The Borough Defendants admit the allegations contained in Paragraph 4 of the First Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

5. The Borough Defendants neither admit nor deny the allegations contained in Paragraph 5 of the First Count of the Plaintiff's Complaint in Lieu of Prerogative Writ and leave the Plaintiff to its proofs.

6. The Borough Defendants admit the allegations contained in Paragraph 6 of the First Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

7. The Borough Defendants admit the allegations contained in Paragraph 7 of the First Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

Paragraph 7 of the Third Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

8. The Borough Defendants neither admit nor deny the allegations contained in Paragraph 8 of the Third Count of the Plaintiff's Complaint in Lieu of Prerogative Writ in so far as said allegations refer to a written document which speaks for itself.

9. The Borough Defendants deny the allegations contained in Paragraph 9 of the Third Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

10. The Borough Defendants deny the allegations contained in Paragraph 10 of the Third Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

11. The Borough Defendants deny the allegations contained in Paragraph 11 of the Third Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

12. The Borough Defendants deny the allegations contained in Paragraph 12 of the Third Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

13. The Borough Defendants deny the allegations contained in Paragraph 13 of the Third Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

WHEREFORE, the Defendants, the Borough of Mount Arlington Land Use Board and the Borough of Mount Arlington, demand judgment against the Plaintiff, Lake Rogerene Civic Association, Inc.,

dismissing its Complaint in Lieu of Prerogative Writ with prejudice and awarding the Borough Defendants reasonable attorneys fees, costs of suit as permitted by law, and such other and further relief as this Court may deem just and equitable.

FOURTH COUNT

1. The Borough Defendants repeat and reallege each of their responses to the allegations contained in the First, Second and Third Counts of the Plaintiff's Complaint in Lieu of Prerogative Writ as if same were more fully set forth at length herein.

2. The Borough Defendants deny the allegations contained in Paragraph 2 of the Fourth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

3. The Borough Defendants deny the allegations contained in Paragraph 3 of the Fourth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

4. The Borough Defendants deny the allegations contained in Paragraph 4 of the Fourth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

5. The Borough Defendants deny the allegations contained in Paragraph 5 of the Fourth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

6. The Borough Defendants deny the allegations contained in Paragraph 6 of the Fourth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

WHEREFORE, the Defendants, the Borough of Mount Arlington Land Use Board and the Borough of Mount Arlington, demand judgment against the Plaintiff, Lake Rogerene Civic Association, Inc., dismissing its Complaint in Lieu of Prerogative Writ with prejudice and awarding the Borough Defendants reasonable attorneys fees, costs of suit as permitted by law, and such other and further relief as this Court may deem just and equitable.

FIFTH COUNT

1. The Borough Defendants repeat and reallege each of their responses to the allegations contained in the First, Second, Third and Fourth Counts of the Plaintiff's Complaint in Lieu of Prerogative Writ as if same were more fully set forth at length herein.

2. The Borough Defendants neither admit nor deny the allegations contained in Paragraph 2 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ and leave Plaintiff to its proofs.

3. The Borough Defendants deny the allegations contained in Paragraph 3 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

4. The Borough Defendants deny the allegations contained in Paragraph 4 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

5. The Borough Defendants deny the allegations contained in

Paragraph 5 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

6. The Borough Defendants deny the allegations contained in Paragraph 6 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

7. The Borough Defendants deny the allegations contained in Paragraph 7 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

8. The Borough Defendants deny the allegations contained in Paragraph 8 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

9. The Borough Defendants deny the allegations contained in Paragraph 9 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

10. The Borough Defendants deny the allegations contained in Paragraph 10 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

11. The Borough Defendants deny the allegations contained in Paragraph 11 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

12. The Borough Defendants deny the allegations contained in Paragraph 12 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

13. The Borough Defendants neither admit nor deny the

allegations contained in Paragraph 13 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ and leave Plaintiff to its proofs.

14. The Borough Defendants deny the allegations contained in Paragraph 14 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

15. The Borough Defendants deny the allegations contained in Paragraph 15 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

16. The Borough Defendants deny the allegations contained in Paragraph 16 of the Fifth Count of the Plaintiff's Complaint in Lieu of Prerogative Writ.

WHEREFORE, the Defendants, the Borough of Mount Arlington Land Use Board and the Borough of Mount Arlington, demand judgment against the Plaintiff, Lake Rogerene Civic Association, Inc., dismissing its Complaint in Lieu of Prerogative Writ with prejudice and awarding the Borough Defendants reasonable attorneys fees, costs of suit as permitted by law, and such other and further relief as this Court may deem just and equitable.

SEPARATE DEFENSES

FIRST SEPARATE DEFENSE

Plaintiff's Complaint in Lieu of Prerogative Writ fails to state a claim against the Borough Defendants upon which relief can

be granted and the Borough Defendants hereby reserve the right to move at or before the time of trial to dismiss said Complaint in Lieu of Prerogative Writ.

SECOND SEPARATE DEFENSE

Plaintiff is legally and equitably estopped from proceeding with its alleged cause of action against the Borough Defendants.

THIRD SEPARATE DEFENSE

Plaintiff's claims against the Borough Defendants are barred by the doctrine of waiver.

FOURTH SEPARATE DEFENSE

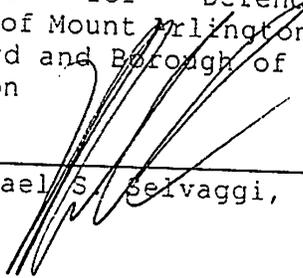
Plaintiff's Complaint in Lieu of Prerogative Writ, as far as it attempts to assert causes of action against the Borough Defendants, is without any reasonable basis in law or equity and cannot be supported by any good faith argument for an extension, modification or reversal of existing law and are therefore in contravention of N.J.S.A. 2A:15-59.1 and R. 1:4-8 as against said Defendants.

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of R. 4:25-4, the Court is hereby advised that Michael S. Selvaggi, Esq. of the firm of Courter, Kobert and Cohen, is hereby designated as trial counsel.

COURTER, KOBERT & COHEN, P.C.
Attorneys for Defendants,
Borough of Mount Arlington Land
Use Board and Borough of Mount
Arlington

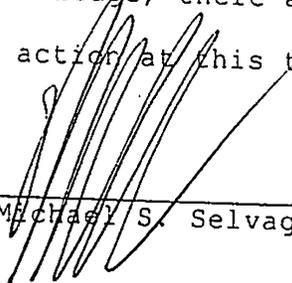
Dated: May 15, 2006

By: 
Michael S. Selvaggi, Esq.

RULE 4:5-1 CERTIFICATION

I hereby certify pursuant to R. 4:5-1(b)(2) that this matter is not presently the subject of any other action pending in any court or of a pending arbitration proceeding. Furthermore, no other action or arbitration proceeding is being contemplated at this time. Also, to the best of my knowledge, there are no other parties that should be joined in this action at this time.

Dated: May 15, 2006


Michael S. Selvaggi, Esq.

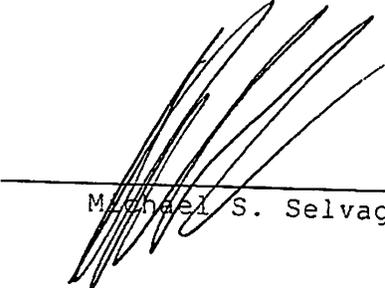
CERTIFICATION

I hereby certify that the within Answer and Separate Defenses was served upon all known counsel of record, via regular mail, as follows:

Joel A. Murphy, Esq.
40 Baldwin Road
Parsippany, New Jersey 07054

John P. Wyciskala, Esq.
Stern & Kilcullen, LLC
75 Livingston Avenue
Roseland, New Jersey 07068

Dated: May 15, 2006



Michael S. Selvaggi, Esq.



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial Law Division – Civil Part pleadings (not motions) under Rule 4:5-1.
Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or if attorney's signature is not affixed.

FOR USE BY CLERK'S OFFICE ONLY

PAYMENT TYPE:	CK	CG	CA
CHG/CK NO.			
AMOUNT:			
OVERPAYMENT:			
BATCH NUMBER:			

ATTORNEY/PRO SE NAME MICHAEL S. SELVAGGI, ESQ.	TELEPHONE NUMBER (908) 852-2600	COUNTY OF VENUE MORRIS
FIRM NAME (If applicable) COURTER, KOBERT & COHEN, P.C.	DOCKET NUMBER (When available) L-869-06	
OFFICE ADDRESS 1001 ROUTE 517 HACKETTSTOWN, NEW JERSEY 07840	DOCUMENT TYPE ANSWER	
NAME OF PARTY (e.g., John Doe, Plaintiff) BOROUGH OF MOUNT ARLINGTON AND BOROUGH OF MOUNT ARLINGTON LAND USE BOARD, DEFENDANTS		JURY DEMAND <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
CAPTION LAKE ROGERENE CIVIC ASSOCIATION, INC. v. BOROUGH OF MOUNT ARLINGTON LAND USE BOARD, BOROUGH OF MOUNT ARLINGTON, VALLEY ROAD DEVELOPMENT, LLC, SEASONS ASSOCIATES, LLC, ROBERT ATKINS SEASONS GLEN HOMEOWNERS ASSOCIATION	CASE TYPE NUMBER (See reverse side for listing) 701	
IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT		
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

A. DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, IS THAT RELATIONSHIP <input type="checkbox"/> EMPLOYER-EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) _____ <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS
B. DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION:

DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION _____
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, FOR WHAT LANGUAGE _____

CIVIL CASE INFORMATION STATEMENT

(CIS)

Use for initial pleadings (not motions) under Rule 4.5-1



CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I — 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT
- 505 OTHER INSURANCE CLAIM (INCLUDING DECLARATORY JUDGMENT ACTIONS)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)

Track II — 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 602 ASSAULT AND BATTERY
- 603 AUTO NEGLIGENCE - PERSONAL INJURY
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 699 TORT - OTHER

Track III — 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV — Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

999 OTHER (Briefly describe nature of action)

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category:

Verbal Threshold

Putative Class Action

Title 59

JIM COURTER
JOEL A. KOBERT
LAWRENCE P. COHEN
EDWARD S. HAGORSKY
KEVIN M. HAHN
MURRAY E. BEVAN
MICHAEL S. SELVAGGI
ANTHONY J. ZARILLO, JR.
RICHARD A. GIUDITTA, JR.
WILLIAM K. MOSCA, JR.
JOHN J. ABROMITIS
HOWARD A. VEX
JAMES F. MOSCAGIURI
JASON P. GRATTI
CHARLES A. CASTLE
MARYSOL POSADO THOMAS
AMANDA L. MULVANEY
MICHAEL W. ROSATI
MICHAEL. BEHRENS
CHRISTOPHER J. WEBER

*CERTIFIED BY THE
SUPREME COURT OF NEW JERSEY
AS A CIVIL TRIAL ATTORNEY
*MEMBER OF N.J. & N.Y. BAR
*MEMBER OF N.J. & PA. BAR
*MEMBER OF N.J. & D.C. BAR
*MEMBER OF N.J. & L.A. BAR
*MEMBER OF N.Y. BAR

LAW OFFICES
COURTER, KOBERT & COHEN

A PROFESSIONAL CORPORATION

1001 ROUTE 517

HACKETTSTOWN, N.J. 07840

(908) 852-2600

FAX (908) 852-8225

WWW.CKCLAW.COM

172 WEST STATE STREET
TRENTON, N.J. 08608
(609) 656-1330

23 CATTANO AVENUE
AT CHANCERY SQUARE
MORRISTOWN, N.J. 07960
(973) 285-1261

48 TRINITY STREET
NEWTON, N.J. 07860
(973) 875-0046

299 BROADWAY
SUITE 1500
NEW YORK, N.Y. 10007

OF COUNSEL
HARRY K. SEYBOLT
PETER J. COSSMAN
JEFFREY A. GUTH (2000-2004)

May 9, 2006

Joel A. Murphy, Esq.
40 Baldwin Road
Parsippany, New Jersey 07054

Re: Borough of Mount Arlington Land Use Board, et al.
adv. Lake Rogerene Civic Association, Inc.
Docket No. L-869-06

Dear Mr. Murphy:

The defendants, the Borough of Mount Arlington and the Borough of Mount Arlington Land Use Board, join in the demands made upon the plaintiff, as expressed by John P. Wyciskala, Esq. on behalf of the defendants, Valley Road Development, LLC; Seasons Associates, LLC; and Robert Atkins. Kindly provide copies of all documents requested in the manner and time required by the New Jersey Court Rules.

Thank you.

Very truly yours,

Michael S. Selvaggi

MSS:car

cc: JoAnne Sendler, Borough Administrator
Carolyn Rinaldi, Land Use Board Secretary
John P. Wyciskala, Esq.

Thirty-Five Years of Excellence

Attorney(s): Joel A. Murphy, Esq.

Office Address & Tel. No.: 40 Baldwin Road
Parsippany, NJ 07054
973-265-2828

Attorney(s) for Plaintiff(s): Lake Rogerene Civic Association, Inc.

SUPERIOR COURT OF NEW JERSEY
MORRIS COUNTY
LAW DIVISION

Lake Rogerene Civic Association, Inc.

Docket #: MRS-L-000869-06

Plaintiff(s)

Vs.

CIVIL ACTION
SUMMONS

Borough of Mount Arlington Land Use Board;
Borough of Mount Arlington; Vahle Road
Development, LLC; Seasons Associates, LLC;
Robert Atkins; Seasons Glen Homeowners
Association

Defendant(s)

From the State of New Jersey

To the Defendant(s) Named Above:

The Plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The Complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided). If the complaint is one in foreclosure, the you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, PC Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to the plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$135.00 and completed Case Information Statement) if you want to court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgement is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgement.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

DONALD F. PHELAN
Clerk of the Superior Court

DATED: 4/4/06

Name of Defendant to be Served: Borough of Mt. Arlington Land Use Board

Address of Defendant to be Served: 419 Howard Boulevard, Mt. Arlington, NJ 07856

ATLANTIC COUNTY: Deputy Clerk of the Superior Court Civil Division, Direct Filing 1201 Bacharach Blvd., First Fl. Atlantic City, NJ 08401	LAWYER REFERRAL (609) 345-3444 LEGAL SERVICES (609) 348-4200	MERCER COUNTY: Deputy Clerk of the Superior Court Local Filing Office, Courthouse 175 South Broad St., P.O. Box 8068 Trenton, NJ 08650	LAWYER REFERRAL (609) 585-6200 LEGAL SERVICES (609) 695-6249
BERGEN COUNTY: Deputy Clerk of the Superior Court Case Processing Section, Room 119 Justice Center, 10 Main St. Hackensack, NJ 07601-0769	LAWYER REFERRAL (201) 488-0044 LEGAL SERVICES (201) 487-2166	MIDDLESEX COUNTY: Deputy Clerk of the Superior Court Administration Building Third Floor 1 Kennedy Sq., P.O. Box 2633 New Brunswick, NJ 08903-2633	LAWYER REFERRAL (732) 828-0053 LEGAL SERVICES (732) 249-7600
BURLINGTON COUNTY: Deputy Clerk of the Superior Court Central Processing Office Attn: Judicial Intake First Fl., Courts Facility 49 Rancocas Rd. Mt. Holly, NJ 08060	LAWYER REFERRAL (609) 261-4862 LEGAL SERVICES (609) 261-1088	MONMOUTH COUNTY: Deputy Clerk of the Superior Court 71 Monument Park P.O. Box 1269 Freehold, NJ 07728-1269	LAWYER REFERRAL (732) 431-5544 LEGAL SERVICES (732) 866-0020
CAMDEN COUNTY: Deputy Clerk of the Superior Court Civil Processing Office 1st Fl., Hall of Records 101 S. Fifth St Camden, NJ 08103	LAWYER REFERRAL (856) 964-4520 LEGAL SERVICES (856) 964-2010	MORRIS COUNTY: Deputy Clerk of the Superior Court Civil Division 30 Schuyler Pl., P.O. Box 910 Morristown, NJ 07960-0910	LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 285-6911
CAPE MAY COUNTY: Deputy Clerk of the Superior Court 9 N. Main Street Box DN-209 Cape May Court House, NJ 08210	LAWYER REFERRAL (609) 463-0313 LEGAL SERVICES (609) 465-3001	OCEAN COUNTY: Deputy Clerk of the Superior Court Court House, Room 119 118 Washington Street Toms River, NJ 08754	LAWYER REFERRAL (732) 240-3666 LEGAL SERVICES (732) 341-2727
CUMBERLAND COUNTY: Deputy Clerk of the Superior Court Civil Case Management Office Broad & Fayette Sts., P.O. Box 615 Bridgeton, NJ 08302	LAWYER REFERRAL (856) 692-6207 LEGAL SERVICES (856) 451-0003	PASSAIC COUNTY: Deputy Clerk of the Superior Court Civil Division Court House 77 Hamilton St. Paterson, NJ 07505	LAWYER REFERRAL (973) 278-9223 LEGAL SERVICES (973) 345-7171
ESSEX COUNTY: Deputy Clerk of the Superior Court 50 West Market Street Room 131 Newark, NJ 07102	LAWYER REFERRAL (973) 622-6207 LEGAL SERVICES (973) 624-4500	SALEM COUNTY: Deputy Clerk of the Superior Court 92 Market St., P.O. Box 18 Salem, NJ 08079	LAWYER REFERRAL (856) 935-5628 LEGAL SERVICES (856) 451-0003
GLOUCESTER COUNTY: Deputy Clerk of the Superior Court Civil Case Management Office Attn: Intake First Fl., Court House 1 North Broad Street., P.O. Box 129 Woodbury, NJ 08096	LAWYER REFERRAL (856) 848-4589 LEGAL SERVICES (856) 848-5360	SOMERSET COUNTY Deputy Clerk of the Superior Court Civil Division Office New Court House, 3rd Fl. P.O. Box 3000 Somerville, NJ 08876	LAWYER REFERRAL (908) 685-2323 LEGAL SERVICES (908) 231-0840
HUDSON COUNTY: Deputy Clerk of the Superior Court Superior Court, Civil Records Dept. Brennan Court House - 1st Floor 583 Newark Ave. Jersey City, NJ 07306	LAWYER REFERRAL (201) 798-2727 LEGAL SERVICES (201) 792-6363	SUSSEX COUNTY Deputy Clerk of the Superior Court Sussex County Judicial Center 43-47 High Street Newton, NJ 07860	LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 383-7400
HUNTERDON COUNTY: Deputy Clerk of the Superior Court Civil Division 65 Park Avenue Flemington, NJ 08822	LAWYER REFERRAL (908) 735-2611 LEGAL SERVICES (908) 782-7979	UNION COUNTY Deputy Clerk of the Superior Court 1st Fl., Court House 2 Broad Street Elizabeth, NJ 07207-6073	LAWYER REFERRAL (908) 353-4715 LEGAL SERVICES (908) 354-4340
		WARREN COUNTY Deputy Clerk of the Superior Court Civil Division Office Court House 413 Second Street Belvidere, NJ 07823-1500	LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 475-2010



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial Law Division – Civil Part pleadings (not motions) under Rule 4:5-1.
Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or if attorney's signature is not affixed.

FOR USE BY CLERK'S OFFICE ONLY

PAYMENT TYPE:	CK	CG	CA
CHG/CK NO.			
AMOUNT:			
OVERPAYMENT:			
BATCH NUMBER:			

1. ATTORNEY/PRO SE NAME Joel A. Murphy, Esq.	2. TELEPHONE NUMBER (973) 265-2828	3. COUNTY OF VENUE Morris
4. FIRM NAME (if applicable)	5. DOCKET NUMBER (When available) <i>L-868-ab PW</i>	
6. OFFICE ADDRESS 40 Baldwin Road Parsippany, NJ 07054	7. DOCUMENT TYPE Prerogative Writ Complaint	
9. NAME OF PARTY (e.g., John Doe, Plaintiff) Lake Rogerene Civic Association, Inc	8. JURY DEMAND <input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
10. CAPTION Lake Rogerene Civic Association, Inc. vs. Borough of Mt. Arlington Land Use Board; Borough of Mt. Arlington; Valley Road Development, LLC; Seasons Associates, LLC; Robert Atkins; Seasons Glen Homeowners Association	11. CASE TYPE NUMBER (See reverse side for listing) 701	
12. IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
13. RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	14. IF YES, LIST DOCKET NUMBERS	
15. DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	16. NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN <input type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN	

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

17. A. DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, IS THAT RELATIONSHIP?	<input type="checkbox"/> EMPLOYER-EMPLOYEE	<input type="checkbox"/> FRIEND/NEIGHBOR	<input type="checkbox"/> OTHER (explain):
	<input type="checkbox"/> FAMILIAL	<input type="checkbox"/> BUSINESS	<i>Municipal</i>	

18. B. DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? YES NO

19. USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION.

RECEIVED
 10:01 AM
 9/11/01

20. DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? YES NO IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION.

21. WILL AN INTERPRETER BE NEEDED? YES NO IF YES, FOR WHAT LANGUAGE.

22. ATTORNEY SIGNATURE
