

RESOLUTION APPROVING SETTLEMENT

WHEREAS, West Orange resident Paul Tractenberg ("Mr. Tractenberg") filed two requests pursuant to the Open Public Records Act; N.J.S.A. 47:1A-1.2 ("OPRA"); and

WHEREAS, Mr. Tractenberg requests copies of certain appraisals concerning the tract of land owned by West Essex Highlands, Inc.;

WHEREAS, the Township asserted that the appraisals were subject to the deliberative exemption under OPRA; and

WHEREAS, Mr. Tractenberg commenced an action in lieu of prerogative writs under OPRA seeking access to the appraisals; and

WHEREAS, the Superior Court of New Jersey, Law Division conducted a trial and determined that the full unredacted appraisals were not available under OPRA; and

WHEREAS, Mr. Tractenberg filed an appeal to the Superior Court of New Jersey, Appellate Division; and

WHEREAS, on September 16, 2010, the Appellate Division issued its opinion wherein it determined that the appraisals were subject to release under OPRA, 416 N.J. Super. 354 (App. Div. 2010); and

WHEREAS, Mr. Tractenberg's counsel, Richard Gutman, Esq., has submitted fee applications to the Appellate Division and the Law Division based upon the prevailing party provisions of OPRA; and

WHEREAS, the total amount sought by Mr. Gutman in excess of \$150,564; and

WHEREAS, the Township Attorney has negotiated with Mr. Gutman in an attempt to resolve all pending litigation including the application for fees and expenses; and

WHEREAS, after various negotiations, Mr. Gutman has agreed to resolve all claims upon payment of \$69,500 no later than December 31, 2010; and

WHEREAS, the Township has made the necessary fund transfers to satisfy this

settlement; and

WHEREAS, the Township desires to resolve this matter once and for all without any further risk or expense;

NOW, BE IT HEREBY RESOLVED, by the Township Council of Township of West Orange that the Township Attorney be and is hereby authorized to resolve any and all claims by Paul Tractenberg and Richard Gutman, Esq. upon payment of \$69,500 in full satisfaction upon receipt of general releases from Mr. Tractenberg and Mr. Gutman including a waiver of any and all claims and expenses under any other statute, ordinance, rule or law; and it is further

RESOLVED, that the Business Administrator be and is hereby authorized to take such steps and actions as is necessary and appropriate to implement this Resolution.

Karen J. Carnevale, Municipal Clerk

Sal M. Anderton, Council President

Adopted: December 14, 2010