

Borough of Palisades Park
275 Broad Avenue
County of Bergen
State of New Jersey

Special Meeting
of the Mayor & Council
January 31, 2025

Borough of Palisades Park
Special Meeting of the Mayor and Council
January 31, 2025

Mayor Chong Paul Kim opened the Special Meeting at 7:00 P.M.

STATEMENT:

This is a Special Meeting of the Mayor and Council, and notice was given as follows:

1. Notice was filed January 23, 2025 with the Record & Newark Star-Ledger, both official newspapers of the Borough.
2. Notice was posted on the Bulletin Board at the Borough Hall and the Borough website at <https://mypalisadespark.com/>
3. Copy is preserved in the Clerk's Office.

PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE:

ROLL CALL:

Mayor Kim	Present
Councilman Kim	Present via Zoom
Councilwoman Lee	Present
Councilman Min	Present
Councilman Shin	Present
Councilman Vietri	Absent
Councilwoman Won-Yoon	Present
Borough Attorney Scott Krumholz	Present
Borough Administrator Roberta Stern	Present

Mayor Kim thanked the governing body for coming back to do another meeting. Mayor Kim acknowledged it may have been an inconvenience but he appreciated the support. The resolutions that were presented on the agenda had to be presented today as time was of the essence.

OFF CONSENT AGENDA:

RESOLUTION 2025-56 Adoption the New Jersey Department of Community Affairs' Calculation of Palisades Park's Forth Round Present and Prospective need Affordable Housing Obligations.

Mayor Kim asked Borough Attorney Scott Krumholz to present a short summary regarding the resolution. Scott Krumholz explained the resolution was a culmination of the DCA's determination of the boroughs fourth round COLA obligation for affordable housing. As a matter of the law, the borough was required to adopt a resolution memorializing this number by January 31, 2025 which was why the meeting was being held. Scott Krumholz continued, failure to adopt this resolution by that date would result in a non-compliance with state law which would expose the borough to potential builder's remedy action and liabilities. Scott Krumholz went over the answers to a few questions he got prior to that night's meeting. By adopting the resolution, the number on the resolution was not set in stone therefore the resolution itself contained certain contingencies and conditions by which the prospect meet number could change including the adjustment of the boroughs vacant land. Scott Krumholz repeated that there could be credits, or additional issues that could result in a modification of the number. Furthermore, adoption of the resolution did not procure the borough from contesting this number later on, should the borough feel that the number presented was wrong. Mayor Kim thanked Scott Krumholz and asked if there were any questions from councilmembers.

Councilwoman Won-Yoon stated the resolution included something about certification of compliance with the ACT. Councilwoman Won-Yoon asked if they had the wording because she wanted to know exactly what was being certified. Mayor Kim asked which one she was talking about. Councilwoman Won-Yoon specified the borough was seeking certification of compliance

Borough of Palisades Park
Special Meeting of the Mayor and Council
January 31, 2025

with the act. Councilwoman Won-Yoon asked by passing the resolution, would the borough be receiving some sort of certification in order to be compliance with round three. Scott Krumholz responded it was not for round three, it was for round four, and he still was unsure what she was referring to. Councilman Min stated she was referring to the number four explaining the judgement. Borough Attorney Scott Krumholz stated as soon as the meeting was over the borough clerk and himself would make sure the resolution was immediately certified and they would forward a copy to Special Attorney Leslie London who was the boroughs attorney handling the builders remedy cases. Leslie London would then that night file a declaratory judgement action with the court that would insulate the borough from any further builder's remedy actions. Councilwoman Won-Yoon asked if basically after voting, the resolution was the certification itself of the compliance. Scott Krumholz corrected that it entitled the borough to compliance. Mayor Kim stated without the resolution the borough could not request a declaratory judgment. Scott Krumholz stated he was correct. Councilman Min stated based off of past history and the reason the borough was now facing builders remedy cases was because they were not protected by the declaratory judgement in the past. Mayor Kim stated Councilman Min was correct. Councilman Min continued he was unsure which round in the past was not protected, but by passing that resolution that day, the borough would be protected from any future builder's remedy cases. Scott Krumholz continued that that meant that the borough controlled its own destiny as to how and what gets developed. Mayor Kim added on that included the masterplan, the overlay, and redevelopment zones. This is what they wanted from the judge after negotiating and settling with the first builders remedy cases. Councilwoman Won-Yoon stated she had been reading some New Jersey government documents related to the resolution. Councilwoman Won-Yoon figured out that places like Jersey City, and Hoboken had prospective need of 0% which meant they were exempt. Councilwoman Won-Yoon then went to figure out what the qualifications for an exemption was and she came across three things that qualify as urban aid which the borough may qualify for. Councilwoman Won-Yoon urged the council to check it out. Scott Krumholz stated he had discussed with Councilwoman Won-Yoon earlier about this topic and he had agreed and thought it would be beneficial for them to call with Kauker and Kauker. Scott Krumholz stated Councilwoman Won-Yoon could address that with Kauker and Kauker and they could explain whether the borough could or could not do that. Councilman Min stated he thought all councilmembers should know that the obligation number at 221 units was not set in stone. As they moved forward, they could find out that they qualify as exempt based off of what they do moving forward. Borough Attorney Scott Krumholz added on that they were still trying to resolve the builders remedy cases. There was an intervener that came in late to the game and based on that the borough had to revise its housing element and fair share plan and its RDP which was the Realistic Development Potential which was the number that guided the number of affordable units needed. The number of need had gone up but the number of satisfied had gone down. Based upon potential development ideas that the borough was still working through it was possible that the resolution of the builder's remedy cases could not only satisfy the third round but there could be carry over into the fourth round. Councilwoman Won-Yoon asked if she was correct that the boroughs present need was 333 units, which was in addition to the round three requirement. Scott Krumholz replied it was round threes total. The fourth round was 221 for perspective need. Councilman Min stated the borough had a right to chose the future. Mayor Kim stated let's get the right back. Councilwoman Lee asked if they were basically passing the resolution, including the resolution in paperwork and ask the judge whether the borough complied with the conditions of the act. Scott Krumholz replied Councilwoman Lee was correct. Borough Administrator Roberta Stern stated it wasn't the judge it was the state. Borough Attorney Scott Krumholz stated it was the declaratory judgement that was filed with the state in court. Roberta Stern replied that's what she had said, it was filed with the state. Councilwoman Lee asked if the wording in the resolution could be viewed as not satisfying or non-compliant with the act. Scott Krumholz responded no, the boroughs status at that point in terms of what they had done with the third round and their status in terms of the

Borough of Palisades Park
Special Meeting of the Mayor and Council
January 31, 2025

obligations through the judge's orders gave the borough a right to file for declaratory judgement. The declaratory judgement was basically asking the court to determine the borough was in full compliance with the affordable housing laws. Councilwoman Lee stated she was asking if that grant of judgment was based on the merit of the resolution. Just because the borough had passed a resolution that related to the act, would the judge just sign it off. Roberta Stern replied pretty much because that was how everyone else was doing it. Borough Attorney Scott Krumholz stated that resolution was not the be all and end all of everything it was just one major necessary component. Councilwoman Lee asked if that meant they weren't going to go through the language of the resolution. Councilwoman Lee stated the reason she had asked was because the first clause where the borough was subjecting the acceptance based on two conditions. Scott Krumholz asked what page. Councilwoman Lee responded the second page, second clause where the borough was accepting the states number of perspective units. Scott Krumholz replied correct. Councilwoman Lee stated the next part was the number of units that the state had computed and the borough accepts. The last clause was subject to any vacant land or durational adjustment. Councilwoman Lee stated she was less concerned about the current builder's remedy case carrying over and meeting the units because it would help the borough in the end. Although to Councilwoman Won-Yoon's point if the 221 units could potentially be exempt shouldn't the borough add language in the resolution as a condition that would imply that it was subject to further review. Scott Krumholz stated not only was it unnecessary but it defeated the intent of the ordinance adopting it. Leslie London had drafted it, and to build in further flexibility of it would not be recognizing the number. Councilwoman Lee stated that when she had read the report from the state, she thought the condition was the borough either had to accept the states number or propose the boroughs own number. Mayor Kim stated she was correct. Councilwoman Lee asked if Leslie London had tried to propose the boroughs own numbers. Scott Krumholz replied no, because the borough couldn't. Scott Krumholz understood Councilwoman Lee did not want to address the builders remedy cases but the borough couldn't. Councilwoman Lee stated it was kind of all part of the same thing. Scott Krumholz stated in the process of revising, the borough had submitted their first housing element fair share plan that was adopted by the council and planning board. They were now amending the housing element and fair share plan, and RDP at the same time. The housing element and fair share plan could be modified and changed at anytime as long as there is a rational basis. Mayor Kim asked for example, the borough would agree there would be 333 prospective need obligations, and also 221 for the fourth round. After everything was set and done, they would know how much more the borough needed to fill the fourth round unless there was a surplus from the third round. Mayor Kim continued when everything was settled, the numbers could change because they weren't obligated to fulfill the number. Scott Krumholz stated he was correct. Councilwoman Lee stated that was very important, because based off of what Mayor Kim had mentioned, based on the builder's remedy cases the obligation could be completely satisfied. Scott Krumholz stated it was possible. Councilwoman Lee stated she felt if 221 units was potentially exempt then they could be done with it that year. She did understand that there was flexibility, but she didn't personally see it in the resolution and she wanted to make sure they weren't signing up for 221 by signing the resolution. Mayor Kim stated it wasn't a definite. Scott Krumholz stated she just read the language. Councilwoman Lee stated it was based off of his interpretation. Scott Krumholz replied she read herself that it was based off of vacant land and/or duration adjustment. Councilwoman Lee asked if vacant land and duration adjustment went directly to qualified urban aid exemption. Scott Krumholz asked if she was talking about urban aid exemption or the number. Councilwoman Lee stated if a municipality is qualified as an urban aid city, they are exempt from the fourth round. Councilwoman Lee stated she was asking if anyone had considered that Palisades Park could qualify for that. To Councilwoman Won-Yoon's statement beforehand, Scott Krumholz had responded that she should speak with Borough Planner Kauker and Kauker. Councilwoman Lee was asking if they could make it a point on the resolution that they would be doing that even though Scott Krumholz had mentioned it would

Borough of Palisades Park
Special Meeting of the Mayor and Council
January 31, 2025

hurt the borough. Scott Krumholz responded it wouldn't hurt the borough, and by adopting the resolution it in no way precluded the borough from proceeding either on its own or with the pending lawsuits challenging the number. Councilwoman Lee stated it was separate from the pending lawsuit. Scott Krumholz responded he wasn't talking about the builder's remedy case. There was a pending lawsuit that multiple municipalities brought to challenge their fourth-round number. The borough of Palisades Park was not a part of that lawsuit although they could join the lawsuit if they looked into it and found there was a basis to do so. Signing the resolution that night in no way precluded them from doing that. Councilwoman Lee stated that he was saying the ongoing litigation by the coalition was getting at the urban aid issue. Mayor Kim stated he wanted to comment, he was appreciative everyone did their research but the towns that completed their urban aid analysis and learned that they did not have to fulfill their obligation anymore. Mayor Kim asked if that was what everyone was talking about. They agreed. Mayor Kim asked if these towns were sued by builder's remedy. Councilwoman Won-Yoon stated no, this was only round four. Councilwoman Lee stated there were a group of cities that were filing a lawsuit. One of their claims was that this whole thing was unconstitutional because the state was exemption only certain cities. Mayor Kim stated he knew that and to join the lawsuit was \$20,000. Scott Krumholz stated there were two lawsuits. Councilwoman Lee stated this was a real issue that other cities were aware of too. Councilwoman Lee asked apart from the litigation, can the borough get qualified as an urban aid to get exemption, did the borough ever talk to the state about it. Scott Krumholz stated he was unsure. Councilwoman Lee responded she wanted to make sure there was flexibility. Mayor Kim asked when the towns found out that they qualified for urban aid, were they sued or not. No one knew, but Mayor Kim stated it was important. Before the towns sued, they still had their right to do whatever they wanted to do until they got sued and the judge threw all of their ordinances out the window and demanded they restart. At the point the borough was at, they had lost their power. Mayor Kim stated they had to find out what the conditions were because he believed these municipalities were never sued by builder's remedy and they were participating in a preemptive strike. Mayor Kim continued that this may have worked but once the borough was sued, he didn't think it was too late. The borough didn't comply before they got sued since 2008 which was why the judge was upset after providing ample opportunity. This was something that was important to pass in order to get the declaratory judgement, something they had been working on for over two years. Mayor Kim commented they had the wrong attorney before that screwed the borough over, but this new resolution would allow immunity. 333 units and 221 units could be altered depending on how much the borough owed for the third round. Councilwoman Lee apologized for cutting off Mayor Kim, and asked what the immunity was from. Mayor Kim stated from future builder's remedy cases. Councilwoman Lee stated the current builders remedy cases were expected to satisfy. Scott Krumholz stated no, once the current builders remedy cases were completed, scheduled for April, and the borough received a judgement of repose, the third round was done and there could be carry over. Scott Krumholz stated let's say there was no carryover, the worst-case scenario was 221 units which could be lowered. Adopting the resolution that night did not prohibit the borough from individually approaching the state seeking an exemption outside of litigation, or joining another lawsuit. Mayor Kim stated urban exemption was something available when a municipality had its right, and Palisades Park borough was stripped of their rights. Councilwoman Won-Yoon stated there were three tests that qualify a town as an urban aid municipality. The second test, population density – Mayor Kim stated Kauker and Kauker already did this. Councilwoman Won-Yoon stated if any municipality's density exceeded 10,000 per square mile, then they qualified. Scott Krumholz asked how many square miles was the borough. Councilwoman Won-Yoon stated 1.25 miles. Scott Krumholz stated then the borough did qualify. Mayor Kim stated he was going to call the borough planner to ask about it but they needed to find a better way to put their heads together. Mayor Kim acknowledged the research they had done and come up with but the resolution had to be signed and the conversation should have been had before. Mayor Kim called Borough Planner Kauker and Kauker at that moment.

Borough of Palisades Park
Special Meeting of the Mayor and Council
January 31, 2025

Mayor Kim explained to Michael Kauker the reason for his phone call, and stated the resolution had to be signed that night. Councilmembers were questioning the urban aid development and questioned if the borough qualified for it why didn't the borough apply for the protection. Michael Kauker stated the borough used to be an urban aid city, but not anymore. Mayor Kim asked if it was because of the lawsuits. Michael Kauker stated it didn't have anything to do with the lawsuits but he knew his father did some research on it a few years prior. He offered to call his father if they needed an answer right then and there. Mayor Kim stated it was okay, but the town didn't qualify. Michael Kauker stated he was pretty sure the town did not qualify but they were an urban aid community at some point. Mayor Kim asked when he had a chance if Michael Kauker could get some information for the council on that. Michael Kauker stated he had a list of urban aid municipalities for 2024 which Palisades Park was not a part of. Councilwoman Lee asked how they get on the list. Mayor Kim asked who assessed the list and created the list. Michael Kauker stated for example Newark was on the list. Mayor Kim stated that they were getting off topic and just wanted to know if the borough qualified. Michael Kauker stated no, they did not qualify. Mayor Kim asked him to find out the reason they did not qualify. Michael Kauker stated he knew his father did research on this a few years prior and would ask him as well. Michael Kauker added he could provide an answer by the following week. Councilwoman Lee asked if she could ask a procedural question. Councilwoman Lee asked does a municipality have to reach out to the state. Michael Kauker stated he knew it had to do with economics, the borough may not qualify. Councilwoman Lee asked again if this was something the borough had to sign up for themselves. Mayor Kim stated he believed as a mayor this was after the fact, and they were trying to discover something they should have gone over before. Mayor Kim stated thank God there weren't members of the public present who would be in fury during their public participation portion. Michael Kauker stated for example some eligibility criteria for urban enterprise development, main street New Jersey program disaster impact, fiscal distress, and state eligibility. Mayor Kim thanked him. Councilman Min stated if he could recall correctly, in order for a town to qualify it took the low capital income of the town. Councilwoman Won-Yoon stated it didn't say that. Mayor Kim interrupted everyone and stated he had to put his foot down. The borough had to follow this, and because the discovery of the two councilmembers was discovered after the fact, they had to move on. Mayor Kim requested a motion to pass resolution 2025-56. Councilman Min made a motion which was seconded by Councilman Shin. The motion carried on a roll call vote and was recorded as follows:

Councilman Kim:	Yes
Councilwoman Lee:	Yes, based on the statement that the borough attorney made that the borough did have the flexibility of qualifying for any exemption after passing the resolution.
Councilman Min:	Yes, based on the statement that the borough attorney made that the borough did have the flexibility of qualifying for any exemption after passing the resolution.
Councilman Shin:	Yes
Councilwoman Won-Yoon:	Yes, based on the statement that the borough attorney made that the borough did have the flexibility of qualifying for any exemption after passing the resolution.

Borough Clerk Sophia Jang stated Resolution 2025-56 was carried.

RESOLUTION 2025-57 Awarding Professional Services Contract with Special Counsel
(Re: Rainone, Coughlin & Minchello)

Mayor Kim asked for Scott Krumholz to give a brief explanation. Scott Krumholz stated there was an employee who made a complaint against another employee so there needed to be an outside firm hired to conduct an investigation into the complaint. Mayor Kim stated that was the furthest they could go without going into a closed session if someone called it. Mayor Kim stated it was in the best interest to protect the rights of the employees of the borough and was standard

Borough of Palisades Park
Special Meeting of the Mayor and Council
January 31, 2025

procedure. Mayor Kim requested a motion. Councilman Min made a motion which was seconded by Councilwoman Won-Yoon. The motion carried on a roll call vote and was recorded as follows:

Councilman Kim:	Yes
Councilwoman Lee:	Yes
Councilman Min:	Yes
Councilman Shin:	Yes
Councilwoman Won-Yoon:	Yes

Borough Clerk Sophia Jang stated Resolution 2025-57 had been carried.

Mayor Kim requested a motion to close and open to the public. Councilman Min made a motion which was seconded by Councilwoman Won-Yoon. All joined in favor, none opposed.

PUBLIC PARTICIPATION:

There were no members of the public present at the meeting. Mayor Kim requested a motion to close and return to the special meeting. Councilwoman Won-Yoon made a motion which was seconded by Councilman Min. All joined in favor, none opposed.

ADJOURNMENT:

Mayor Kim requested a motion to adjourn the meeting. Councilwoman Won-Yoon made a motion which was seconded by Councilman Min. All joined in favor, none opposed.

Attest:



Sophia H. Jang, RMC
Borough Clerk