

TOWNSHIP OF WASHINGTON
BERGEN COUNTY, NEW JERSEY

REGULAR MEETING MINUTES

September 11, 2017

The Regular Meeting of the Township Council of the Township of Washington was held at 7:30 p.m. in the Council Meeting Room of the Municipal Complex, 350 Pascack Road, Township of Washington, New Jersey.

Council President Robert Bruno called the meeting at 7:32 p.m. by reading the following statement.

OPEN PUBLIC MEETING STATEMENT

The regularly scheduled Public Meeting of September 11, 2017 of the Township of Washington Township Council. Adequate notice of the meeting was given in accordance with the Open Public Meetings Act by the Township Clerk to at least two (2) newspapers in January and this notice has been posted on the Township Bulletin Board and on the Township Web Site.

Please notify the Municipal Clerk for any disability requirements necessary for attendance at Mayor and Council meetings. The fire exits are located through the double doors to your right and through the door on your left. Please silence all cell phones.

Salute to the Flag.

Council President Bruno spoke of the 9/11 Ceremony which was held prior to the Council meeting tonight. He would like to have a "Moment of Silence" to remember the events that happened years ago.

ROLL CALL

Council Members Peter Calamari, Thomas Sears, Michael Ullman and Council President Robert Bruno. Also present: Janet Sobkowicz, Mayor; Ken Poller, Township Attorney; Mary Anne Groh, Administrator; and Susan Witkowski, Township Clerk. Also present, Stanley Slatchetka, T&M Associates. Councilman Cascio arrived at 7:35 p.m.

The Clerk read the totals of the list of bills August 1, 2017 through August 31, 2017:

TOTAL	2016 Reserve	\$29,613.72
TOTAL	2017 Current	\$3,690,937.34
TOTAL	Capital Fund	\$6,775.00
TOTAL	Animal Control	\$496.00
TOTAL	Trust Fund	\$17,591.55

APPROVAL OF MINUTES

A motion was made by Councilman Cascio, seconded by Councilman Sears to approve the following minutes:

May 22, 2017 Public Meeting Minutes
May 22, 2017 Conference Meeting Minutes
July 17, 2017 Closed Session #1
July 17, 2017 Closed Session #2
August 7, 2017 Closed Session

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.
Nays: None.

Mayor's Report, September 11, 2017

9/11 MEMORIAL OBSERVANCE

The Memorial Service took place today, September 11, at 5:15 p.m. and I was very happy to see approximately 45 people attend. I was very happy to hear the playing of TAPS, and the talent that is in the Township. I thank the DMF for working diligently to clean up around the monuments and putting out the wreaths.

ROAD PROGRAM 2017

Road paving has been completed. The contractor will be returning to address punch list items and road striping.

B STREET BAND PERFORMANCE

The B Street Band Concert went very well with approximately 1,000 people attending. The feedback I got from residents was very positive as they enjoyed the music as well as spending time with family, friends, and neighbors. The event was sponsored by Oritani Bank, organized by Mike Agnello and Pete Neary of the Fire Department, and implemented by members of the department. I also thank the CERT members who were there as the eyes and ears of the police department.

DEPARTMENT OF MUNICIPAL FACILITIES

Our streets were swept the week of August 28 by Paramus except for the newly paved roads.

Late Wednesday evening 9/6, there was a power outage basically on the northwest side of town due to a large tree taking out power lines on Wearimus Road; Daryl Esoldi and Gerry Casey were called out about 5 a.m. to clear the road.

The department focused on refreshing the yellow no-parking curb lines at the schools. The new LED stop signs were installed by Ron Scherer and Tim Reilly.

Staff is continuing to maintain homes unabated by the property owners. Accurate records are being kept of service and fees because the town will be reimbursed through liens on the property.

A crew used the shared service vehicle to clean out catch basins including Sussex, S. Chestnut, and Calvin Streets.

The department continues to seed Memorial Field weekly with more attention to the high traffic areas.

Staff also checked all the manholes in the critical areas for flow and applied enzymes. All were good.

Bill Lawlor, road department superintendent, is attending a class called, Management Tasks and Responsibilities, at Rutgers Ecology Complex. It is a 5-day, 7 hour a day class necessary for certification.

BETHANY COMMUNITY CENTER

As everyone knows, the Bethany Church has bought the "Y" property and they are beginning their renovations inside. They are redoing the gymnasium first, and that might be an opportunity for the town in terms of basketball.

RECREATION

Falcons Football has 71 participants in the program and Cheerleading has 74.

The Golden Seniors went into the City to see Beautiful, the story of Carole King and returned to have a nice dinner at Lili's Bistro in the Township.

HABITAT FOR HUMANITY

As you know, Habitat Bergen is building four, two-bedroom affordable units on Jefferson Avenue; two (2) are earmarked for veterans and the other two (2) are for seniors 55 and over. A rendering of the building is on our website. Go to habitatbergen.org to volunteer beginning in October. Housing applications will be taken in December.

At this time, Habitat is continuing removal work at the VFW in preparation for the new housing there. In addition, the Township was very fortunate to be involved in a community service project with Stryker Corporation through Jacey Raimondo, Executive Director of Habitat for Humanity. Ten volunteers from Stryker accompanied by two construction supervisors, Gary and Chris, spent the entire day, August 24, on a project that included spackling, taping, and painting the Council Chambers at Town Hall and cleaning the pavilion area and the basketball court at Memorial Field. The Team Leader was Crystal Gaffney from Stryker Corporation. The Grayheads, another volunteer group affiliated with Habitat came on August 30 and September 6 to complete the painting; our ceiling is a challenge. Amazing work!

WALL OF VETERANS

If you know of a veteran who lived in the Township at some point or still lives here and would like to have his/her picture, please send or bring to Bernadette at Town Hall.

GRANT PROVIDER

Administrator Groh, Councilman Cascio, Council President Bruno, and I interviewed a representative from Millennium Strategies. This is not easy because you have to evaluate the types of grants they write and the cost of writing and submitting them versus the percentage charged by the company. For example, if our engineer charges \$3,000 to write and submit a DOT grant for \$150,000, that is your cost; if an outside vendor does not get paid to write the grant but gets 10% of the amount of the grant, your cost is \$15,000. Of course, it is possible that you don't get the grant and you paid to have it written. However, if the outside vendor has to ask our engineer for measurements or costs, that fee is really part of the cost of the grant. So, again, it is important to study the records of grant writers to see the types of grants they procure.

TOWN DAY BETTER KNOWN AS 8TH ANNUAL FALL FESTIVAL

The festival this year will feature a Carnival theme with 5, 8'x8' tents with 2 games in each tent ranging from easy to more difficult. It will be a great day for everyone with food vendors, information tables, kids entrepreneur corner, k-9 dogs, pony rides, fish bowl game, music, rides, popcorn, demonstrations, etc. If you are interested in being a volunteer, a sponsor, a food or information vendor, please complete a form or call Bernadette at Town Hall, and she will send you the packet.

The festival is Saturday, October 7, 2017, from 11 a.m. to 4 p.m. Please join us for a great afternoon.

ACCESS IMPROVEMENTS MEMORIAL FIELD

The Bergen County Open Space Matching Grant that we received for installing a handicap ramp near the fieldhouse at Memorial was completed by Wetlands Company on August 25. The replacement of existing sidewalks and installation of handicap ramps along Memorial Field was delayed due to weather.

TRAFFIC/SAFETY ACTIVITIES

Several more road and safety items are being done since the August 19 initiative on some of our county roads.

- Purchased and installed two LED Stop Signs on Van Emburgh Avenue at Washington intersection. Captain Hackbarth has requested that the County move the GSP/Town Signs on the southbound side of Washington to improve visibility of the new LED signs; the County has agreed to do it.
- As usual, we had a police presence at the three public schools to facilitate the opening days.
- Chief Hooper reports that there is some improvement in the left turns at Washington and Pascack since the left hand turn arrows and lane markings were installed by the County.

If you have noticed any white arrows on Linwood Avenue, it's because it will be paved by the County in the very near future.

FUNDRAISERS FOR FRANKIE

Two fundraisers were held for Frankie, a 6 yr old Washington Township boy born with epilepsy and having constant seizures and surgeries. One was at the Swim Club, and the other event was the K of C Annual picnic on Sunday, Sept. 10, the proceeds going to support Frankie. Thank you for supporting this cause.

AREA HOSPITALS DID WELL IN RANKINGS

Hackensack University Medical Center is once again ranked #1 in New Jersey and #4 in the New York Metro area; Valley Hospital is ranked 5th in New Jersey and the 12th in the New York metropolitan area. We are very fortunate to live in an area with good medical care.

MEETING WITH SCHOOL OFFICIALS

On Friday, September 1, Council President Bruno and I met with the Supt. Gonzalez, two board members, and Administrator Rosado to clarify things and ask about school parking. Council President Bruno will report on those items. I did get clarification from Keith Rosado about the funding formula for our regional school district. It is funded solely on assessed values and does not include a component for the number of students from each town. How it affects us is that Westwood has about 280 more students than the Township has making it less equitable for us. If you multiply say 250 more times \$19,000 per student, it means \$4,750,000.

SHREDDING AND E-RECYCLING

The next shredding and e-recycling event will be on Saturday, October 21, from 9 a.m. to Noon.

Also, for the month of July, you recycled 48.62 tons of paper as opposed to 89.87 tons last year for July.

FIGHT THE FLU

The flu program will be held on Wednesday, September 20, from 10 a.m. – 12 p.m. in the Senior Center at 350 Hudson Avenue. This year we will be offering a Quadrivalent vaccine which protects against four different flu virus strains as well as a High Dose vaccine for those 65 or older.

AMBULANCE CORPS

From January 1, 2017 to July 31, 2017, the ambulance corps was dispatched 303 times and 50 in June. The members of the Corps are always working hard to get new members to provide more service to the residents. Have you thought about becoming a member?

FIRE DEPARTMENT

From January 1 to July 31, 2017, the Fire Department was dispatched 111 times with 14 in June alone not including mutual aid calls from other towns.

Jay Cue Company removed the birds from the Firehouse shingles.

POLICE DEPARTMENT

From January 1 to July 31, 2017, the Police Dept. answered 4,927 calls to service with 719 in July.

Last month I mentioned Mental Health Awareness is a new 5-hour state-mandated training requirement for all police departments. Members go to the Academy in Mahwah for three hours and watch a video here for 2 hours.

ADMINISTRATION

Administrator Groh has been very busy with problems that arise especially in terms of quotes, bids, and state contract pricing policies.

WRHS FOOTBALL

Westwood Football Team beat Mahwah 41-21 and were ranked #3 this morning; hopefully, next week they move up to 2! Met Life here they come.

PLANNING BOARD

You may have noticed a new store in the Shopping Center called Party +, which was recently approved by the Planning Board. Although the main idea is Balloon designs by Raquel, the store has many useful party items at reasonable prices. Stop in when you get a chance; they will have a presence at Town Day with balloon designs at the entrance.

On Wednesday, September 6, the Board approved a new store called Miracle Catering, which will be doing off premises catering but will also be serving meals and having food demonstrations at the store.

LIBRARY

It's no secret that the library has new and great programs scheduled for the fall! Next Saturday, September 16, at 2 p.m. there will be a San Gennaro Celebration featuring a Frank Sinatra concert screening and café. The

screening is from the New York Philharmonic, celebrating his legacy. You have to register at the desk or by calling 201-664-4586.

You might remember that Valley Hospital Community Outreach funded a Mayors Wellness Program to assist in Health Awareness. It was a great program with various screenings, information, giveaways, and nutritional snacks. The walking part, Healthy Steps, was a group of residents and local area guests who walked every Saturday until the end of April. Emily Kratzer is in charge of the walkers. Since we had such a good turnout, Valley is continuing with Part 2, which started Saturday, September 9 with 15 walkers and will continue until December. We start at 10 a.m. at the library.

REPORT OF COUNCIL

Councilman Cascio stated he would like to remember all of the people that perished on 9/11, sixteen years ago, it is a very solemn day. He stated he is part of the Medical Reserve Corps and may be activated in a few weeks, he may be going down to Georgia in Florida. He stated he will be available via his cell phone.

Councilman Sears stated he echo's Councilman's Cascio comments on 9/11 and hopes Councilman Cascio stays safe if he is called. He has been working on Veteran's program called "Guitars for Vets." It is for Veteran's that have PTSD, it is a 12 week program, when the program is completed they receive a free guitar and continue with the lessons. He stated Julia Orlando, who is the Director of Health and Services at Bergen County will be holding a meeting on October 4, from 6:00 pm to 8:00 pm at the Township library for any Veteran who may be interested in the two Veteran units. She will walk whomever is interested through the application process.

Councilman Calamari stated today is a "Day of Remembrance" and keep everyone in our prayers that we lost that day and in the days afterwards. He stated the Township did lose Grace Catherine Skuches, who was 3 years old and taken from us by cancer that she fought valiantly. A candlelight vigil will be held for her, and asks everyone to attend if they can.

Councilman Ullman stated he would like to thank the Mayor for organizing the 9/11 Memorial. It is a sad day for many people. He stated he would like to recognize a friend who perished on that day, his name was David Suarez and he was 24 years old, a Deloitte consultant, whom he had worked with at one of his former jobs. This day hits him hard because Mr. Suarez's brilliance was extinguished on that day and he had many great things ahead of him.

Council President Bruno stated he would also like to remember Jim Merido of the Township who perished on 9/11. Our thoughts and prayers are with his family as well as everyone who perished and those still serving our Country.

GENERAL PUBLIC DISCUSSION

A motion was made by Councilman Cascio, seconded by Councilman Calamari to open the general public discussion.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

Marisa Lavezolla, 599 Lincoln Avenue, Laura Searle Dinallo, 595 Willow Street, Alison Cowlshaw, 447 Chestnut Street, Zulema Roberto 340 Hoover Avenue, MaryAnne Hageman 174 Walnut Street, Mary Roth, 119 Woodfield Road – The group expressed their concerns regarding the passing of Ordinance 17-08, changes to the commuter parking lot and regulations in obtaining permits. Each person expressed their concerns, particularly in limitation of 35 spaces and gaining a spot via lottery. A conversation followed on how Council came to this determination, which is as a result of commuters not being able to find a

spot, non-residents parking there and individuals changing the year on the parking decal. Councilman Sears spoke of the Police Department involvement in having to go down to the commuter parking lot on numerous occasions due to complaints, tickets being written and non-residents parking in the lot. A conversation followed on future plans Council may have to accommodate commuters, the process of obtaining a permit by coming to the Township Clerk's office and the availability of spaces in the lot on any given morning. Concerns were expressed of the underutilization of the lot if only 35 spaces are allowed and where those residents who do not obtain a permit via the lottery will be allowed to park. A conversation followed on parking in surrounding areas, past discussions on this subject by Council and the overselling of the permits. A report will be supplied by Captain Hackbarth regarding the complaints, tickets and empty spots on a daily basis at the commuter parking lot. A conversation followed on the spots assigned particularly since vehicles do need to back out onto Pascack Road.

Robert and Marjorie Kopp, 515 Washington Avenue – Mr. Kopp spoke of the property next door to him 501 Washington Avenue, which is an abandoned/foreclosed property which he and his wife have been complaining about for years. He spoke of the condition of the home, along with the garbage that is in the back and front yards. The Health Inspector did go out there, but did not observe any infestation. Mr. Kopp stated at this time his home is being infested with mice and other animals. He stated the County did come out and spray for mosquitos. Councilman Ullman stated this is the first time he is hearing about this property, and he acknowledges this is an issue. He spoke at length of what can be done and what has been done with other properties in the Township when issues arose. The Code Officer will be made aware of this issue, as well as the Health Department. Photos of the property were provided to Council. Councilman Calamari urged everyone watching if they see an issue as this one in their neighborhood, to please contact Council directly to get thing moving quickly.

Ray Bernroth, 838 Crest Place – Mr. Bernroth spoke of the lack of signs that state “You Must Stop for Pedestrians in the Crosswalk” in the Township of Washington. He stated the signs are in surrounding communities and the Township is the only one that doesn't have the signs. Council President Bruno stated the Council has limited authority/power and his feeling is Council does want the signs, but the Police feel it is a hazard. Mayor Sobkowicz stated Captain Hackbarth is working on something. Mr. Bernroth stated he feels the women that came and spoke of the commuter parking issue were a little self-centered, they did speak, but did not stay to listen to what other people had to say.

Michael DeSena, 347 Beech Street – Mr. DeSena spoke of the lack of striping on roads that have been newly paved, particularly near the high school. A conversation followed on the streets that have not been restriped, as well as the DMF refreshing striping at certain locations. He spoke of the ceiling in Chambers that has been painted and is already peeling. He also spoke of his concerns regarding Memorial Field, the Memorial Field Committee and seeding the field while football is going on. Council President Bruno stated he feels the committee is not going in the right direction, but as he understands it Mr. Statile will be bringing a turf specialist to look at the field, someone who understands soil, grass, etc. Mr. DeSena stated the field is an embarrassment to the Township, and something needs to be done for all the youth who play on the field. He also inquired if JIF had evaluated the field and their opinion.

Eric Kopp, 515 Washington Avenue – Mr. Kopp spoke of the parking issues at the high school from a student's prespective. He asked how did Council come to the current ban and if other options were considered. Council President Bruno spoke of the complaints which were received by residents, as well as safety issues regarding emergency services. Councilman Ullman spoke of his

belief that it is not the Township's responsibility to provide parking for students. A conversation followed on meetings which members of Council attended with representatives from Westwood High School, and the lack of interest on the part of the school. Mr. Kopp spoke of his future concerns when class sizes get larger and any future plans that Council may have to address larger class sizes. Mayor Sobkowicz stated the demographics do need to be looked at, but it is the school's responsibility to provide parking spaces. Councilman Calamari thanked Mr. Kopp for attending the Council meeting. He stated he did attend a Board of Ed meeting, there are over 400 spots, 137 of which are for students. He did make some suggestions and was told they would follow-up within a meeting or two after they examine the facts. Councilman Cascio spoke of the State mandate, which is for the school to provide an education, the school is not required to provide parking to students, only to faculty members.

David Snyder, 91 Windsor Circle – Mr. Snyder suggested add “State Law you must stop for Pedestrians” to current crossing signs or hanging a banner, such as when there is a band/concert which states “State Law you must stop for Pedestrians.” Councilman Sears stated the County must be notified when hanging a banner. Mr. Snyder stated the property which was spoken of before, 501 Washington Street is listed for \$250,000 and it is 990 square feet. He spoke of commuter parking, and the revenue aspect. He also spoke of attending a Board of Ed meeting, and the parking spaces that the high school currently has. He also spoke of Nicholas Markets, which he feels has done a fantastic job and the beautification of the Township Center.

Rosa D'Ambra, 423 Colonial Boulevard – Mrs. D'Ambra spoke of the state law which requires schools to provide busing to students who reside 2 miles away from school. She also stated that anyone who speeds in the Township should receive a ticket, no matter if they live in the Township or not. She feels charging taxpayers \$200 per year for commuter parking is terrible. She asked what is done with the \$200 which is collected. Councilman Ullman replied the monies are put into the General Budget, and it is used to pay expenses. Mrs. D'Ambra suggested reaching out to the Jewish Y to see if the Township can borrow a couple of parking spots for commuters in exchange for a stipend/contribution. A conversation followed on fire hydrants in the Township, some of which have been painted and some have not. Administrator Groh replied United Water is painting them, but some of them are being replaced. Mrs. D'Ambra requested an additional bench on Ridgewood Road for seniors who walk, along with a crosswalk at the library.

Mary Ann Ozment, 960 Adams Place – Mrs. Ozment spoke at length of the procedure for commuter parking during her tenure as the Township Clerk. She stated more permits were issued than the number of parking spots and it was never an issue. She stated it seems once Councilman Sears was elected, this seemed to be one of his first projects. She stated in the past, there were very few complaints, and it was understood it was a first come first serve basis. She stated licenses were checked, as well as making sure that vehicles were registered in the Township. Councilman Sears stated when Mrs. Ozment was the Clerk, close to 70 spots were sold, and the project was taken on because commuters were parking in Fire Department spots. Mrs. Ozment spoke of 501 Washington Avenue, which was always a disaster, and the owners coming before the board for improvements. A conversation followed on the Department of Recreation/Superintendent salary, the days/hours this person works, which is four days a week, 20 hours per week at a salary of \$19,968. Mrs. Ozment remarked on the five minute time limit. Council President Bruno stated Council meetings go until midnight, which some people are not excited about and residents speak for more than five minutes.

Joe D'Urso, 12 Viola Terrace – Mr. D'Urso suggested conducting a public session meeting once a month at the end of a regularly scheduled meeting, rather than at the beginning of the meeting. He spoke at of the plan that was presented to Council in 2011 regarding the corner/intersection, OLG providing parking spaces to students and the school superintendent working with the town. He stated he is against the ordinances that are being presented tonight regarding affordable housing and he would like to see the Township fight against the plans as other towns are doing. Council President Bruno stated the Council has gone back and forth with the Church, and regarding the intersection, monies has been put into the budget for engineering and buying of land, but Council doesn't have the authority to move certain projects.

A motion was made by Councilman Ullman, seconded by Councilman Cascio to close the general public discussion.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

ORDINANCES

Adoption 2nd Reading

Ordinance No. 17-13

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN AND STATE OF NEW JERSEY, AMENDING CHAPTER 239 OF THE TOWNSHIP CODE, ENTITLED "LAND DEVELOPMENT", CHAPTER 238 OF THE TOWNSHIP CODE ENTITLED, "HOUSING TRUST FUND", AND ARTICLE XVII OF CHAPTER 5 OF THE TOWNSHIP CODE, "ENTITLED MUNICIPAL HOUSING LIAISON", TO ADDRESS THE REQUIREMENTS OF THE NEW JERSEY FAIR HOUSING ACT AND THE NEW JERSEY UNIFORM HOUSING AFFORDABILITY CONTROLS AS THEY PERTAIN TO COMPLIANCE WITH MUNICIPAL AFFORDABLE HOUSING OBLIGATIONS

A motion was made by Councilman Ullman, seconded by Councilman Sears, to approve Resolution No. 17-290 authorizing second reading and opening of Public Hearing for Ordinance No. 17-13.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

Resolution No. 17-290

BE AND IT IS RESOLVED, by the Township Council of the Township of Washington that Ordinance No. 17-13 entitled: AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN AND STATE OF NEW JERSEY, AMENDING CHAPTER 239 OF THE TOWNSHIP CODE, ENTITLED "LAND DEVELOPMENT", CHAPTER 238 OF THE TOWNSHIP CODE ENTITLED, "HOUSING TRUST FUND", AND ARTICLE XVII OF CHAPTER 5 OF THE TOWNSHIP CODE, "ENTITLED MUNICIPAL HOUSING LIAISON", TO ADDRESS THE REQUIREMENTS OF THE NEW JERSEY FAIR HOUSING ACT AND THE NEW JERSEY UNIFORM HOUSING AFFORDABILITY CONTROLS AS THEY PERTAIN TO COMPLIANCE WITH MUNICIPAL AFFORDABLE HOUSING OBLIGATIONS be read on second reading and the public hearing be held thereon pursuant to law.

David Snyder, 91 Windsor Circle – Mr. Snyder stated he is a realtor in the Township he is concerned with the overlay zones and the future ramifications. He stated he feels this ordinance is detrimental to the township. Mr. Poller replied the ordinance Mr. Snyder is referring to is Ordinance No. 17-16.

A motion was made by Councilman Cascio, seconded by Councilman Sears, to close the Public Hearing on Ordinance No. 17-13.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

A motion was made by Councilman Ullman, seconded by Councilman Sears to adopt Ordinance No. 17-13.

Mr. Poller stated the Planning Board did pass the report, stating it is consistent with the Master Plan, and it is on file. Councilman Calamari asked if those who are fighting at the State level get this overturned, can the Township file to undo our plan based on the fact it was overturned. Mr. Poller replied there is no way to answer that question. He stated this movement has been going on since 1975 and the Supreme Court is the ultimate arbitrator of this concept. Mr. Poller spoke of the Courts deciding what a town's fair share would be, how it is implemented and the determination of judgements. Mr. Slachetka stated the Township's settlement agreement states if there is some sort of Court determination state-wide that lowers the obligation by 20% or more of what the Township settled on, the Township has the right to petition the Court for the acceptance of that lower number, which would then be credited to the Township.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

Ordinance No. 17-13

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN AND STATE OF NEW JERSEY, AMENDING CHAPTER 239 OF THE TOWNSHIP CODE, ENTITLED "LAND DEVELOPMENT", CHAPTER 238 OF THE TOWNSHIP CODE ENTITLED, "HOUSING TRUST FUND", AND ARTICLE XVII OF CHAPTER 5 OF THE TOWNSHIP CODE, "ENTITLED MUNICIPAL HOUSING LIAISON", TO ADDRESS THE REQUIREMENTS OF THE NEW JERSEY FAIR HOUSING ACT AND THE NEW JERSEY UNIFORM HOUSING AFFORDABILITY CONTROLS AS THEY PERTAIN TO COMPLIANCE WITH MUNICIPAL AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Washington Township Planning Board adopted the Washington Township Housing Plan Element and Fair Share Plan on July 26, 2017; and

WHEREAS, the Washington Township Council endorsed the Washington Township Housing Plan Element and Fair Share Plan on August 7, 2017; and

WHEREAS, it has become necessary to adopt this new Affordable Housing Ordinance to implement and incorporate the Township's newly adopted and endorsed Housing Element and Fair Share Plan which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1 et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, this Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units and whereas this ordinance sets forth the administrative mechanisms necessary to implement the Township's revised Fair Share Plan.

BE IT ORDAINED, by the Township Council of the Township of Washington in the County of Bergen and State of New Jersey as follows:

SECTION 1. Chapter 238 of the Township of Washington Code entitled "Housing Trust Fund" is hereby deleted in its entirety.

SECTION 2. Chapters 5-96, 5-97 and 5-98 of the Township of Washington Code entitled "Municipal Housing Liaison" are hereby deleted in their entirety and replaced with the following new Chapter 5-96:

§5-96. Purpose. There is hereby established the position of Municipal Housing Liaison for the Township of Washington. The purpose of this position is to create the administrative mechanism responsible for administering the Township of Washington's affordable housing program. The powers and duties of the Municipal Housing Liaison shall be as described in Chapter 239-113.

SECTION 3. Chapter 239 of the Township of Washington Code is hereby amended to establish Article XXI, entitled "Affordable Housing", as follows:

§239-110. Purpose and Applicability

A. Purpose. The purpose of these provisions is to provide a realistic opportunity for the construction of Washington Township's constitutional obligation to provide for its fair share of affordable housing for households with low- and moderate-incomes, as directed by the Superior Court of New Jersey and is consistent with N.J.A.C. 5:93-1 et seq., as amended and supplemented by N.J.A.C. 5:80-26.1 et seq. and N.J.S.A. 52:27D-301 et seq.

B. Applicability. The provisions of this Ordinance shall apply:

- (1) To all affordable housing developments and affordable housing units that currently exist within the Township of Washington;
- (2) To all affordable housing developments and affordable housing units that are proposed to be created pursuant to the Township of Washington's Housing Element and Fair Share Plan;
- (3) To all other affordable housing developments and housing units that are created pursuant to actions by the Township of Washington, its Planning Board, or its Zoning Board of Adjustment.

§239-111 Definitions. The following terms, when used in this Ordinance, shall have the following meanings:

"Act" means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

"Adaptable" means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

"Administrative agent" means the entity designated by the Township to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

"Affirmative marketing" means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

"Affordability average" means the average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable housing development” means any residential development that consists of dwelling units that are affordable to persons and families of low or moderate income within the meaning of the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and is included in or approved pursuant to the Housing Element and Fair Share Plan, or otherwise addresses the Township’s fair share obligation. This includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act and approved for crediting by COAH, its successor entity, or the Court and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

"Alternative living arrangement" means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the DCA; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

“Assisted living residence” means a facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) or its successor entity.

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

“Development fee” means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

“Equalized assessed value” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated.

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the median household income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Multifamily Residential Development” means a residential development that is located in buildings that contain five (5) or more dwelling units, including, but

not limited to, dwelling units that are located one over another, garden apartments, townhouse developments, multistory apartment or condominium buildings, and mixed-use developments containing a combination of non-residential and residential uses.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under the Agency’s Urban Home Ownership Recovery program (UHORP) or Market Oriented Neighborhood Investment program (MONI).

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the median household income for the applicable housing region.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

239-112 Certificates of Occupancy. Certificates of occupancy for developments which include affordable housing units shall be subject to the following additional provisions:

- A. Phasing Schedule for Inclusionary Development. Affordable housing units shall be built, occupied and receive certificates of occupancy in

accordance with the following schedule:

Maximum Market-Rate Completed	Percentage of Units	Minimum Percentage of Low- and Moderate-Income Units Completed
25		0
25+1		10
50		50
75		75
90		100

- B. No initial occupancy of a low- or moderate-income housing sales unit shall be permitted prior to issuance of a certificate of occupancy, and no certificate of occupancy for initial occupancy of a low- or moderate-income housing sales unit shall be issued unless there is a written determination by the Administrative Agent that the unit is to be controlled by a deed restriction and mortgage lien as adopted by COAH or its successor entity.
- C. A certificate of reoccupancy for any occupancy of a low- or moderate-income housing sales unit resulting from a resale shall be required, and the Township shall not issue such certificate unless there is a written determination by the Administrative Agent that the unit is to be controlled by the deed restriction and mortgage lien required by COAH or its successor entity.
- D. The certificate of reoccupancy shall not be required where there is a written determination by the Administrative Agent that controls are allowed to expire or that the repayment option is being exercised pursuant to N.J.A.C. 5:92-12.3.

239-113 Administration

A. Municipal Housing Liaison

- 1. Washington Township shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. Washington Township shall adopt an Ordinance creating the position of Municipal Housing Liaison and shall adopt a Resolution appointing said Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by COAH, its successor entity, or the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- 2. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Washington Township, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - (a) Serving as Washington Township's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - (b) Monitoring the status of all restricted units in Washington Township's Fair Share Plan;

- (c) Compiling, verifying and submitting annual monitoring reports as may be required by COAH, its successor entity, or the Court;
 - (d) Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and,
 - (e) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
3. Subject to the approval of COAH, its successor entity, or the Court, Washington Township shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with the UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of COAH, its successor entity, or the Court. The Operating Manual(s) shall be available for public inspection in the office of the Township Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

B. Administrative Agent

1. The Administrative Agent shall be an independent entity serving under contract and reporting to the municipality. The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in the UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

(a) Affirmative Marketing:

- (i) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of Washington Township and the provisions of N.J.A.C. 5:80-26.15; and,
- (ii) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

(b) Household Certification:

- (i) Soliciting, scheduling, conducting and following up on interviews with interested households;
- (ii) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
- (iii) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- (iv) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;

- (v) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and,
- (vi) Employing a random selection process as provided in the Affirmative Marketing Plan of Washington Township when referring households for certification to affordable units.

(c) Affordability Controls:

- (i) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- (ii) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- (iii) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Bergen County Register of Deeds or Bergen County Clerk's office after the termination of the affordability controls for each restricted unit;
- (iv) Communicating with lenders regarding foreclosures; and,
- (v) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

(d) Resales and Rerentals:

- (i) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and,
- (ii) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or rental.

(e) Processing Requests from Unit Owners:

- (i) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
- (ii) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
- (iii) Notifying the municipality of an owner's intent to sell a restricted unit; and,
- (iv) Making determinations on requests by owners of restricted

units for hardship waivers.

(f) Enforcement:

- (i) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- (ii) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
- (iii) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
- (iv) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- (v) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and,
- (vi) Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Township Council and COAH, its successor entity, or the Court, setting forth procedures for administering the affordability controls.

(g) Additional Responsibilities:

- (i) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder;
- (ii) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by COAH, its successor entity, or the Court; and,
- (iii) The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

C. Affirmative Marketing Requirements

- (1) Washington Township shall adopt by resolution an Affirmative Marketing Plan, subject to approval of COAH, its successor entity, or the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (2) The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units that are being

marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 1 and is required to be followed throughout the period of restriction.

- (3) The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 1, comprised of Bergen, Hudson, Passaic and Sussex counties.
- (4) The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Township shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- (5) In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (6) The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- (7) The affirmative marketing process for available affordable units shall begin at least four months (i.e., 120 days) prior to the expected date of occupancy.
- (8) Applications for affordable housing shall be available in several locations, including, at a minimum, the county administration building and the county library for each county within the housing region; the Washington Township Municipal Building and the Washington Public Library; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
- (9) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

D. Occupancy Standards

- (1) In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:
 - (a) Provide an occupant for each bedroom;
 - (b) Provide children of different sexes with separate bedrooms;
 - (c) Provide separate bedrooms for parents and children; and,
 - (d) Prevent more than two persons from occupying a single bedroom.

E. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- (1) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Washington Township takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- (2) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (3) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- (4) At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (5) The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- (6) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

F. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

- (1) Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:
 - (a) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent;
 - (b) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards;
 - (c) The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers; and,

- (d) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

G. Buyer Income Eligibility

- (1) Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- (2) Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Township Council, and subject to the approval of COAH, its successor entity or the court, permit moderate-income purchasers to buy low-income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.
- (3) A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
- (4) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

H. Limitations on Indebtedness Secured by Ownership Unit, Subordination

- (1) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- (2) With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

I. Capital Improvements to Ownership Units

- (1) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit

on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

- (2) Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (e.g., refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

J. Control Periods for Restricted Rental Units

- (1) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Washington Township takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- (2) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of Bergen County. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (3) A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - (a) Sublease or assignment of the lease of the unit;
 - (b) Sale or other voluntary transfer of the ownership of the unit; or,
 - (c) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

K. Rent Restrictions for Rental Units, Leases

- (1) A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

- (2) No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- (3) Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
- (4) No rent control ordinance or other pricing restriction shall be applicable to either the market-rate units or the affordable units in any development in which at least 15 percent of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

L. Tenant Income Eligibility

- (1) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined, as follows:
 - (a) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income;
 - (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income; and,
 - (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- (2) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (a) The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (b) The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (c) The household is currently in substandard or overcrowded living conditions;
 - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or,

- (e) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (3) The applicant shall file documentation sufficient to establish the existence of the circumstances enumerated in this subsection with the Administrative Agent, who shall counsel the household on budgeting.

M. Maximum Rents and Sales Prices:

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 10 percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning 30 percent or less of the regional median household income.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- (5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial sales prices and rents for compliance with

the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

- (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (9) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- (10) The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

239-114 Requirements for affordable housing. Developments which include affordable housing units shall be subject to the following provisions:

- A. Low-income housing. Low-income housing shall be affordable, according to Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located, and subject to affordability controls.
- B. Moderate-income housing. Moderate-income housing shall be affordable, according to Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to or more than 50 percent but less than 80

percent of the median gross household income for households of the same size within the housing region in which the housing is located, and subject to affordability controls.

- C. In accordance with N.J.S.A. 52:27D-329.1 (P.L. 2008, C. 46) at least 13 percent of the affordable units provided within the Township shall be reserved for very low income households, i.e., households earning 30 percent or less of the median income, and of that amount at least 50 percent shall be reserved for very low income families (i.e., non-age restricted and not reserved for special needs populations). For developments with eight (8) or more affordable housing units on site, at least 13 percent of all low- and moderate-income units shall be affordable to households earning no more than 30 percent of median income. A minimum of 50 percent of these units shall be reserved for very low income families.
- D. Age restriction. The sales and rentals of not more than 25 percent of the affordable housing units constructed within the Township may be age restricted to senior citizens as defined by and in accordance with the Federal Fair Housing Act and as regulated by N.J.A.C. 5:92-14, provided that no more than 25 percent of the total affordable housing units constructed within the Township shall be age restricted. A request to age restrict housing units may only be granted after the Planning Board or Board of Adjustment has received the consent of the Township Council. In designing its project, the applicant may propose constructing the senior citizen restricted affordable units in the same building or buildings in order to maximize the potential of preserving a more tranquil lifestyle for the senior citizen resident; and to the foregoing extent, the requirement of integration of the affordable units with conventional units is modified.
- E. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
- (1) The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
 - (2) In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
 - (3) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units is no greater than 20 percent of the total low- and moderate-income units;
 - (b) At least 30 percent of all low- and moderate-income units are two bedroom units;
 - (c) At least 20 percent of all low- and moderate-income units are three bedroom units; and
 - (d) The remainder, if any, may be allocated at the discretion of the developer.
 - (4) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

F. Location and design. Low- and moderate-income housing shall be designed in accordance with the following provisions:

- (1) The low- and moderate-income housing units shall be sited on the tract in locations at least as accessible to common open space and community facilities as market-priced dwelling units. Rental units may be concentrated for ownership and management unit reasons.
- (2) The exterior design of the low- and moderate-income housing units shall be harmonious in scale, texture, and materials with the market-priced units on the tract.
- (3) Deed restrictions. Developers of housing units for low- and moderate-income households shall enter into a written agreement, binding on all successors-in-interest, in accordance with current COAH regulations or Court requirements for Resale/Rental Control, at the time of sale, resale, rental or re-rental regardless of the availability of Federal, State, County or Township subsidy programs.
- (4) In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

G. Utilities

- (1) Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- (2) Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by the DCA for its Section 8 program.

H. Accessibility Requirements

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and the following:
 - (a) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - (i) An adaptable toilet and bathing facility on the first floor; and,
 - (ii) An adaptable kitchen on the first floor; and,
 - (iii) An interior accessible route of travel on the first floor; and,
 - (iv) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and,
 - (v) If not all of the foregoing requirements in this paragraph can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the foregoing requirements in this paragraph have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and,

(vi) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Washington Township has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

[a] Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

[b] To this end, the builder of restricted units shall deposit funds within the Washington Township Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

[c] The funds deposited under the terms of this paragraph shall be used by Washington Township for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requests an accessible entrance.

[d] The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of Washington Township for the conversion of adaptable to accessible entrances.

[e] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Washington Township Affordable Housing Trust Fund.

(vii) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

239-115 Alternative Living Arrangements

A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and the UHAC, with the following exceptions:

(1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by COAH, its successor entity, or the Court;

(2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

(3) With the exception of units established with capital funding through a

20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with the UHAC, unless an alternative commitment is approved by COAH, its successor entity, or the Court.

- B. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

239-116 Enforcement of Affordable Housing Regulations

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - (a) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - (b) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Washington Township Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - (2) The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.

- (a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
- (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two (2) years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
- (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

- (e) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

239-117 Appeals

A. Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court or with COAH or its successor entity, as may be applicable under law.

SECTION 4. This Ordinance shall be subject to review and recommendation by the Township of Washington Planning Board in accordance with N.J.S.A. 40:55D-26 and notice requirements of N.J.S.A. 40:55D-62.1.

SECTION 5. All ordinances or parts thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistencies.

SECTION 6. The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

SECTION 7. This Ordinance shall take effect immediately upon its final passage and publication as required by law and filing with the Bergen County Planning Board.

Adoption 2nd Reading

Ordinance No. 17-14

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY, AMENDING CHAPTER 239, ENTITLED "LAND DEVELOPMENT" TO IMPOSE A MANDATORY AFFORDABLE HOUSING SET-ASIDE REQUIREMENT ON NEW MULTI-FAMILY RESIDENTIAL DEVELOPMENT

A motion was made by Councilman Sears, seconded by Councilman Calamari, to approve Resolution No. 17-291 authorizing second reading and opening of Public Hearing for Ordinance No. 17-14.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.
Nays: None.

Resolution No. 17-291

BE AND IT IS RESOLVED, by the Township Council of the Township of Washington that Ordinance No. 17-14 entitled: AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY, AMENDING CHAPTER 239, ENTITLED "LAND DEVELOPMENT" TO IMPOSE A MANDATORY AFFORDABLE HOUSING SET-ASIDE REQUIREMENT

ON NEW MULTI-FAMILY RESIDENTIAL DEVELOPMENT be read on second reading and the public hearing be held thereon pursuant to law.

Mr. Poller stated Ordinance No. 17-14 is in the control of the Township or its agencies. This mandatory set-aside occurs only if the Township, through its Council or one of its agencies creates this multi-family situation, then a set-aside would be activated. Mr. Slachetka stated this approach is required by the settlement with the Fair Share Housing Center, and is typical/common component to address unmet need that is required by settlement agreements where a municipality is receiving a vacant land adjustment. The Township is receiving a vacant land adjustment that reduces its immediate affordable housing obligation. The only time this becomes in effect is if a variance is granted for new multi-family residential development or if the Township takes an action to create new multi-family residential zones. This mandatory provision does not provide a justification for a developer to come in and ask for the variance. A developer cannot go before the Zoning Board of Adjustment and simply say the ordinance is on the books, therefore the Township is obligated to approve the proposed development. The developer would have to provide all the requisite proofs any applicant before the Zoning Board of Adjustment would have to do to prove there are special reasons for the grant of the variance. There is a very clear statement in the ordinance regarding that.

Mary Ann Ozment, 960 Adams Place – Mr. Ozment asked what does it mean by the phrase “affordable housing units may be provided off-site or within the Township of Washington.” Mr. Slachetka replied if in fact the development gets approved by the Zoning Board, the property that is made part of that overall approval the market rate units would be on one site and the affordable units would be on another site, all within the Township. This is not a mutual contribution agreement or a payment in lieu of construction.

A motion was made by Councilman Ullman, seconded by Councilman Calamari, to close the Public Hearing on Ordinance No. 17-14.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

A motion was made by Councilman Cascio, seconded by Councilman Ullman to adopt Ordinance No. 17-14.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

Ordinance No. 17-14

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY, AMENDING CHAPTER 239, ENTITLED “LAND DEVELOPMENT” TO IMPOSE A MANDATORY AFFORDABLE HOUSING SET-ASIDE REQUIREMENT ON NEW MULTI-FAMILY RESIDENTIAL DEVELOPMENT

WHEREAS, the Washington Township Planning Board adopted the Washington Township Housing Element and Fair Share Plan on July 26, 2017; and

WHEREAS, the Township Council of the Township of Washington endorsed the Washington Township Housing Element and Fair Share Plan on August 7, 2017; and

WHEREAS, pursuant to Township’s settlement with the Fair Share Housing Center, the Washington Township Housing Plan Element and Fair Share Plan requires the Township of Washington to adopt a mandatory affordable housing set aside requirement for all new multi-family residential developments of five (5) or more units that become permissible through either a use variance, a density variance increasing the permissible density of the site, a rezoning permitting multi-family residential housing where none permitted or new or

amended redevelopment plan.

NOW, THEREFORE, BE IT ORDAINED by the Township of Washington, County of Bergen, State of New Jersey as follows:

Section 1. Chapter 239, of the Township Code is hereby amended to add a new Section in Article XXII, Mandatory Affordable Housing Set-aside, as follows:

§239-120 Mandatory Affordable Housing Set-Aside.

A. Purpose

Unless otherwise required by existing zoning or an adopted redevelopment plan, all new multi-family residential developments of five (5) or more units that become permissible through either a use variance, a density variance increasing the permissible density at the site, a rezoning permitting multi-family residential housing where not previously permitted, or a new or revised redevelopment plan shall be required to provide an affordable housing set-aside as follows:

- (1) Required affordable housing units shall be equal to 20% of the number of housing units proposed in the application for units offered for sale.
- (2) Required affordable housing units shall be equal to 15% of the number of housing units proposed in the application for units offered for rent.

B. Affordable housing units may be provided on-site or off-site within the Township and are subject to the provisions of the Township's Affordable Housing Ordinance.

SECTION 2. This Ordinance shall be subject to review and recommendation by the Township of Washington Planning Board in accordance with N.J.S.A. 40:55D-26 and notice requirements of N.J.S.A. 40:55D-62.1.

SECTION 3. All ordinances or parts thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistencies.

SECTION 4. The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

SECTION 5. This Ordinance shall take effect immediately upon its final passage and publication as required by law and filing with the Bergen County Planning Board.

Adoption 2nd Reading

Ordinance No. 17-15

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 239A OF THE TOWNSHIP CODE, ENTITLED "DEVELOPMENT FEES" TO UPDATE PROVISIONS ASSOCIATED WITH AFFORDABLE HOUSING DEVELOPMENT FEES

A motion was made by Councilman Cascio, seconded by Councilman Sears, to approve Resolution No. 17-292 authorizing second reading and opening of Public Hearing for Ordinance No. 17-15.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.
Nays: None.

Resolution No. 17-292

BE AND IT IS RESOLVED, by the Township Council of the Township of Washington that Ordinance No. 17-15 entitled: AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 239A OF THE TOWNSHIP CODE, ENTITLED "DEVELOPMENT FEES" TO UPDATE PROVISIONS ASSOCIATED WITH AFFORDABLE HOUSING DEVELOPMENT FEES be read on second reading and the public hearing be held thereon pursuant to law.

Mary Ann Ozment, 960 Adams Place – Mrs. Ozment asked what is the difference between the original ordinance and the amendment. Mr. Slachetka replied the amendment to the original development fees ordinance just basically updates and modernizes the ordinance so it is consistent with the most current COAH regulations and includes the development fees for both residential and non-residential development consistent with the current statutory authorizations.

David Synde, 91 Windsor Circle – Mr. Synde asked what does this ordinance mean in relationship to a builders remedy if they come into the Township. Mr. Poller replied a builder's remedy is the remedy given to a builder because the town has not complied with its affordable housing obligations. By virtue of the settlement that was entered into, which has been approved by the Court and the Township's compliance the Township gets a judgment of repose for 10 years, so that the builders remedy is eliminated until 2025.

A motion was made by Councilman Ullman, seconded by Councilman Sears, to close the Public Hearing on Ordinance No. 17-15.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.
Nays: None.

A motion was made by Councilman Cascio, seconded by Councilman Calamari to adopt Ordinance No. 17-15.

Councilman Ullman asked if Council chooses to increase the 1.5% residential and the 6% for each additional unit, can that be done. Mr. Slachetka replied, no, those numbers are the maximum permitted under Statute and the 6% of the equalized assessed value is permitted in those instances where a density variance is being granted.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.
Nays: None.

Ordinance No. 17-15

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 239A OF THE TOWNSHIP CODE, ENTITLED "DEVELOPMENT FEES" TO UPDATE PROVISIONS ASSOCIATED WITH AFFORDABLE HOUSING DEVELOPMENT FEES

WHEREAS, in *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules; and

WHEREAS, pursuant to PL 2008, c.46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH)is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans, and municipalities that are under the jurisdiction of a court of competent jurisdiction and have an approved spending plan may retain fees collected from non-residential development; and

WHEREAS, pursuant to the March 10, 2015 Order of the New Jersey Supreme Court in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (*Mount Laurel IV*), the Court transferred all COAH's functions, powers, and duties to the Courts, and thus, any and all references to COAH shall mean the Courts or successor agency to COAH if such entity is established by statute; and

WHEREAS, this ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to the Court's regulations and in accordance PL 2008, c.46, Sections 8 and 32 through 38.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Washington in the County of Bergen and State of New Jersey as follows:

SECTION 1. Chapter 239A, Development Fees relating to Mount Laurel housing, is hereby deleted in its entirety and replaced with the following new Chapter 239A:

§239A. Affordable Housing Development Fees

A-1 Purpose. In *Holmdel Builder's Association V. Holmdel Township*, 121 NJ 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

A. Pursuant to PL 2008, c.46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), the Council on Affordable Housing (COAH) is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of a court of competent jurisdiction and have an approved spending plan may retain fees collected from non-residential development.

B. Pursuant to the March 10, 2015 Supreme Court Order in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (*Mount Laurel IV*), the Court transferred all COAH's functions, powers, and duties to the Courts. Any and all references to COAH shall mean the Courts or successor agency to COAH if such entity is established by statute.

C. This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to the Court's regulations and in accordance PL 2008, c.46, sections 8 and 32 through 38.

A-2 Basic Requirements

- A. This Ordinance shall not become effective until approved by the Court pursuant to N.J.A.C. 5:96-5.1.
- B. The Township of Washington shall not spend development fees until the Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.
- C. This Ordinance shall be interpreted within the framework of COAH's last adopted rules on development fees, codified at N.J.A.C. 5:97-8, as same may be interpreted and applied by the Court.

A-3 Definitions

A. The following terms, as used in this ordinance, shall have the following meanings:

“Affordable housing development” means any residential development that consists of dwelling units that are affordable to persons and families of low or moderate income within the meaning of the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and is included in or approved pursuant to the Housing Element and Fair Share Plan, or otherwise addresses the Township’s fair share obligation. This includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

“COAH” or the “Council” means the New Jersey Council on Affordable Housing established under the Fair Housing Act or the Courts or successor agency to COAH if such entity is established by statute.

“Development fee” means money paid by a developer for the improvement of property as permitted in Holmdel Builder’s Association v. Holmdel Township. 121 NJ 550 (1990) and in N.J.A.C. 5:93-8.

“Developer” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

“Equalized assessed value” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

“Green building strategies” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

A-4 Imposition of Affordable Housing Development Fees

A. Residential Development

- (1) Within all the Township zoning districts, residential developers, except for developers of the types of development

specifically exempted below, shall pay a fee of one and one-half percent (1.5%) of the equalized assessed value for residential development, provided that no increased density is permitted.

- (2) Where an increase in density is permitted through a variance granted pursuant to N.J.S.A. 40:55D-70d(5) or a rezoning, redevelopment plan, or redevelopment plan amendment that is adopted after the effective date of this ordinance, developers shall be required to pay a development fee of six percent (6.0%) of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include a set-aside of affordable housing units. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

B. Nonresidential Development

- (1) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to two and one-half percent (2.5%) of the equalized assessed value of the land and improvements for all new non-residential construction on an unimproved lot or lots, provided that no increase in floor area is permitted.
- (2) Non-residential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to two and one-half percent (2.5%) of the increase in total equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and one-half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the preexisting land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, at the time the final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
- (4) Developers that convert any portion of an existing residential structure to a nonresidential use shall pay a development fee of two and one-half percent (2.5%). The development fee shall be calculated based on the increase in the equalized assessed value of the converted structure.

A-5 Eligible Exactions, Ineligible Exactions and Exemptions

A. Residential Development

- (1) Developers of low- and moderate-income housing shall be exempt from paying development fees, including

developments where the developer is providing affordable units elsewhere in the Township or is making a payment in lieu of construction of on-site affordable housing units and further provided that the minimum number of affordable units required for the development is completed in accordance with this chapter. A payment-in-lieu-of-construction or development fee payment shall only be used to fund affordable housing activities within the Township in accordance with N.J.A.C. 5:97 or as approved by COAH or the Court.

- (2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The applicable development fee percentage shall be vested on the date that the building permit is issued.
- (3) Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.
- (4) Development fees shall be imposed and collected when an existing non-owner occupied residential structure is demolished and replaced. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (5) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, which requires the issuance of a Certificate of Occupancy (for example, when a single-family home is converted to a two-family home or a single-family home is converted to an apartment building). The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (6) Development fees shall be imposed and collected when a Certificate of Occupancy is issued for a new residential unit on a newly created lot that is the result of a subdivision. The development fee shall be calculated on the equalized assessed value of the land and improvements.
- (7) Additions to existing homes and improvements such as decks, patios and like shall be exempt from the payment of a development fee.

B. Nonresidential Development

- (1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half percent (2.5%) development fee, unless otherwise exempted below.
- (2) The two and one-half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing building footprint, reconstruction, renovations and repairs.

- (3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/ Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to the development fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy for the non-residential development, whichever is later.
- (5) If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Township of Washington as a lien against the real property of the owner.
- (6) Developers that have received final approval prior to the adoption of a municipal development fee ordinance shall be exempt from paying a development fee, unless the developer seeks a substantial change in the approval.
- (7) Exempted from these provisions shall be approvals for the following classes of development:
 - (a) Utility facilities
 - (b) Educational, cultural and outdoor recreational facilities
 - (c) Quasi-public uses, including clubs, lodges and similar uses
 - (d) Public uses
 - (e) Hospital uses

A-6 Collection of Fees

- A. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax

assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

- C. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- E. The construction official responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the Township of Washington fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- H. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- I. Appeal of development fees:
 - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of Washington. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq. within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Washington. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq. within 90

days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

A-7 Affordable Housing Trust Fund

- A. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer of the Township for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds, if collected by the Township, shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (1) payments in lieu of construction of affordable units, shall be separately identifiable from other payments as a sub-account within the Affordable Housing Trust Fund;
 - (2) developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (3) rental income from municipally operated units;
 - (4) repayments from affordable housing program loans;
 - (5) recapture funds;
 - (6) proceeds from the sale of affordable units; and,
 - (7) any other funds collected in connection with the Township of Washington's affordable housing program.
- C. Within seven days from the opening of the trust fund account, the Township of Washington shall provide the Court with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and the Court to permit the Court to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- D. All interest accrued in the housing trust fund shall only be used to fund eligible affordable housing activities approved by the Court.

A-8 Use of Funds

- A. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the Township of Washington's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; rehabilitation; new construction of affordable housing units and related costs; accessory apartment, market to affordable, or regional housing partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to

increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; or, any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

- B. Funds shall not be expended to reimburse the Township of Washington for past affordable housing activities.
- C. At least thirty percent (30%) of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third (1/3) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty percent (30%) or less of median income by region.
 - (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowner's association or condominium fees and special assessments, and assistance with emergency repairs.
 - (2) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
 - (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Township of Washington may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- E. No more than twenty percent (20%) of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty percent (20%) of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the Court's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

A-9 Monitoring

- A. The Township of Washington shall complete and return to the New Jersey Department of Community Affairs (NJDCA), Local Government Services, all monitoring forms required in connection with the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished

controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with its housing program, as well as in connection with the expenditure of revenues and implementation of the plan approved by the Court.

- B. All monitoring reports shall be completed on forms designed by the NJDCA or successor entity for that purpose.

A-10 Ongoing Collection of Fees

- A. The ability for the Township of Washington to impose, collect and expend development fees shall expire with the end of the repose period covered by its judgment of compliance unless the Township of Washington has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated administrative entity of the State of New Jersey, has petitioned for a judgment of compliance or substantive certification, and has received approval of its development fee ordinance by the entity that will be reviewing the Housing Element and Fair Share Plan.
- B. If the Township of Washington fails to renew its ability to impose and collect development fees prior to the expiration of its judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). The Township of Washington shall not impose a development fee on a development that receives preliminary or final site plan approval after the expiration of its judgment of compliance, nor shall the Township of Washington retroactively impose a development fee on such a development. The Township of Washington shall not expend any development fees after the expiration of its judgment of compliance.

SECTION 2. This Ordinance shall be subject to review and recommendation by the Township of Washington Planning Board in accordance with N.J.S.A. 40:55D-26 and notice requirements of N.J.S.A. 40:55D-62.1.

SECTION 3. All ordinances or parts thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistencies.

SECTION 4. The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

SECTION 5. This Ordinance shall take effect immediately upon its final passage and publication as required by law and filing with the Bergen County Planning Board.

Adoption 2nd Reading

Ordinance No. 17-16

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING ARTICLE VI, ENTITLED "CLASS O-R DISTRICT," OF THE TOWNSHIP OF WASHINGTON ZONING ORDINANCE, ESTABLISHING THE REQUIREMENTS FOR AN AFFORDABLE HOUSING OVERLAY DISTRICT IN ACCORDANCE WITH THE ADOPTED HOUSING PLAN ELEMENT AND FAIR SHARE PLAN OF THE TOWNSHIP OF WASHINGTON

A motion was made by Councilman Ullman, seconded by Councilman Sears , to approve Resolution No. 17-293 authorizing second reading and opening of Public Hearing for Ordinance No. 17-16.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

Resolution No. 17-293

BE AND IT IS RESOLVED, by the Township Council of the Township of Washington that Ordinance No. 17-16 entitled: AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING ARTICLE VI, ENTITLED "CLASS O-R DISTRICT," OF THE TOWNSHIP OF WASHINGTON ZONING ORDINANCE, ESTABLISHING THE REQUIREMENTS FOR AN AFFORDABLE HOUSING OVERLAY DISTRICT IN ACCORDANCE WITH THE ADOPTED HOUSING PLAN ELEMENT AND FAIR SHARE PLAN OF THE TOWNSHIP OF WASHINGTON be read on second reading and the public hearing be held thereon pursuant to law.

Mary Ann Ozment, 960 Adams Place – Mrs. Ozment asked who determined the different areas that were put down as overlays. Mr. Poller replied the Court Master. Mrs. Ozment asked if the Court Master was given all of the land that was available. Mr. Poller replied the Court Master was given a tour, consulted and looked at the entire town, every location. A conversation followed on why the Court Master did not consider the swim club as part of an overlay, since it is 6.2 acres, as opposed to the nursery which is 2.4 acres, which was made part of the overlay. Mr. Slachetka stated the Court Master did prepare a report based on her findings which was provided to the Court. Mrs. Ozment requested a copy of that report. Mrs. Witkowski, the Township Clerk stated the report is online, or if Mrs. Ozment wishes, she can submit an OPRA Request.

Joe D'Urso, 12 Viola Terrace – Mr. D'Urso stated he has a problem with the two upcoming ordinances. He spoke of Mr. Poller and Mr. Slachetka giving a tour to the Court Master, when neither of them lives in the Township. A conversation followed on the Planning Board meeting and how the members of the board were advised of these ordinances. Mr. Poller spoke of the mechanism of using the overlay zones. Mr. D'Urso spoke of his displeasure with the overlay zones, since he feels it is clearing the path for developers to come in. Mr. Poller explained the Court Master makes the recommendation to the Court, and the judge is very careful to listen to the Court Master. Mr. Poller explained taking away the stance of no overlays is giving away the ability to settle the case. Mr. D'Urso stated he would recommend that Council table both ordinances (17-17 and 17-18.) Any builder that comes in that is interested in an overlay zone would have to go before the Planning Board for a site plan. Mr. D'Urso asked what would be allowed if Stone Mill Gardens was sold. Mr. Slachetka replied based on the density the Court Master agreed to, and other factors, it would be 8 units per acre, 20% affordable for sale and 15% of a rental project. Stone Mill Gardens, based on the developable of the lot, 2 acres, and various environmental constraints, the site has the potential to produce 12 units, 2/3 would be affordable housing units, whether for sale or rental. That being multi-family town homes or apartments. Bethany Church, the net

density is 15 units per acre, taking into consideration the C-1 waterway and other environmental concerns, the net developable area is about 7 acres, which could produce up to 105 units, between 16/21 affordable, depending on for sale or rental. Mr. D'Urso spoke of not having a problem with affordable housing, not knowing what an owner of a business might do, and towns that are still out there fighting this. Mr. Slachetka explained that the Court Master requested to do a site visit based on her review and obligation as the Court Master.

David Snyder, 91 Windsor Circle – Mr. Snyder asked how many towns put in the overlays. Mr. Slachetka doesn't know, but any town that has a vacant land adjustment, has overlays. The predicate is a town has a limited amount of vacant land, even before the Court Master, COAH, has been very specific about requesting that municipalities evaluate their municipalities to see where overlays would be appropriate. When the Vacant Land Adjustment was prepared, overlays were not proposed, that was a reaction and requirement that the Court Master imposed based on her review on the towns plan and her own experience. If the Township refused to do the overlays, the Court Master would tell the judge, and the Fair Share Housing Center, who was also part of the litigation, would have probably pressed the judge to require the Township to do an overlay, and if it became a contentious issue, rather than settle on reasonable density, there may be even higher densities on those sites. Mr. Snyder stated he is very concerned about this ordinance and emphatically asks Council not to sign off on this ordinance tonight and thinks it should be reviewed, since it is 30 pages. A conversation followed on not passing this ordinance. Councilman Ullman stated there have been extensive discussions in private and in public, and it is a complicated subject and feels that Mr. Poller and Mr. Slachetka represented the Township well and does believe this is the best that we can do, and there will be people who differ with that opinion. The developers do have to go before the Planning Board and there are densities that have been prescribed, this overlay does not state a builder can build whatever he wants, that is why there are details and terms of the type of setbacks, requirements and height limitations and the like in the Ordinance. The units have to be comparable in terms of their physical construction, there would not be a separate building that would be affordable, the units would be integrated throughout the project.

A motion was made by Councilman Sears, seconded by Councilman Calamari, to close the Public Hearing on Ordinance No. 17-16.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.
Nays: None.

A motion was made by Councilman Cascio, seconded by Councilman Sears to adopt Ordinance No. 17-16.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.
Nays: None.

Ordinance No. 17-16

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING ARTICLE VI, ENTITLED "CLASS O-R DISTRICT," OF THE TOWNSHIP OF WASHINGTON ZONING ORDINANCE, ESTABLISHING THE REQUIREMENTS FOR AN AFFORDABLE HOUSING OVERLAY DISTRICT IN ACCORDANCE WITH THE ADOPTED HOUSING PLAN ELEMENT AND FAIR SHARE PLAN OF THE TOWNSHIP OF WASHINGTON

WHEREAS, the Planning Board of the Township of Washington adopted the Washington Township Housing Plan Element and Fair Share Plan on July 26, 2017, and the Township Council endorsed same on August 7, 2017;

WHEREAS, the Washington Township Housing Plan Element and Fair Share Plan, as adopted on July 26, 2017, recommends the establishment of a multi-family affordable housing overlay zone to capture affordable housing opportunities on sites beyond those specifically identified and mentioned in the Washington Township Housing Plan Element and Fair Share Plan;

WHEREAS, it has become necessary to amend Article IX, entitled "Class O-R District," of the Township of Washington Zoning Ordinance, and adopt this new ordinance to implement and incorporate the Township's newly adopted and endorsed Housing Element and Fair Share Plan which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1 et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and,

WHEREAS, this Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time, and that low- and moderate-income households shall occupy those units and sets forth the administrative mechanisms necessary to implement the Township's revised Housing Element and Fair Share Plan.

BE IT ORDAINED, by the Township Council of the Township of Washington in the County of Bergen and State of New Jersey as follows:

SECTION 1. Article IX, entitled "Class O-R District," of the Township of Washington's Zoning Ordinance is hereby amended to add a new Section 245-59.1 as follows:

§245-59.1 Affordable Housing Overlay District

- A. Purpose. The purpose of the Affordable Housing Overlay District is to provide development that contributes to the Township of Washington's municipal affordable housing obligation, while allowing developers increased flexibility to provide more residential units when a required on-site affordable housing set-aside is provided.
- B. Location. There is hereby established an Affordable Housing Overlay District, comprised of the following lands and premises shown and designated on the Tax Assessment Map of the Township of Washington as revised: Block 3202.01 Lot 3, containing a total area consisting of approximately 9.7 acres.
- C. Permitted Uses
 - (1) Multi-family residential apartments
- D. Development Standards. The standards contained in the Affordable Housing Overlay shall supersede the existing O-R District standards for area, yard, frontage, height and other bulk requirements. The remaining provisions of the Washington Township Land Use and Zoning regulations shall apply as appropriate.
 - (1) Maximum Residential Density: 15 dwelling units per acre
 - (2) Maximum Permitted Building Height: Three (3) stories or 35 feet
 - (3) Maximum Impervious Lot Coverage: 80 percent
 - (4) Minimum Landscape Buffer: A minimum 20 foot wide landscape buffer shall be provided adjacent to any property line abutting a single-family residential use.
 - (5) Minimum Front Yard Setback: 50 feet

(6) Minimum Side Yard Setback: 30 feet

(7) Minimum Rear Yard Setback: 30 feet

E. Affordable Housing Requirements

(1) A minimum of 15 percent of rental units and 20 percent of for-sale units shall be reserved as affordable units.

(2) At least 50 percent of the affordable units shall be affordable to very low and low-income households. If only one (1) affordable unit is created in a project, the unit shall be a very low or low-income unit.

(3) At least 13 percent of the total number of affordable rental units shall be affordable to very low income households.

(4) The affordable units shall be affirmatively marketed to the housing region in accordance with the Township's Affirmative Marketing Plan.

(5) Affordability controls shall be maintained for a minimum of 30 years.

(6) Rental increases shall be in accordance with percentages approved by COAH or other applicable affordable housing authority or entity.

(7) All affordable units shall be subject to the provisions of the Township's Affordable Housing Ordinance.

SECTION 2. Article II: Classes of Districts Sections 245-3 and 245-4 are hereby amended to include the Affordable Housing Overlay District referenced herein.

SECTION 3. This Ordinance shall be subject to review and recommendation by the Township of Washington Planning Board in accordance with N.J.S.A. 40:55D-26 and notice requirements of N.J.S.A. 40:55D-62.1.

SECTION 3. All ordinances or parts thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistencies.

SECTION 4. The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

SECTION 5. This Ordinance shall take effect immediately upon its final passage and publication as required by law and filing with the Bergen County Planning Board.

Adoption 2nd Reading

Ordinance No. 17-17

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING ARTICLE VI, ENTITLED "CLASS AA DISTRICT," OF THE TOWNSHIP OF WASHINGTON ZONING ORDINANCE, ESTABLISHING THE REQUIREMENTS FOR AN AFFORDABLE HOUSING OVERLAY DISTRICT IN ACCORDANCE WITH THE ADOPTED HOUSING PLAN ELEMENT AND FAIR SHARE PLAN OF THE TOWNSHIP OF WASHINGTON

A motion was made by Councilman Casio, seconded by Councilman Sears, to approve

Resolution No. 17-294 authorizing second reading and opening of Public Hearing for Ordinance No. 17-17.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.
Nays: None.

Resolution No. 17-294

BE AND IT IS RESOLVED, by the Township Council of the Township of Washington that Ordinance No. 17-17 entitled: AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING ARTICLE VI, ENTITLED "CLASS AA DISTRICT," OF THE TOWNSHIP OF WASHINGTON ZONING ORDINANCE, ESTABLISHING THE REQUIREMENTS FOR AN AFFORDABLE HOUSING OVERLAY DISTRICT IN ACCORDANCE WITH THE ADOPTED HOUSING PLAN ELEMENT AND FAIR SHARE PLAN OF THE TOWNSHIP OF WASHINGTON be read on second reading and the public hearing be held thereon pursuant to law.

No public comments were heard.

A motion was made by Councilman Cascio, seconded by Councilman Sears, to close the Public Hearing on Ordinance No. 17-17.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.
Nays: None.

A motion was made by Councilman Cascio, seconded by Councilman Sears to adopt Ordinance No. 17-17.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.
Nays: None.

Ordinance No. 17-17

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF BERGEN, AND STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING ARTICLE VI, ENTITLED "CLASS AA DISTRICT," OF THE TOWNSHIP OF WASHINGTON ZONING ORDINANCE, ESTABLISHING THE REQUIREMENTS FOR AN AFFORDABLE HOUSING OVERLAY DISTRICT IN ACCORDANCE WITH THE ADOPTED HOUSING PLAN ELEMENT AND FAIR SHARE PLAN OF THE TOWNSHIP OF WASHINGTON

WHEREAS, the Planning Board of the Township of Washington adopted the Washington Township Housing Plan Element and Fair Share Plan on July 26, 2017, and the Township Council endorsed same on August 7, 2017;

WHEREAS, the Washington Township Housing Plan Element and Fair Share Plan, as adopted on July 26, 2017, recommends the establishment of a multi-family affordable housing overlay zone to capture affordable housing opportunities on sites beyond those specifically identified and mentioned in the Washington Township Housing Plan Element and Fair Share Plan;

WHEREAS, it has become necessary to amend Article VI, entitled "Class AA District," of the Township of Washington Zoning Ordinance, and adopt this new ordinance to implement and incorporate the Township's newly adopted and endorsed Housing Element and Fair Share Plan which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1 et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and,

WHEREAS, this Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time, and that low- and moderate-income households shall

occupy those units and sets forth the administrative mechanisms necessary to implement the Township's revised Housing Element and Fair Share Plan.

BE IT ORDAINED, by the Township Council of the Township of Washington in the County of Bergen and State of New Jersey as follows:

SECTION 1. Article VI, entitled "Class AA District," of the Township of Washington's Zoning Ordinance is hereby amended to add a new Section 245-26.3 as follows:

§245-26.3: Affordable Housing Overlay District

- A. Purpose. The purpose of the Affordable Housing Overlay District is to provide development that contributes to the Township of Washington's municipal affordable housing obligation, while allowing developers increased flexibility to provide more residential units when a required on-site affordable housing set-aside is provided.
- B. Location. There is hereby established an Affordable Housing Overlay District, comprised of the following lands and premises shown and designated on the Tax Assessment Map of the Township of Washington as revised, (and as shown in Attachment A): Block 3405 Lot 1 containing a total area consisting of approximately 2.4 acres.
- C. Permitted Uses
 - (1) Multi-family residential apartments
 - (2) Townhouses
- D. Development Standards. The standards contained in the Affordable Housing Overlay shall supersede the existing AA District standards for area, yard, frontage, height and other bulk requirements. The remaining provisions of the Washington Township Land Use and Zoning regulations shall apply as appropriate.
 - (1) Townhouse developments shall conform to the minimum requirements of Chapter 245-70.B and 245-71.
 - (2) Multi-family developments shall provide the following minimum setbacks:
 - (a) Front yard: 50 feet
 - (b) Side yard combined: 60 feet
 - (c) Rear yard: 30 feet
 - (3) Townhouse and multi-family developments shall not exceed the following maximum requirements:
 - (a) Maximum Residential Density: 8 dwelling units per acre
 - (b) Maximum Permitted Building Height: Three (3) stories or 35 feet
 - (c) Maximum Impervious Lot Coverage: 80 percent
 - (4) Townhouse and multi-family developments shall provide a minimum landscape buffer of 20 feet wide adjacent to any property line abutting an existing single-family residential use.

E. Affordable Housing Requirements

- (1) A minimum of 15 percent of rental units and 20 percent of for-sale units shall be reserved as affordable units.
- (2) At least 50 percent of the affordable units shall be affordable to very low and low-income households. If only one (1) affordable unit is created in a project, the unit shall be a very low or low-income unit.
- (3) At least 13 percent of the total number of affordable rental units shall be affordable to very low income households.
- (4) The affordable units shall be affirmatively marketed to the housing region in accordance with the Township's Affirmative Marketing Plan.
- (5) Affordability controls shall be maintained for a minimum of 30 years.
- (6) Rental increases shall be in accordance with percentages approved by COAH or other applicable affordable housing authority or entity.
- (7) All affordable units shall be subject to the provisions of the Township's Affordable Housing Ordinance.

SECTION 2. Article II: Classes of Districts Sections 245-3 and 245-4 are hereby amended to include the Affordable Housing Overlay District referenced herein.

SECTION 3. This Ordinance shall be subject to review and recommendation by the Township of Washington Planning Board in accordance with N.J.S.A. 40:55D-26 and notice requirements of N.J.S.A. 40:55D-62.1.

SECTION 3. All ordinances or parts thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistencies.

SECTION 4. The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

SECTION 5. This Ordinance shall take effect immediately upon its final passage and publication as required by law and filing with the Bergen County Planning Board

Introduction 1st Reading

Ordinance No. 17-18

AN ORDINANCE AMENDING ORDINANCE NO. 17-10 (Salary Ordinance)

A motion was made by Councilman Cascio, seconded by Councilman Sears, to introduce and pass Ordinance No. 17-18 at first reading by title.

Administrator Groh stated it is a 24 hour week, and this employee receives a rate of \$16.00 per hour.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.
Nays: None.

The following resolution, Resolution No. 17-295 was presented and adopted on a motion by Councilman Ullman, seconded by Councilman Sears.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

Resolution No. 17-295

WHEREAS, Ordinance No. 17-18 entitled: AN ORDINANCE AMENDING ORDINANCE 17-10 was introduced and passed at first reading at a meeting of the Township Council of the Township of Washington on the 11th day of September, 2017; and

NOW, THEREFORE BE IT RESOLVED, that further consideration for final passage and public hearing of said ordinance shall be held on the 25th day of September, 2017, at 7:30 PM, prevailing time, or as soon thereafter as said matter can be reached in the Municipal Complex, 350 Hudson Avenue, Township of Washington at which time and place all persons who may be interested will be given an opportunity to be heard concerning said ordinance.

BE IT FURTHER RESOLVED, that the office of the Township Clerk is authorized to advertise in The Bergen Record a newspaper circulated in this Township, the introduction and notice of further consideration for final passage and public hearing of this ordinance as required by law.

Ordinance No. 17-18

BE IT ORDAINED, by the Township Council of the Township of Washington, in the County of Bergen, New Jersey that the maximum salary for the following position is hereby established for the year 2017 as follows, on a per annum basis and payable semimonthly, unless otherwise noted:

<u>Department of Recreation</u>	<u>Annual Rate</u>
1. Superintendent	\$19,968.00

1. Retroactivity – As to any employee employed as of the effective date of this ordinance, the foregoing rate shall be payable as of his/her date of employment in the position.

2. If any section, sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid such decision shall not affect the remaining portions of this Ordinance.

3. All ordinances or any provisions of any ordinance inconsistent with the provisions of this ordinance except prior appropriations for this purpose herein stated, are hereby repealed as to such inconsistencies and not otherwise.

INDIVIDUAL RESOLUTIONS-there were none.

CONSENT AGENDA

All of the following items have been determined to have the unanimous consent of Council and will be enacted in one motion. Should any item require independent consideration, any Council Member may have such item removed from the Consent Agenda.

Resolution No. 17-ZB-2 will be voted on separately.

A motion was made by Councilman Cascio, seconded by Councilman Sears, to approve the Consent Agenda.

Ayes: Councilman Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

Resolution No. 17-296

Authorize to refund the balance of escrow monies, Block 3217, Lot 13, 521 Colonial Boulevard in the amount of \$559.00

WHEREAS, James & Jacqueline Catalano posted escrow monies for engineering work done on premises known as Block 3217 Lot 13, 521 Colonial Blvd; and

WHEREAS, the project falls within the guideline where neither a Certificate of Occupancy nor a Certificate of Acceptance is needed; and

WHEREAS, outstanding invoices due the Township Engineer as per his letter dated June 29, 2017 have been satisfied; and

NOW, THEREFORE, BE IT RESOLVED, that the Township Treasurer of the Township of Washington is authorized to refund the balance of the escrow money in the amount of \$559.00 to the above.

Resolution No. 17-297

Authorize to refund the balance of escrow monies, Block 2504, Lot 4, 1984 East Glen Avenue and block 4515, Lot 14, 454 Webster Avenue in the amount of \$1,752.59

WHEREAS, Joseph Prezgia posted engineering and soil movement escrow monies on premises known as Block 2504, Lot 4, 1984 E. Glen Avenue and Block 4515, Lot 14, 454 Webster Avenue, and;

WHEREAS, the Construction Code Official has issued approvals, C.O. No. 16-054 and C.O No. 16-328, and;

WHEREAS, outstanding invoices due the Township Engineer as per his letter dated August 14, 2017 have been satisfied, and;

NOW, THEREFORE, BE IT RESOLVED, that the Township Treasurer of the Township of Washington is authorized to refund the balance of the escrow monies in the amount of \$1752.59 to the above.

Resolution No. 17-298

Authorize refund of Summer Camp recreation fees, Andy Teng, \$230.00

BE AND IT IS RESOLVED, by the Township Council of the Township of Washington that the Township Treasurer is hereby authorized to refund the following recreation fees:

Andy Teng
198 Fern Street
Township of Washington, NJ 07676

Refund for Summer Camp 2017	\$255.00
Administrative Fee Non-Refundable	<u>\$- 25.00</u>
Refund for Total 2017 Camp Fees	\$230.00

Refund Amount: \$230.00

Resolution No. 17-299

Authorize release of Performance Guarantee, Sky Trading, LLC, Block 3401, Lot 1, 700 Washington Avenue

WHEREAS, Sky Trading, LLC (the "Developer") and the Township of Washington (the "Township") entered into a Developer's Agreement dated April 1, 2014, and a First Amendment to Developer's Agreement dated March 26, 2015 (collectively referred to as the "Developer's Agreement"), providing for the installation of improvements to be installed by the Developer with regard to the above-referenced development project; and

WHEREAS, pursuant to the terms of the Developer's Agreement, the Developer posted with the Township certain performance guarantees ("Performance Guarantees"); and

WHEREAS, the Developer has notified the Township of the Developer's full installation of improvements, and of the Developer's desire to have the Performance Guarantees released as a result of installation of said improvements pursuant to the Developer's Agreement; and

WHEREAS, Azzolina & Feury Engineering, Inc. (the Engineer for the Zoning Board of Adjustment, and referred to herein as the "Board Engineer") has reviewed such request and has issued a recommendation to the Mayor and Township Council in connection with the Performance Guarantees deposited by the Developer with the Township pursuant to the Developer's Agreement by letter dated August 25, 2017, a copy of which is annexed hereto (the "Board Engineer's Report and Recommendation"); and

WHEREAS, the Township Council has considered the Board Engineer's Report and Recommendation, and is of the opinion that action should be taken in accordance with such report and recommendation;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Washington as follows:

1. The Engineer's Report and Recommendation is hereby approved and adopted, and action hereunder is authorized for the release of the Performance Guarantees posted by the Developer with the Township.

2. The release of the Performance Guarantees is conditioned up the following:

(a) Sufficient funds must be on deposit in the Legal and Engineering Escrow posted by the Developer for the payment of all of the Engineer's outstanding vouchers, if any;

(b) Sufficient funds must be on deposit in the Legal and Engineering Escrow posted by the Developer for the payment of any additional vouchers of the Engineer and for the payment of legal fees and disbursements of the Township Attorney; and

(c) Posting by the Developer of a two-year maintenance bond in accordance with the Developer's Agreement satisfactory in form to the Township Attorney, and in conformity with the Board Engineer's Report and Recommendation.

3. The Board Engineer and Township Attorney shall submit all vouchers for professional services to the Finance Department within 15 days of the date of this Resolution. The Finance Department shall, within 15 days of expiration of said 15 day period, confirm with the Board Engineer and Township Attorney that there are sufficient funds on deposit with the Township from the Developer to pay all outstanding vouchers.

4. Upon verification by the Department of Finance that there are sufficient funds on deposit to pay all outstanding vouchers for professional services, and that the two-year maintenance bond in form satisfactory to the Township Attorney as required hereunder has been posted with the Township, the Department of Finance shall be authorized to discharge the Performance Guarantees.

5. A copy of this Resolution, with a copy of the Board Engineer's Report and Recommendation annexed hereto, shall be forwarded to the Developer.

A break was taken from 10:13 p.m. – 10: 22 p.m.

Councilman Calamari stated a Candlelight Vigil will be held in honor and remembrance of the Township's own Grace Skutches, on Sunday, September 17, 7:00 p.m. at the corner of Salem Road and Barry Drive.

Resolution No. 17-300
Closed Session, September 11, 2017

WHEREAS, the public is invited to attend all Meetings (whether denoted public or conference sessions) of the Township Council in accordance with its general practice and the Open Public Meetings Act; and

WHEREAS, the Legislature of the State of New Jersey declared that the public has a right to attend all meetings of the public bodies at which any business affecting the public is discussed or acted upon in any way except as set forth in the Open Public Meetings Act (N.J.S.A. 10:4-12), which provides for the exclusion of the public from the portion of a meeting at which certain enumerated matters are to be discussed; and

WHEREAS, the Township Council has determined that, because of the nature of the subject matter to be discussed, the public should not be present at that portion of the meeting of the Township Council at which certain specific matters encompassed by N.J.S.A. 10:4-12 are to be discussed;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Washington that, pursuant to the express provisions of the Open Public Meetings Act, the public be excluded from the meeting or portion of the meeting (denoted as an "executive" or "closed" session) in which the following matters are to be discussed:

1. Any matter which, by express provision of federal law or State statute or rule of court shall be rendered confidential or excluded from the provision of subsection of a. of this section.

2. Any matter in which the release of information would impair a right to receive funds from the Government of the United States.

3. Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendation, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance, and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.

4. Any collective bargaining agreement, or the terms and

conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.

5. Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.

6. Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law-

7. Any pending or anticipated litigation or contract negotiation other than in subsection b. (4) herein in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer -**POTENTIAL LITIGATION, COAH**

8. Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting. **PERSONNEL**

9. Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act or omission for which the responding party bears responsibility.

BE IT FURTHER RESOLVED, that it is not possible as yet to fix the time when or the circumstances under which the discussion conducted in Closed Session can be disclosed to the public. It is anticipated that the subject matter under discussion will be made public when finalized.

BE IT FURTHER RESOLVED, that notice is hereby given that the Township Council may find it necessary to take action at the conclusion of the executive/closed session; that such action if taken, will occur in open session; that you are invited to stay in the Municipal Building during the executive/closed session; that the doors to the Council chambers will be opened and an announcement will be made if the Township Council will be going into open session; and you may be present during such open session.

 X The Township Council anticipates that an open session **will be necessary.**

 The Township Council anticipates that an open session will not be necessary.

MOTION		SECOND		COUNCIL	AYES	NAYES	ABSTAIN	ABSENT
Bruno		Bruno		Bruno	X			
Calamari		Calamari		Calamari	X			
Cascio	X	Cascio		Cascio	X			
Sears		Sears	X	Sears	X			
Ullman		Ullman		Ullman	X			

Time Noted: 10:24 p.m.


 Susan Witkowski
 Township Clerk


 Robert Bruno
 Council President

Approved: February 5, 2018

TOWNSHIP OF WASHINGTON
BERGEN COUNTY, NEW JERSEY

CONFERENCE MEETING MINUTES

September 11, 2017

Members Present: Peter Calamari, Steve Cascio, Thomas Sears, Michael Ullman and Council President Robert Bruno. Also present: Janet Sobkowicz, Mayor; Ken Poller, Attorney; Mary Anne Groh, Administrator; and Susan Witkowski, Township Clerk.

Time Noted: 11:15 p.m.

A conversation followed on Resolution No. 17-ZB-2, parties that are interested non- interested and terms.

Resolution No. 17-ZB-2

Appointments to Open terms of the Zoning Board of Adjustment and Restatement of Existing Members and Terms

WHEREAS, the Township Council wishes to make appointments of members to the Township's Zoning Board of Adjustment for terms of office that are open;

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Washington hereby makes the following appointments to the Township of Washington Zoning Board of Adjustment for the applicable terms set forth herein:

1. The following individuals are hereby appointed as Members to the Township of Washington Zoning Board of Adjustment for the terms stated below:

George Mourvieff Term commencing 9/11/17, and terminating 12/31/17
Dina Burke Term commencing 9/11/17, and terminating 12/31/17

2. The following individual is hereby appointed as Alternate Member **No. 2** to the Township of Washington Zoning Board of Adjustment for the term stated below:

Michael LaGratta Term commencing 9/11/17, and terminating 12/31/18

3. The following is a restatement of the existing terms for the following Members and Alternate Member of the Township of Washington Zoning Board of Adjustment:

<u>Members:</u>	<u>Commencement of Term:</u>	<u>End of Term:</u>
Arthur Cumming	1/1/15	12/31/18
Mary Ann Ozment	1/1/16	12/31/19
Michael DeSena	1/1/16	12/31/19
Fred Goetz	1/1/17	12/31/20
Diane Grimaldi	1/1/17	12/31/20

<u>Alternate Member</u>	<u>Commencement of Term:</u>	<u>End of Term:</u>
No. 1 Said Toro	1/1/16	12/31/17

Vote on regular member George Mourvieff

MOTION		SECOND		COUNCIL	AYES	NAYES	ABSTAIN	ABSENT
Bruno		Bruno		Bruno	x			
Calamari		Calamari	x	Calamari	x			
Cascio	x	Cascio		Cascio	x			
Sears		Sears		Sears	x			
Ullman		Ullman		Ullman	x			

Vote on regular member Dina Burke

MOTION		SECOND		COUNCIL	AYES	NAYES	ABSTAIN	ABSENT
Bruno		Bruno		Bruno	x			
Calamari		Calamari	x	Calamari	x			
Cascio	x	Cascio		Cascio	x			
Sears		Sears		Sears	x			
Ullman		Ullman		Ullman	x			

Vote on Alternate Member No. 2 Michael LaGratta

MOTION		SECOND		COUNCIL	AYES	NAYES	ABSTAIN	ABSENT
Bruno		Bruno		Bruno	x			
Calamari		Calamari	x	Calamari	x			
Cascio	x	Cascio		Cascio	x			
Sears		Sears		Sears	x			
Ullman		Ullman		Ullman	x			

A motion was made by Councilman Ullman, seconded by Councilman Calamari to adjourn to Conference Agenda.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

Administration

Road Program – post paving update – Based on the estimated quantities the Township spent \$770,036.16 for the roads that were paved. The Township is expected to get back close to \$155,000 for Mountain Avenue. A conversation followed on adding additional roads since there are monies left over, and if a contractor would come back to complete a smaller road. A discussion followed on Hull Terrace, whether it is a private road and the fact that it already has been paved by the Township. Mr. Poller stated he believes it is a private road. Linwood Avenue will be paved this year, but there is a question on the handicap ramps. Mayor Sobkowicz commented on her dissatisfaction on the County Road Resurfacing Agreement. Administrator Groh stated as per Mr. Statile, Clinton Road running from Washington Avenue north to El Road in Hillsdale, would be a good road to add. It is about 1,400 feet long, and the contractor can pick up Concord Lane along the way.

Councilman Cascio left the meeting at 11:43 p.m.

Council

Acquisition of Demilitarized Equipment – 1033 A Program – Will be discussed at the September 25 meeting.

Relocation of Ambulance to Fire House location and DMF Building – Mayor Sobkowicz replied she has no information as of yet.

Ordinances and Legislation

Codification Project – due September – All comments must be forwarded to Mr. Poller.

Habitat for Humanity – A letter has been sent by Azzolina regarding the bonding calculation. Ms. Raimondo of Habitat indicated to Mr. Poller that they never posted bonding in the past, it has always been waived. If Habitat were to default on the construction, there is a reversion to the Township. Mr. Poller will follow-up with Oradell regarding Habitat and what was done with bonding. Habitat has in the past posted bonding for landscaping.

Waived Town Day Vendor Fees

A motion was made by Councilman Ullman, seconded by Councilman Sears, to waive Town Day Food Vendor Fees.

Ayes: Councilmen Calamari, Sears, Ullman, Bruno.

Nays: None.

Absent: Councilman Cascio.

Food vendor fees will be waived, but permits and inspections will be done by Northwest Bergen Regional Health Commission.

Road Opening Permits/Moratorium – Tabled to next meeting.

Financials

Year to date versus budget – Council President Bruno stated if anyone has any questions, please forward them to the Administrator.

Project Tracker

Police Department Doors/Locks – DMF is trying to get names for quotes.

Police Department Drainage – Mr. Statile does have preliminary designs worked out. The architect is designing a shed roof over the lower stairwell.

Police Department Flooring – Awaiting a quote.

Memorial Field/Stadium Lights – The issue is finding someone to go up in a bucket truck to replace the bulbs.

Police Dispatcher – Interviews have been conducted and tests given. Mayor Sobkowitz stated she will be reviewing those tests.

Resignations – Lisa Ruff, the only person working part-time in the Building Department resigned to take a full-time position, 2 weeks-notice was not given.

Quest - Mr. Poller has been working with Quest on access issues.

Computers – Two quotes have been received. The administration is shooting for a target date of September 30.

Firehose – The worth needs to be assessed, if it is an asset proper steps do need to be taken to get rid of a Township asset, such as auctioning items off.

Personal Action Form – Personal Action Forms have been received. The target date is September 30.

A motion was made by Councilman Sears, seconded by Councilman Calamari to adjourn.

Ayes: Councilmen Calamari, Sears, Ullman, Bruno.

Nays: None.

Absent: Councilman Cascio.

Time Noted: 12:17 a.m.



Susan Witkowski
Township Clerk



Robert Bruno
Council President

Approved: February 5, 2018