

# WHITE TOWNSHIP COMMITTEE

# MINUTES OF MEETING JULY 13, 2022

## CALL TO ORDER

Deputy Mayor Skoog called the meeting to order at 5:00 p.m. and stated ‘Adequate Notice of this meeting of July 13, 2022 has been given in accordance with the Open Public Meetings Act by forwarding a notice of the date, time, and location of the meeting to the Star-Ledger; and by posting a copy thereof on the bulletin board in the Municipal Building and the township website. Formal action may be taken at this meeting. Public participation is encouraged. This agenda is subject to last minute additions and deletions by the White Township Committee’.

## FLAG SALUTE

The Mayor asked everyone to stand for the flag salute.

## ROLL CALL

Present: Deputy Mayor Skoog, Committeeman Hyndman, Deputy Clerk Brielle Whitmore, Clerk Kathleen Reinalda and Attorney Tipton. Mayor Herb was absent.

On motion by Dr. Hyndman, seconded by Mrs. Skoog and carried by unanimous favorable roll call vote, the following Resolution was adopted:

### RESOLUTION - EXECUTIVE SESSION

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of White, as follows:

1. The public shall be excluded from discussion, and action upon the hereinafter specified subject matter, July 13, 2022, 5:03 pm:

Litigation  
(BK 16 LOT 44 Sheriff's Sale)

2. It is anticipated at this time, the above-stated subjects will be made public at such time when the matters discussed are no longer sensitive. Motion passed.

On motion by Dr. Hyndman, seconded by Mrs. Skoog, the meeting was re-opened to the

public at 5:14 p.m. Motion passed. No action was taken in Executive Session.

**RESOLUTIONS**

**Res. 2022-34:** Motion made by Dr. Hyndman, seconded by Mrs. Skoog with Mayor Herb absent to approve the following resolution. Hyndman – yes, Skoog – yes, Herb – absent. Resolution adopted.

**RESOLUTION #2022-34**

**RESOLUTION RESCINDING THE RENEWAL OF PLENARY RETAIL CONSUMPTION LICENSE FOR 2021-2022 IN THE TOWNSHIP OF WHITE, COUNTY OF WARREN, STATE OF NEW JERSEY.**

**WHEREAS**, after State of N.J. Division of Alcoholic Beverage review, Whiskey River Buttzville Inc. did not provide the proper application and appropriate fee by the required deadline in order to receive approval for a 2021-2022 license renewal; and

**WHEREAS**, the late filing has resulted in the need for 12.18 relief.

**NOW, THEREFORE BE IT RESOLVED** by the Township Committee of the Township of White, County of Warren, State of New Jersey, that the following Plenary Retail Consumption License in the Township of White, is hereby rescinded for the 2021-2022 licensing year, until 12.18 relief has been granted by the State of N.J. Division of Alcoholic Beverage Control.

2123-33-005-004 Whiskey River Buttzville Inc.

**Res. 2022-35:** Tabled for further review.

**Res. 2022-36:** Motion made by Dr. Hyndman, seconded by Mrs. Skoog with Mayor Herb absent to approve the following resolution. Hyndman – yes, Skoog – yes, Herb – absent. Resolution adopted.

**RESOLUTION 2022-36**

On motion by Dr. Hyndman, and seconded by Mrs. Skoog, the following resolution was adopted by the Township Committee at a meeting held July 13, 2022.

**RESOLUTION GRANTING APPROVAL OF THE PURCHASE OF A DEVELOPMENT EASEMENT ON THE**

**MCEVOY #1 FARM, BLOCK 13 LOTS 11 & 17.01, BLOCK  
18 LOT 58 IN WHITE TOWNSHIP CONSISTING OF  
APPROXIMATELY  
84.33 (3%+) NET ACRES**

**WHEREAS**, the Warren County Agriculture Development Board has determined that the property known as the McEvoy #1 Farm, owned by Gerald and Janet McEvoy, located on Block 13 Lots 11 & 17.01 and Block 18 Lot 58, White Township and consisting of approximately 84.33 (3+%) net acres has available for purchase a development easement in accordance with the requirements of the farmland preservation program; and

**WHEREAS**, the pressures from development have significantly heightened the degree of imminence of change of land use from productive agriculture to nonagricultural uses; and

**WHEREAS**, pursuant to N.J.A.C. 2:76-17.9A(b) on July 26, 2021 it was determined by the State Agriculture Development Committee (SADC) that the application for the sale of a development easement was complete and accurate and satisfied the criteria contained in N.J.A.C. 2:76-17A.9(a); and

**WHEREAS**, pursuant to N.J.A.C. 2:76-17A.11, on February 23, 2022 in accordance with the SADC Resolution #FY2022R12 (10), Executive Director Payne and Secretary Fisher signed the Certification of Market Value and has certified a development easement value of \$4,800 per acre based on the zoning and environmental regulations in place as of January 1, 2004 and \$1,000 per acre for the current zoning and environmental regulations of valuation date on October 12, 2021 with an estimated total easement value of \$404,784.00; and

**WHEREAS**, pursuant to N.J.A.C. 2:76-17.12, the Owners accepted the Certified Market Value offer by the County of \$4,800 per acre.

**WHEREAS**, the property is part of the approved Warren County Planning Incentive Grant Application and is funded by the Warren County Open Space, Farmland, Recreation and Historic Preservation Trust Fund; and

**WHEREAS**, the tract would encourage the survivability of production agriculture in White Township, and said tract falls within a predetermined County Agricultural Development Area and is in the West Project Area and the Highlands Preservation Area; and

**WHEREAS**, preliminary approval for the purchase of development rights on this farm has been granted by the State Agricultural Development Committee; and

**WHEREAS**, the SADC is expected to grant final approval for funding amount on said application at its September 29, 2022 meeting; and

**WHEREAS**, pursuant to N.J.A.C. 2:76-17.13 on July 21, 2022, the Warren County Agriculture Development Board is expected to approve the funding for the development easement with no cost share contribution by White Township as follows: SADC \$3,280 per acre, Warren

County \$1,520 per acre..

**WHEREAS**, the WCADB approval will include the following conditions:

- a. No existing structures on premises
- b. No existing agriculture labor housing on premises
- c. Exceptions
  - 1) One severable exception area of 4.75 acres on Block 13 Lot 17.01 around existing single family residence, garage and outbuildings, and for future flexibility restricted to one single family residential unit
  - 2) One non-severable exception area of 7 acres on Block 13 Lot 11 around existing single family residence, three existing recreational cabins and for future flexibility restricted to one single family residential unit
  - 3) One non-severable exception area of 2.5 acres on Block 18 Lot 58 around existing single family residence and for future flexibility restricted to one single family residential unit
- d. No Residual Dwelling Site Opportunities (RDSO's)
- e. No preexisting non-agricultural uses on premises
- f. Possible access easement from Block 18 Lot 58 to adjoining Block 18 Lot 59 and to be determined by title search
- g. No proposed trails
- h. SADC funding from Base grant, competitive round or both
- i. Warren County is requesting SADC funding for a 3% buffer on the final surveyed acreage

**NOW THEREFORE BE IT RESOLVED**, by the Township Committee of White as follows:

The Township Committee hereby grants permission for the purchase of the development easement by the County of Warren under the Farmland Preservation Act as set forth above and will not be participating in the cost share.

#### **ENGINEERING UPDATE**

Paul Sterbenz reported on the following:

- Upper Sarepta Rd. / Mutton Hill Project – Complete. DOT Grant reimbursement paperwork will be completed.
- Redevelopment Grant A&P Shopping Center Site – There will be a hearing before the Planning Board in September as per the guidelines of the grant.
- Spring Lane paving project – Upon further review, paving of Spring Lane will be contingent upon necessary drainage improvements.

- Tamarack Road paving project – Drainage work will be going out to bid prior to the paving being performed.
- Beechwood Road FY 2023 Grant Application – requires Mayor and Clerk signatures prior to submission.
- Settlers Ridge – curbing being installed; paving will proceed in the next two weeks.
- Demeter Road Drainage Complaints – After several site visits, Engineer Sterbenz said he saw no evidence of the township being responsible for drainage issues.
- Affordable Housing Compliance – Engineer Sterbenz answered questions from the committee regarding administration of the program once the ordinances are adopted.

#### **ORDINANCES – FIRST READING**

- A. Ord. 2022-03: Motion made by Dr. Hyndman, seconded by Mrs. Skoog with Mayor Herb absent to approve the following ordinance on First Reading. Hyndman – yes, Skoog – yes, Herb – absent. Public Hearing scheduled for August 10<sup>th</sup> at 6PM.

#### **ORDINANCE 2022-03**

#### **AN ORDINANCE OF THE TOWNSHIP OF WHITE, COUNTY OF WARREN AND STATE OF NEW JERSEY, AMENDING THE CODE OF THE TOWNSHIP OF WHITE TO ADOPT A MANDATORY DEVELOPMENT FEE ORDINANCE**

**Section 1.** The Township Committee of the Township of White, County of Warren, and State of New Jersey, hereby amends Chapter 160 of the Code of the Township of White to add Article XXXII as follows:

#### **Article XXXII Development Fees**

##### **§160-209 Purpose**

- A. 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.
- B. Pursuant to P.L.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.

Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

- C. This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

#### **§160-210 Definitions**

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

- (1) **"Affordable housing development"** means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
- (2) **"COAH"** or the **"Council"** means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State. Pursuant to the Supreme Court's Mount Laurel IV opinion and order, any reference to COAH or the Council shall be understood to refer to the Superior Court of New Jersey or other appropriate jurisdiction.
- (3) **"Development fee"** means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.
- (4) **"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.
- (5) **"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).
- (6) **"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.

#### **§160-211 Residential Development fees**

A. Reserved.

#### **§160-212 Non-residential Development fees**

A. Imposed fees

- (1) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (2) Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in 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 a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time 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.

B. Eligible exactions, ineligible exactions and exemptions for non-residential development

- (1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
- (2) The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing 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 it at such time 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 of the non-residential development, whichever is later.
- (5) If a property which 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 non-residential development fees under these circumstances may be enforceable by the Township of White as a lien against the real property of the owner.

- 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 notifies 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 of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the Township of White 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 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 White Township. 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 White Township. 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.

**§160-214      Affordable Housing trust fund**

- A. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer 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 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 on-site construction of affordable units;
  - (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 White Township's affordable housing program.
- C. Within seven days from the opening of the trust fund account, White Township shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH 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 on eligible affordable housing activities approved by COAH.

**§160-215      Use of funds**

- A. The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the White Township'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 White for past housing activities.
- C. At least 30 percent 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 of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent 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 homeowners' 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. The use of development fees in this manner shall entitle the Township of White to bonus credits pursuant to N.J.A.C. 5:97-3.7.
  - (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. White Township 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 20 percent 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 20 percent 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 COAH'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.

**§160-216      Monitoring**

White Township shall complete and return to COAH all monitoring forms included in monitoring requirements related to 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 the Township of White's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the court. All monitoring reports shall be completed on forms designed by COAH.

**§160-217      Ongoing collection of fees**

The ability for White Township to impose, collect and expend development fees shall expire with its judgment of compliance unless White Township has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If White Township fails to renew its ability to impose and collect development fees prior to the expiration of 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). White Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall White Township retroactively impose a development fee on such a development. White Township shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

**Section 2. Repealer.** All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 3. Severability.** Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any Court of competent jurisdiction that any such portion of this Ordinance is unconstitutional, void or ineffective for any cause or reason, shall not affect any other portion of this Ordinance.

**Section 4. Effective Date.** This ordinance shall take effect upon its passage and publication, as required by law.

- B. Ord. 2022-04: Motion made by Dr. Hyndman, seconded by Mrs. Skoog with Mayor Herb absent to approve the following ordinance on First Reading. Hyndman – yes, Skoog – yes, Herb – absent. Public Hearing scheduled for August 10<sup>th</sup> at 6PM.

**ORDINANCE 2022-04**  
**AN ORDINANCE OF THE TOWNSHIP OF WHITE, COUNTY OF WARREN**

**AND STATE OF NEW JERSEY, AMENDING THE CODE OF THE TOWNSHIP OF WHITE TO ADDRESS THE REQUIREMENTS OF THE COUNCIL ON AFFORDABLE HOUSING'S RULES**

**WHEREAS**, in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing. 221 N.J. 1 (2015), the Township of White filed an action for declaratory judgment requesting that the Court declare that the Township has complied with its constitutional obligation to provide a realistic opportunity for the development of housing that is affordable to low- and moderate-income families and individuals; and

**WHEREAS**, in order to carry out such constitutional obligation, the Code of the Township of White is to be amended to include provisions addressing the Township's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with 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 assurance 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**, the Township of White Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.: and

**WHEREAS**, the Housing Element and Fair Share Plan has been endorsed by the Township Committee; and

**WHEREAS**, this Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and 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.

**NOW, THEREFORE, BE IT ORDAINED**, by the Committee of the Township of White as follows:

**Section 1.** The Township Committee of the Township of White, County of Warren, and State of New Jersey, hereby amends Chapter 160 (Land Use) of the Code of the Township of White as follows [New language **bold and underlined**, deleted language ~~double strikethrough~~]:

**ARTICLE XXXI. Affordable Housing**

**§ 160-204 New Construction.**

F. 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

and ~~in COAH~~ by the New Jersey Superior Court, utilizing the most recently published regional income limits ~~established by COAH or as determined by~~ HUD and the calculation procedures as approved by the Court ~~or other appropriate jurisdiction~~.

- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% 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:
  - (a) At least thirteen percent (13%)~~10%~~ of all low- and moderate-income rental units shall be affordable to very-low-income households, which shall be part of the low-income requirement ~~earning no more than 30% of median income~~.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy percent (70%) of median income, and each affordable development must achieve an affordability average of fifty-five percent (55%) for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different 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 ~~not~~ used:
  - (a) A studio or efficiency unit 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 price and rent levels** for compliance with the affordability average requirements for restricted units in assisted living facilities **and age-restricted developments**, the following standards shall be ~~met~~**used**:
  - (a) A studio or efficiency unit 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 **ninety-five percent (95%)** 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 **twenty eight percent (28%)** 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% of the eligible monthly income of the appropriate household size, **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) **Income limits for all units that are part of the Township's Housing Element and Fair Share Plan, and for which income**

**limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows:**

- (a) **Regional income limits shall be established for Region 2, which contains Essex, Morris, Union and Warren Counties, based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in Region 1. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very-low-income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.**
- (b) **The income limits calculated each year shall be the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the relevant fiscal year and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.**
- (c) **The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the**

**same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.**

**(11) In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by HUD:**

**(a) The price of owner-occupied very-low, low and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to Paragraph 10. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.**

**(12) The rent levels of very-low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year in accordance with N.J.A.C. 5:80-26.12(b), which requires rent increases to be consistent with the regional income limits published by COAH, or as otherwise established by the Court or other appropriate jurisdiction. 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.**

**(11) Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.**

#### **§ 160-206 Affordable unit controls and requirements.**

**N. Monitoring requirements. The Township of White shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan:**

**(1) Beginning on December 8, 2017, and on every anniversary of that date through July 1, 2025, the Township agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Committee on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on**



the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Committee on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

- (2) Beginning on December 8, 2017, and on every anniversary of that date through July 27, 2025, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
- (3) By July 1, 2022, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
- (4) By January 8, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very-low-income requirements, including its family very-low-income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very-low-income housing obligations.

**Section 2. Repealer.** All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 3. Severability.** Each section, subsection, sentence, clause and phrase of this Ordinance is

declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any Court of competent jurisdiction that any such portion of this Ordinance is un-Constitutional, void or ineffective for any cause or reason, shall not affect any other portion of this Ordinance.

**Section 4. Effective Date.** This ordinance shall take effect upon its passage and publication, as required by law.

#### **OLD BUSINESS**

Dr. Hyndman explained the intent of the State Planning Commission's Guidance on Warehouse Development publication. It provides advice as to codifying ordinances in order to better regulate warehouse development in local jurisdictions. Attorney Tipton advised that the township has already adopted ordinances specifically for this purpose, however, Dr. Hyndman suggested more could be done. Attorney Tipton suggested he contact the planning board attorney and planner in order to see what exactly has been changed.

The permission form/hold harmless agreement for the NJ Film Commission to authorize landowner access is in the process of being created.

Deputy Clerk Brielle Whitmore reviewed updates that have been made to the amended website.

#### **NEW BUSINESS**

The committee reviewed the existing sewer user fee ordinance after it was revealed at budget workshops that the sewer capital fund has not been properly funded the last few years due to the omission of the maintenance fee back in 2011. Only an administrative fee has been collected to cover the costs of the sewer personnel for the township. Attorney Tipton will prepare another amended ordinance to reestablish the maintenance fee.

#### **CORRESPONDENCE**

County Commissioner Lori Ciesla sent an email to all Warren County towns advising them that the Board of Commissioners intended to begin working with cellular companies in order to improve service to our communities.

#### **PUBLIC COMMENTS**

Sharon Haggerty expressed her concerns regarding Spring Lane in the event that the township proceeds with the improvements to the road.

#### **PRESENTATION OF VOUCHERS**

On motion by Dr. Hyndman, seconded by Mrs. Skoog with Mayor Herb absent, the

Committee approved the following list of bills:

<u>Check Number</u>	<u>Payee</u>	<u>Amount</u>
17598	Horizon Blue Cross Blue Shield	386.38
17599	Griffith-Allied Trucking LLC	3,781.06
17600	Borough of Washington	2,500.00
17601	Brielle Whitmore	35.72
17602	C&M Auto Parts	351.98
17603	Colliers Engineering	6,073.15
17604	Comcast	706.50
17605	Rentokil	94.00
17606	Gebhardt & Kiefer	1,605.31
17607	GTM Turf Management	9,244.38
17608	Home Depot Credit Services	102.18
17609	JCP&L	2,644.71
17610	Kathleen Reinalda	603.18
17611	Kyle McManus Associates	1,292.50
17612	L.E. Ritter Lumber Co.	68.90
17613	MCANJ	100.00
17614	MGL Printing Solutions	1,054.30
17615	Michelle Trivigno	199.75
17616	Mitchell Humphrey & Co.	950.00
17617	Montage Enterprises Inc.	264.64
17618	ReadyRefresh by Nestle	134.95
17619	NJ League of Municipalities	25.00
17620	NJ American Water Co.	1,190.48
17621	NJ Advance Media	637.01
17622	Eurofins Environment Testing	1,406.35
17623	Rigo's General Hardware	76.25
17624	Sanico Inc.	392.32
17625	S&L Equipment Rental Inc.	4,055.25
17626	Staples Credit Plan	85.87
17627	Steven P. Gruenberg Esq.	614.21
17628	Verizon Wireless	143.73
17629	Vital Communications	420.00
17630	Warren County Treasurer	2,639.72
17631	Warren Materials	1,275.44
17632	WEX Health	200.00
17633	White Township Board of Education	655,161.00
17634	Xerox Corporation	540.72
17635	Hard Rock Hotel & Casino	1,600.00

**TOTAL.....\$702,656.94**

**Developer's Escrow Account**

1438	Geo Peak Energy LLC	23.88
1439	VOID	
1440	Geo Peak Energy LLC	6,006.91
1441	Geo Peak Energy LLC	52,103.15
1442	Geo Peak Energy LLC	50.65
1443	Colliers Engineering	536.25
1444	Colliers Engineering	82.50
1445	Colliers Engineering	7,549.11
1446	VOID	
1447	Colliers Engineering	3,697.88
1448	Colliers Engineering	174.80
1449	VOID	
1450	Colliers Engineering	82.50
1451	Gebhardt & Kiefer	16.50
1452	Gebhardt & Kiefer	33.00
1453	Gebhardt & Kiefer	997.00
1454	Gebhardt & Kiefer	99.00
1455	Gebhardt & Kiefer	594.00
1456	Gebhardt & Kiefer	16.50
1457	Gebhardt & Kiefer	33.00
1458	Gebhardt & Kiefer	1,023.00
1459	Gebhardt & Kiefer	3,811.50
1460	Gebhardt & Kiefer	231.00
1461	Sasowsky Earth Science	1,791.88
1461	VOID	
1462	Sasowsky Earth Science	1,791.87
1464	Suburban Consulting	537.50
1465	Suburban Consulting	537.50

**Current Fund Manual**

2416	Payroll Account	19,330.91
2417	Payroll Account	15,256.37
2418	Payroll Account	30,211.11
2419	Payroll Account	19,392.95

**Gravel Pit Escrows**

253	Colliers Engineering	335.00 (for HS&G)
249	Colliers Engineering	802.39 (for Hoffman)
250	Colliers Engineering	224.02 (for BS&G)
238	Colliers Engineering	412.13 (for Tilcon)

**Capital Account**

1583	Colliers Engineering	4,128.77
------	----------------------	----------

**Sewer Account**

1393	Nisivoccia LLP	7,000.00
1394	Warren County (PRMUA)	77,610.75

**TOTAL ALL FUNDS.....\$959,182.22**

**ADJOURNMENT**

Being no further business to come before the Committee, the meeting was adjourned at 6:32 p.m. on motion by Dr., Hyndman, seconded by Mrs. Skoog and carried by unanimous favorable roll call vote.

Respectfully Submitted,

---

Kathleen R. Reinalda, RMC  
Township Clerk