

## **WHITE TOWNSHIP COMMITTEE**

## **MINUTES OF MEETING OCTOBER 12, 2017**

### **CALL TO ORDER**

Mayor Race called the meeting to order at 7:00 p.m. and stated ‘Adequate Notice of this meeting of October 12, 2017 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 Express-Times and Star-Gazette 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: Mayor Race, Committeeman Herb, Committeewoman Mackey, Attorney Brian Tipton and Clerk Kathleen Reinalda.

### **GOODWILL FIRE COMPANY**

Delmont Cole, Fire Chief, explained the need for a new truck estimating the cost to be about \$400,000.00. This will be shared with the Town of Belvidere. Mr. Cole said the governing body in Belvidere was looking at a lease purchase option. Attorney Tipton suggested a written contract be signed between the two towns. Mayor Race will reach out to Mayor Kennedy in Belvidere to discuss the details.

### **TRANSEdge TRUCK CENTERS**

Lucas VanEmbarg, Sales Rep for TransEdge, was present to discuss purchase of a Volvo 4-wheel drive DPW truck through the NJPA Cooperative. Mr. VanEmbarg discussed the benefits of a Volvo vs. other truck brands. Also, the township would not have to bid as TransEdge is part of the NJPA cooperative. The committee asked Mr. VanEmbarg to work with the DPW on specifications.

### **PUBLIC COMMENTS**

None.

### **ORDINANCES – PUBLIC HEARING**

**Ord. 2017-04:** Motion made by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote to open the public hearing on the following ordinance. Being

no comments, motion to close the public hearing made by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote. Motion to adopt the following ordinance made by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote. Herb – yes, Mackey – yes, Race – yes. Ordinance 2017-04 adopted.

**ORDINANCE 2017-04**  
**AN ORDINANCE AMENDING SECTION 107 (FENCES AND RETAINING WALLS),**  
**OF ARTICLE XIII (GENERAL ZONING PROVISIONS), OF CHAPTER 160 (LAND**  
**USE) OF THE CODE OF THE TOWNSHIP OF WHITE**

**WHEREAS**, the Committee of the Township of White, County of Warren, State of New Jersey (“Township”), regulates land use in the Township through Ordinances set forth in Chapter 160 of the Township Code;

**WHEREAS**, the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-65 permits the Township to adopt and amend ordinances regulating buildings and structures;

**WHEREAS**, the Township Committee has determined that Chapter 160 should be amended to state that a building permit shall be required for any fence or retaining wall or bulkhead in excess of 72 inches, instead of 48 inches, in order to coincide with the Uniform Construction Code, N.J.A.C. 5:23-2.14(b)(9);

**WHEREAS**, it is in the Township and public’s best interest to increase the height for which a building permit to erect a fence, retaining wall, or bulkhead is required.

**NOW, THEREFORE, BE IT ORDAINED**, by the Committee of the Township of White, County of Warren, State of New Jersey, as follows:

Section One: Chapter 160 of the Town Code, entitled Land Use, Section 107(A)(2), entitled Fences and Retaining Walls, is hereby amended so that it shall read as follows:

(A)(2): A building permit shall be required for any fence or retaining wall or bulkhead in excess of 72 inches in height.

Section Two:

Severability. 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 this Ordinance shall not be affected thereby.

Section Three:

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section Four:

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

**Ord. 2017-05:** Motion made by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote to open the public hearing on the following ordinance. Many residents of Titman Road were in attendance to oppose this ordinance. They felt that by changing the zone designation from H-D to Residential, it would devalue their properties. Mr. Dan Bloch supported the ordinance, as he explained being in the H-D zone causes him to have to get zoning approval for any changes, alterations, additions, etc. to his property. Motion to close the public hearing made by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote. No motion made to adopt the following ordinance. Ordinance not adopted.

**ORDINANCE 2017-05**

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP, CHAPTER 160 (LAND USE) OF THE TOWNSHIP OF WHITE CODE, FOR THE PURPOSE OF CHANGING THE DESIGNATION OF CERTAIN RESIDENTIAL PROPERTIES LOCATED ON TITMAN ROAD FROM HIGHWAY DEVELOPMENT TO RESIDENTIAL-1**

**WHEREAS**, the Municipal Land Use Law of the State of New Jersey, N.J.S.A. 40:55D-1 et seq., grants to municipalities the power to adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings, and structures thereon, and

**WHEREAS**, in 2014, the Planning Board of the Township of White completed its periodic general re-examination of the Master Plan of the Township pursuant to N.J.S.A. 40:55D-89 of the Municipal Land Use Code; and

**WHEREAS**, as a result of and as contained in that re-examination, the Planning Board of the Township of White recommended certain amendments to the Land Use Ordinance of the Municipal Code of the Township of White, specifically that existing developed residential properties along both sides of Titman Road to either side of Bridgeville Road, specifically Block 43, Lots 10, 11, 12, 13, and 14, and Block 46, Lots 1, 2, 3, 4, 5, 5.01, and 6, which are designated as Highway Development in the 2004 Master Plan, be removed from this designation and instead be designated for residential use consistent with this existing use; and

**WHEREAS**, the Committee of the Township of White is in accord with and accepts this recommendation.

**NOW, THEREFORE, BE IT ORDAINED**, by the Committee of the Township of White, County of Warren, State of New Jersey, as follows:

Section One:

Chapter 160 of the Town Code, entitled Land Use, Section 84, entitled Zoning Maps, Schedule of Requirements, District Boundary Lines, is hereby amended to reflect that the residential properties identified as Block 43, Lots 10, 11, 12, 13, and 14, and Block 46, Lots 1, 2, 3, 4, 5, 5.01, and 6, located on both sides of Titman Road to either side of Bridgeville Road, to be designated as R-1 District.

Section Two:

Severability. 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 this Ordinance shall not be affected thereby.

Section Three:

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section Four:

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

**RESOLUTIONS**

**Resolution 2017-43:** Motion made by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote to adopt the following resolution. Herb – yes, Mackey – yes, Race – yes. Resolution adopted.

**RESOLUTION 2017-43**

WHEREAS, the White Township Tax Assessor received certification from the Department of Veterans Affairs confirming the status of a permanent and totally disabled veteran for the owner of Block 69, Lot 24.17, at 29 Tamarack Road; and

WHEREAS, the property owner, Merrill W. Trabold, applied for this exemption with the Tax Assessor on 11/23/15; and

WHEREAS, this property will remain exempt from property tax while it remains the principal residence of the permanent and totally disabled veteran; and

WHEREAS, the property owner was exempt from taxation for the 2016 tax year,

however, he was entitled to a homestead rebate in the amount of \$655.08 which was collected by the Township of White therefore he is requesting the refund of \$655.08.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of White, County of Warren, and the State of New Jersey that the Homestead Rebate be refunded and the records of the Tax Collector be adjusted to reflect the refund for this property.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be provided to the Tax Collector and Chief Financial Officer.

**Resolution 2017-44:** Motion made by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote to adopt the following resolution. Herb – yes, Mackey – yes, Race – yes. Resolution adopted.

#### **RESOLUTION 2017-44**

WHEREAS, N.J.S.A. 54:4-3.30-34 grants an exemption from local property taxes for the dwelling house of a totally disabled veteran; and

WHEREAS, the White Township Tax Assessor received certification from the Department of Veterans Affairs confirming the status of a permanent and totally disabled veteran for the owner of Block 30, Lot 10, C05012, at 5012 Brookfield Glen Drive; and

WHEREAS, the property owner, Gordon McKibben, applied for this exemption with the Tax Assessor on 7/21/17; and

WHEREAS, the property owner paid 1<sup>st</sup> and 2<sup>nd</sup> quarterly taxes and is responsible for 3<sup>rd</sup> quarter taxes of \$172.60 which represents taxes owed through 7/20/17; and

WHEREAS, this property will be exempt from taxes starting 7/21/17 and will remain exempt from property tax while it remains the principle residence of the permanent and totally disabled veteran; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of White, County of Warren, and the State of New Jersey that the White Township Tax Collector forgive taxes for 3<sup>rd</sup> quarter 2017 in the amount of \$603.70 and 4<sup>th</sup> quarter taxes of \$776.30;

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be provided to the Tax Collector and the Chief Financial Officer.

**Resolution 2017-45:** Motion made by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote to adopt the following resolution. Herb – yes, Mackey – yes, Race – yes. Resolution adopted.

**RESOLUTION 2017-45**

WHEREAS, N.J.S.A. 54:4-3.30-34 grants an exemption from local property taxes for the dwelling house of a totally disabled veteran; and

WHEREAS, the White Township Tax Assessor received certification from the Department of Veterans Affairs confirming the status of a permanent and totally disabled veteran for the owner of Block 70, Lot 9.02, at 91 Beechwood Road; and

WHEREAS, the property owner, Dennis Lee, applied for this exemption with the Tax Assessor on 5/9/17; and

WHEREAS, the property owner paid 1st and 2nd quarterly taxes in the amount of \$3,195.83; and

WHEREAS, this property will be exempt from taxes starting 5/9/17 and will remain exempt from property tax while it remains the principle residence of the permanent and totally disabled veteran; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of White, County of Warren, and the State of New Jersey that the White Township Tax Collector forgive 3rd and 4<sup>th</sup> quarter 2017 taxes and refund Mr. Lee in the amount of \$1,183.41 which represents the overpayment made of 2<sup>nd</sup> quarter taxes from the date of exemption, 5/9/17;

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be provided to the Tax Collector and the Chief Financial Officer.

**Resolution 2017-46:** Motion made by Mr. Herb, seconded by Mrs. Mackey and carried by unanimous favorable roll call vote to adopt the following resolution. Herb – yes, Mackey – yes, Race – yes. Resolution adopted.

**RESOLUTION 2017-46**

**RESOLUTION AWARDING A CONTRACT FOR SUPPLEMENTAL SNOW PLOWING IN THE BROOKFIELD ADULT RETIREMENT COMMUNITY, COLBY COURT DEVELOPMENT AND OTHER TOWNSHIP ROADS AS MAY BE REQUIRED UPON REQUEST**

WHEREAS, White Township requires supplemental snow plowing of the Brookfield Adult Retirement Community\* located on Route 519 (across from Mackey’s Orchards) and the Colby Court Townhouse Development\* located on Route 519 (across from the Country View Village Strip Mall) and other Township roads as may occasionally be required upon request by the Department of Public Works Supervisor for the winter months of 2017-2018 to supplement the plowing of the White Township Road Department.

**WHEREAS**, specifications were drafted and approved; and

**WHEREAS**, the following quotations were received for the 2017-2018 season from one (1) contractor:

A.B.E. Paving & Sealcoating	\$100.00/hr. truck with 10' 6" plow
	\$105.00/hr. 1 yard bucket loader

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of White that the contract for supplemental snow plowing for the Brookfield Adult Retirement Community, the Colby Court Development and other Township roads be and hereby is awarded to A.B.E. Paving & Sealcoating for its lowest responsible, responsive quotation as per company estimate received October 5, 2017.

**Resolution 2017-47:** Motion made by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote to adopt the following resolution. Herb – yes, Mackey – yes, Race – yes. Resolution adopted.

**RESOLUTION TO PROVIDE FOR THE RENEWALS OF PLENARY RETAIL CONSUMPTION LICENSES FOR 2017-2018 IN THE TOWNSHIP OF WHITE, COUNTY OF WARREN, STATE OF NEW JERSEY.**

**WHEREAS**, proper applications and appropriate fees have been received by the White Township Clerk;

**WHEREAS**, Clearance Certificates have been received from the New Jersey Division of Taxation, verifying compliance with Chapter 161, Laws of N. J., by the applicants.

**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 Licenses in the Township of White, are hereby renewed for the 2017-2018 licensing year, said renewal effective October 12, 2017:

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

**Resolution 2017-48:** Motion made by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote to adopt the following resolution. Herb – yes, Mackey – yes, Race – yes. Resolution adopted.

**RESOLUTION TO PROVIDE FOR THE RENEWALS OF PLENARY RETAIL  
CONSUMPTION LICENSES FOR 2017-2018 IN THE TOWNSHIP OF WHITE,  
COUNTY OF WARREN, STATE OF NEW JERSEY.**

**WHEREAS**, proper applications and appropriate fees have been received by the White Township Clerk;

**WHEREAS**, Clearance Certificates have been received from the New Jersey Division of Taxation, verifying compliance with Chapter 161, Laws of N. J., by the applicants.

**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 Licenses in the Township of White, are hereby renewed for the 2017-2018 licensing year, said renewal effective October 12, 2017:

2123-33-001-004      Saloon 5A LLC

**Resolution 2017-49:** Motion made by Mrs. Mackey, seconded by Mayor Race with Mr. Herb abstaining to adopt the following Resolution. Herb – abstain, Mackey – yes, Race – yes. Resolution adopted.

**RESOLUTION AUTHORIZING WHITE TOWNSHIP TO PARTICPATE IN THE  
ACQUISITION OF DEVELOPMENT RIGHTS OF THE DEBOER FARM**

**WHEREAS**, property owned by Robert A. DeBoer, known on the official tax map of White Township (the "Township") as Block 32, Lots 8, 8.02 and 8.03 (the "Property"), consisting of approximately 56.07 acres, was designated as a property to be protected under the Township farmland preservation plan; and

**WHEREAS**, the owners of the Property are willing to sell their development rights to the Township and County; and

**WHEREAS**, the State of New Jersey, Department of Agriculture, State Agriculture Development Committee (SADC), provided White Township with a grant under the Municipal Planning Incentive Grant (Muni PIG) Program to purchase development rights on active farms within the Township; and

**WHEREAS**, two fair market appraisals were obtained by the Township to establish the value of the development rights on this property; and

**WHEREAS**, the SADC certified a market value of \$5,100 per acre for the development rights; and



WHEREAS, the Property will include one 3-acre non-severable exception area For a future single family home, equipment storage, and farm buildings that will remain with the Property, resulting in a net acreage of the easement of approximately 53.07 acres; and

WHEREAS, the Township has negotiated a purchase price of \$5,100 per acre for the development rights on the Property, or a total of approximately \$270,657.00, the exact compensation to be determined by a final survey; and

WHEREAS, the SADC will provide a grant through the Muni PIG Program in the amount of \$3,450 per acre, or total of approximately \$183,091.50 for the development rights; and

WHEREAS, the County of Warren will provide a grant in the amount of approximately \$825 per acre for the development rights, for a total of approximately \$43,782.75, and will handle the closing of the easement and will own the easement; and

WHEREAS, contingent upon the aforementioned grants from SADC and the County of Warren being made available for the acquisition, the remaining funds for the purchase of the development rights are available in, and will be paid from, the White Township Open Space Trust; and

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Township of White, County of Warren, State of New Jersey that it hereby authorizes participation in the purchase of the development rights for the Property, as follows:

- 1) The Township authorizes up to \$43,782.75, the precise amount to be determined after completion of the survey to be paid from the Township's Open Space Trust.
- 2) The above being contingent on grants from the County of Warren and the State of New Jersey through the Municipal PIG Program to cover the balance of funds needed to purchase the development rights.
- 3) Due diligence for the acquisition will be completed by the Township with the assistance of The Land Conservancy of New Jersey. It is anticipated that the cost of due diligence will be funded from the Township's Open Space Trust Fund, and authorized under a separate resolution. It is anticipated that 50% of the cost of due diligence will be reimbursed by SADC from the Township's municipal PIG grant.

BE IT FURTHER RESOLVED by the Township Committee of the Township of White that it hereby authorizes the municipal clerk, Township attorney and The Land Conservancy of New Jersey to take all action necessary and appropriate to effectuate the intent and purpose of this resolution.

**Resolution 2017-50: VOID**

**Resolution 2017-51:** Motion made by Mrs. Mackey, seconded by Mayor Race with Mr. Herb abstaining to adopt the following Resolution. Herb – abstain, Mackey – yes, Race – yes. Resolution adopted.

**TOWNSHIP OF WHITE/WARREN COUNTY, STATE OF NJ  
PROFESSIONAL SERVICES RESOLUTION  
SURVEYOR – FINELLI CONSULTING ENGINEERS, INC.**

**WHEREAS**, there exists a need for a professional surveyor to be appointed to survey the farm properties owned by Robert A. DeBoer; and

**WHEREAS**, the township has provided funds for expenditures dealing with such professional services; and

**WHEREAS**, the price for the survey will not exceed \$8,900.00; and

**WHEREAS**, the firm of Finelli Consulting Engineers, Inc., licensed professional in the State of New Jersey, agrees to provide such services pursuant to its June 23, 2016 proposal, attached hereto and incorporated herein by reference, which the Township of White deems fair and equitable for said professional services; and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for “professional services” without competitive bids and the agreement must be available for public inspection; and

**WHEREAS**, Finelli Consulting Engineers, Inc. agrees to incorporate into the agreement the mandatory language of subsection 3.4(a) of the Regulations promulgated by the State Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time, and the contractor agrees to comply with the terms, provisions and obligations of said section 3.4; and

**WHEREAS**, adequate funds for the contract are available in account number 40841065 (Open Space Account),

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

1. The mayor and clerk of the Township of White are hereby authorized and directed to execute a duplicate of this resolution, which shall act as the authority and agreement between the Township of White and Finelli Consulting Engineers, Inc. for its retention as surveyor for the township in connection with preservation of the DeBoer Farm property.

2. The services rendered by the contractor shall be as described in the June 23, 2016 proposal and in accordance with a professional services contract, copies of which are on file in the municipal clerk's office.
3. The contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A: 11-5(1)(A) of the Local Public Contracts Law because the contractor is a firm comprised of individuals licensed in the State of New Jersey and, as such, is duly qualified as a professional to carry out the subject services, which are expressly exempt from the local public contracts bidding requirements.
4. The contractor shall execute an Affirmative Action Affidavit, to be completed by firms with less than 50 employees in the form prescribed by the State of New Jersey attesting to its compliance with P.L. 1975, c.127 and the rules and regulations pursuant thereto; and the affidavit shall be attached to the professional services contract.
5. The contractor shall attach its New Jersey Business Registration certificate to the professional services contract.
6. The contractor shall complete and submit a Business Entity Disclosure Certification which certifies that Finelli Consulting Engineers, Inc. has not made any reportable contributions to a political or candidate committee in the Township of White in the previous year, and that the contract will prohibit Finelli Consulting Engineers, Inc. from making any reportable contributions through the term of the contract. The disclosure shall be attached to the professional services contract.
7. A notice of this action shall be printed once in "The Star Gazette" and/or "The Express Times".
8. Copies of this Resolution shall be forwarded to the contractor, the Township Attorney and the Township Treasurer/CFO.

**Resolution 2017-52:** Motion made by Mrs. Mackey, seconded by Mayor Race with Mr. Herb abstaining to adopt the following Resolution. Herb – abstain, Mackey – yes, Race – yes. Resolution adopted.

**TOWNSHIP OF WHITE/WARREN COUNTY, STATE OF NJ  
PROFESSIONAL SERVICES RESOLUTION  
TITLE COMPANY – TITLE LINES**

**WHEREAS**, there exists a need for a professional title company to be appointed to issue title insurance on the farm properties owned by Robert A DeBoer; and

**WHEREAS**, the township has provided funds for expenditures dealing with such professional services; and

**WHEREAS**, the price for this service will not exceed \$1,205.00; and

**WHEREAS**, the firm of Title Lines, licensed professional in the State of New Jersey, agrees to provide such services pursuant to its September 15, 2017 proposal, attached hereto and incorporated herein by reference, which the Township of White deems fair and equitable for said professional services; and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for “professional services” without competitive bids and the agreement must be available for public inspection; and

**WHEREAS**, Title Lines agrees to incorporate into the agreement the mandatory language of subsection 3.4(a) of the Regulations promulgated by the State Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time, and the contractor agrees to comply with the terms, provisions and obligations of said section 3.4; and

**WHEREAS**, adequate funds for the contract are available in account number 40841065 (Open Space Account),

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

1. The mayor and clerk of the Township of White are hereby authorized and directed to execute a duplicate of this resolution, which shall act as the authority and agreement between the Township of White and Title Lines for its retention as Title Company for the township in connection with preservation of the DeBoer Farm property.
2. The services rendered by the contractor shall be as described in the September 15, 2017 proposal and in accordance with a professional services contract, copies of which are on file in the municipal clerk’s office.
3. The contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A: 11-5(1)(A) of the Local Public Contracts Law because the contractor is a firm comprised of individuals licensed in the State of New Jersey and, as such, is duly qualified as a professional to carry out the subject services, which are expressly exempt from the local public contracts bidding requirements.
4. The contractor shall execute an Affirmative Action Affidavit, to be completed by firms with less than 50 employees in the form prescribed by the State of New Jersey attesting to its compliance with P.L. 1975, c.127 and the rules and regulations

pursuant thereto; and the affidavit shall be attached to the professional services contract.

5. The contractor shall attach its New Jersey Business Registration certificate to the professional services contract.
6. The contractor shall complete and submit a Business Entity Disclosure Certification which certifies that Title Lines has not made any reportable contributions to a political or candidate committee in the Township of White in the previous year, and that the contract will prohibit Title Lines from making any reportable contributions through the term of the contract. The disclosure shall be attached to the professional services contract.
7. A notice of this action shall be printed once in “The Star Gazette” and/or “The Express Times”.
8. Copies of this Resolution shall be forwarded to the contractor, the Township Attorney and the Township Treasurer/CFO.

#### **NEW BUSINESS**

The township received notice of a DOT grant award Rutherford Drive in the amount of \$125,000.00. Mr. Sterbenz will be asked to prepare a cost estimate for the overlay project.

Attorney Tipton prepared a decommissioning plan for the solar panel project on Block 51, Lot 5 for signature by the township and DSM representatives. The agreement binds DSM to remove the panels should the project become abandoned. Motion made by Mr. Herb, seconded by Mrs. Mackey and carried by unanimous favorable roll call vote to authorize the Agreement for signature by the Mayor and representatives of DSM. Herb – yes, Mackey – yes, Race – yes. Motion carried.

#### **OLD BUSINESS**

Mr. Herb had requested last month that research be done to see if the township’s insurance provider could offer any cost savings to the Youth Athletic Association. Mayor Race said he would follow up. Mr. Herb asked the status of the request. Mayor Race did not have any information. Motion made by Mrs. Mackey, seconded by Mr. Herb with Mayor Race abstaining to authorize Mr. Herb to reach out to the township’s Risk Manager to move the request forward. Mr. Herb – yes, Mrs. Mackey – yes, Mayor Race – abstain. Motion carried.

#### **ORDINANCES – FIRST READING**

Ord. 2017-06: Motion to introduce the following ordinance on First Reading made by

Mr. Herb, seconded by Mrs. Mackey and carried by unanimous favorable roll call vote. Herb – yes, Mackey – yes, Race – yes. Motion carried. Public Hearing will be scheduled for November 9<sup>th</sup>.

**ORDINANCE 2017-06**  
**AN ORDINANCE AMENDING SECTION 7 (TRESPASSING DOGS), OF ARTICLE I**  
**(DOGS, KENNELS AND PET SHOPS), OF CHAPTER 76 (ANIMALS) OF THE CODE**  
**OF THE TOWNSHIP OF WHITE**

**WHEREAS**, the Township of White (“Township”) seeks to protect the health, safety, and welfare of its citizens and their pets; and

**WHEREAS**, the Township determines that dogs running at large on public property can impose a significant danger to the public health, safety, and general welfare of the residents of the Township; and

**WHEREAS**, the Township has determined that it is in the public’s best interest, in order to protect the health, safety, and welfare of the Township citizens, to prohibit dogs from running at large on public property.

**NOW, THEREFORE, BE IT ORDAINED**, by the Committee of the Township of White, County of Warren, State of New Jersey, as follows:

Section One: Chapter 76 of the Town Code, entitled Animals, Section 7, entitled Trespassing Dogs, is hereby amended so that it shall read as follows:

No owner of any dog shall permit such dog to be upon any private property, other than the premises of the owner, without consent of the owner or tenant of such private property. No owner of any dog shall permit such dog to run at large upon the public streets or in any public park or in any public building or in any other public place within the Township.

Section Two:

Severability. 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 this Ordinance shall not be affected thereby.

Section Three:

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section Four:

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

Ord. 2017-07: Motion to introduce the following ordinance on First Reading made by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote. Herb – yes, Mackey – yes, Race – yes. Motion carried. Public Hearing will be scheduled for November 9<sup>th</sup>.

**ORDINANCE 2017-07**

**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:

**ARTICLE XXXI. Affordable Housing**

**§ 160-202 General Program Purposes, Procedures**

**§ 160-202 Affordable Housing Obligation.**

- A. This section of the Township Code sets forth regulations regarding the low and moderate income housing units in the Township consistent the “Substantive Rules of the New Jersey Council on Affordable Housing”, N.J.A.C. 5:93 et seq., the Uniform Housing Affordability Controls (“UHAC”), N.J.A.C. 5:80-26.1 et seq., and the Township's constitutional obligation to provide a fair share of affordable housing for low and moderate income households. In addition, this section applies requirements for very low income housing as established in P.L. 2008, c.46 (the "Roberts Bill").
- B. This Ordinance is intended to assure 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 these units. This Ordinance shall apply except where inconsistent with applicable law.
- C. The White Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Plan has also been endorsed by the Township Committee of the Township of White. The Fair Share Plan describes the ways the Township shall address its fair share for low- and moderate-income housing as documented in the Housing Element.
- D. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:93, as may be amended and supplemented.

**§ 160-203 Definitions.** As used herein the following terms shall have the following meanings:

**“Accessory apartment”** means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.



“**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 responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.

“**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 restricted units in an affordable housing development are affordable to low- and moderate-income households.

“**Affordable**” means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.S.A. 52:27D-304 ; 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 development**” means a housing development all or a portion of which consists of restricted units.

“**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% affordable 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, credited pursuant to N.J.A.C. 5:93-3, 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 where the unit is situated are 62 years or

older; or 2) at least 80% of the units are occupied by one person that is 55 years 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.

“**Assisted living residence**” means a facility 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, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

“**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 require 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 proposed to be included in a proposed development including the holder of an option to contract or 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.

“**Fair Share Plan**” means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Township proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.S.A. 52:27D-309 through 52:27D-314.

**"Housing Element"** means the portion of the Township's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b(3) and the Act, that includes the information required by N.J.A.C. 5:93-5.1(b) and establishes the Township's fair share obligation.

**"Inclusionary development"** means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

**"Low-income household"** means a household with a total gross annual household income equal to 50% 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 or 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 county, as adopted annually by COAH.

**"Moderate-income household"** means a household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

**"Moderate-income unit"** means a restricted unit that is affordable to a moderate-income household.

**"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% of the regional median as defined by COAH’s adopted Regional Income Limits published annually by COAH, or other Regional Income Limits that may be approved by the Court.

**“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 ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or 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% or less of the median household income.

**“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 rehabilitation.

**§160-204 New Construction.** The following requirements shall apply to all new or planned developments that contain low- and moderate- income housing units.

- A. Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in a single phase development, or in a multi-phase development:

Maximum Percentage of Minimum

Percentage of Low-  
Moderate- Income

Market-Rate Units and

Completed Units Completed

25 0

25+1 10

50 50

75 75

90 100

- B. Design. In inclusionary developments, to the extent possible, low- and moderate- income units shall be integrated with the market units.
- C. Utilities and Common Elements. In inclusionary developments, affordable units shall utilize the same type of heating source as the market units within the development, and the occupants of the affordable units shall have access to all of the same common elements and facilities as the occupants of the market units within the development.
- D. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
1. Affordable units in a development 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% of the restricted units within each bedroom distribution shall be low-income units.
  3. At least 13% of all affordable rental units shall be very low income units (affordable to households earning 30% or less of median income). The very low income units shall be counted as part of the required number of low income units within the development.
  4. 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 shall be no greater than 20% of the total low- and moderate-income units;
    - (b) At least 30% of all low- and moderate-income units shall be two bedroom units;
    - (c) At least 20% of all low- and moderate-income units shall be

three bedroom units; and

(d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

5. 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.

E. 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.

2. 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:

(a) An adaptable toilet and bathing facility on the first floor;

(b) An adaptable kitchen on the first floor;

(c) An interior accessible route of travel on the first floor;

(d) An interior accessible route of travel shall not be required between stories within an individual unit;

(e) 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

(f) 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 the Township has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

(1) 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.

- (2) To this end, the builder of restricted units shall deposit funds within the Township of White's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
- (3) The funds deposited under paragraph (2) herein, shall be used by the Township for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
- (4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Township of White.
- (5) 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 Township of White's affordable housing trust fund in care of the Chief Financial Officer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
- (6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is impracticable to meet the requirements on the site. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

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, utilizing the regional income limits established by COAH or as determined 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.
  - (a) At least 10% of all low- and moderate-income rental units shall be affordable to households 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 70% of median income, and each affordable development must achieve an affordability average of 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 prices for each bedroom type.
5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:
  - (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 rents for compliance with the affordability average requirements for restricted units in assisted living facilities,



the following standards shall be met:

- (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 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 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 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 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.

**§ 160-205 Condominium and Homeowners Association Fees.**

For any affordable housing unit that is part of a condominium association and/or homeowners association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee.

**ARTICLE XXXII. Affordable Unit Controls and Requirements**

**§ 160-206 Affordable Unit Controls and Requirements**

**§160-206 Purpose.**

The requirements of this section apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide low- and moderate- income housing units.

**§ 160-207 Affirmative Marketing.**

- A. 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 which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also 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 all marketing activities toward COAH Housing Region 2 and covers the period of deed restriction.
- B. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 2, comprised of Essex, Morris, Union and Warren Counties.
- C. Although the Township has the ultimate responsibility for implementing all aspects of White's affordable housing program, the Administrative Agent designated by the Township shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.
- D. 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.

- E. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- F. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Township of White.
- G. The Affirmative Marketing Plan for each affordable housing development 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.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

**§ 160-208 Occupancy Standards.**

- A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
  - 1. Provide an occupant for each bedroom;
  - 2. Provide children of different sexes with separate bedrooms;
  - 3. Provide separate bedrooms for parents and children; and
  - 4. Prevent more than two persons from occupying a single bedroom.
- B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

**§ 160-209 Selection of Occupants of Affordable Housing Units.**

- A. The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.

- B. A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 *et seq.*

**§ 160-210 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.**

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years and, thereafter, until White takes action to release the unit from such requirements.
- B. Rehabilitated owner-occupied single family housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- D. 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.
- E. 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.
- F. 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.
- G. 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 that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**§ 160-211 Price Restrictions for Restricted Ownership Units, Homeowner**

### **Association Fees and Resale Prices.**

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 method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- 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 capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.
- E. Sellers or resellers of restricted ownership units will be charged a fee of 2.0 percent of the sale price for services provided by the Administrative Agent related to the sale or resale of their home. This fee shall apply to sellers who submit a signed intent to sell their restricted ownership units to the Administrative Agent on or after June 1, 2016 (or choose any date, Beth), and the fee shall be collected at closing and paid directly to the Administrative Agent.”

### **§ 160-212 Capital Improvements To Ownership Units**

- A. 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.
- B. 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 (for example, 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.

**§ 160-213 Buyer Income Eligibility.**

- A. 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% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. Notwithstanding the foregoing, however, the Administrative Agent may, in accordance with COAH's criteria, permit moderate-income purchasers to buy low-income units in housing markets determined by COAH to have 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 restrictions for low-income units.
- C. 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 a certified household for a period not to exceed one year.
- D. 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% of the household's certified monthly income.

**§ 160-214 Limitations on indebtedness secured by ownership unit; subordination.**

- A. **Prior** to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- B. With the exception of original purchase money mortgages, during a control period 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% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).

**§ 160-215 Control Periods for Restricted Rental Units.**

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years and, thereafter, until White takes action to release the unit from such requirements.
- B. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. 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 the County of Warren. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- D. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
  - 1. Sublease or assignment of the lease of the unit;
  - 2. Sale or other voluntary transfer of the ownership of the unit; or
  - 3. The entry and enforcement of any judgment of foreclosure.

**§ 160-216 Rent Restrictions for Rental Units; Leases.**

- A. 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.
- B. 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.

- C. Application fees (including the charge for any credit check) shall not exceed 5% 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.

**§160-217 Tenant Income Eligibility.**

- A. 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:

- 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
- 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
- 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.

- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% 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:

- 1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
- 2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
- 3. The household is currently in substandard or overcrowded living conditions;
- 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or



5. The household documents proposed 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.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in (B)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

#### **§ 160-218 Conversions.**

Each housing unit created through the conversion of a non-residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.

### **ARTICLE XXXIII. Affordable Housing Administration**

#### **§ 160-219 Administration**

##### **§ 160-219 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, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the 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 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 found 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 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
  - (b) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of White Affordable Housing Trust Fund of the gross amount of rent illegally collected;
  - (c) In the case of an Owner who has rented his or her 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, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any 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- and moderate-income unit.
- C. Such 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 the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- D. 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 and to the 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 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.

- E. 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.
- F. 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.
- G. 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.
- H. 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.

**§ 160-220 Appeals.** Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Executive Director of COAH.

**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.

ATTEST:

TOWNSHIP OF WHITE

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Kathleen R. Reinalda, RMC, Municipal Clerk

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Sam Race, Mayor

**PUBLIC COMMENTS**

None.

**CORRESPONDENCE**

The 24<sup>th</sup> Legislative District is having a Town Hall Meeting on November 1<sup>st</sup> at 10:30am at the Allamuchy Township Municipal Building.

**PRESENTATION OF VOUCHERS**

On motion by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote, the Committee approved the following list of bills:

<u>Check No.</u>	<u>Amount</u>	<u>Payee</u>
15277	4,237.31	US Bank C/F PC5 Sterling Nat
15278	1,581.93	Belvidere Sand & Gravel
15279	60.60	CenturyLink
15280	563.67	Comcast
15281	935,080.24	County of Warren Treasurer
15282	100.00	Discovery Benefits

15283	270.00	Edmunds & Associates Inc.
15284	325.00	Egan's Industry
15285	86.00	J.C. Ehrlich Inc.
15286	50.87	Elizabethtown Gas
15287	57.04	Elizabethtown Gas
15288	2,900.00	Florio, Perrucci, Steinhardt & Fader
15289	710.00	Gebhardt & Kiefer P.C.
15290	5,887.50	GTM Turf Management
15291	135.60	Home Depot Credit Services
15292	672.85	JCP&L
15293	2,807.00	Maser Consulting P.A.
15294	349.00	MGL Printing Solutions
15295	252.77	Michelle Trivigno
15296	280.00	Mr. John Inc.
15297	48.94	ReadyRefresh by Nestle
15298	1,037.30	NJ American Water Company
15299	890.13	NJ Advance Media
15300	10,075.00	Phoenix Consulting Group LLC
15301	137.65	Staples Credit Plan
15302	50.00	State Treasurer
15303	53,126.06	Treasurer's Office Warren County
15304	50.00	Treasurer, State of NJ
15305	35.00	Treasurer, State of NJ
15306	1,000.00	US Postal Service (CMRS-FP)
15307	54.54	Verizon Wireless
15308	620.00	Vital Communications
15309	584,471.00	White Township Board of Education
15310	540.00	William Gold Esq.
15311	634.23	Xerox Corporation

TOTALS.....\$1,609,177.23

**CURRENT FUND – MANUAL**

2274	21,604.68	Payroll Account
2275	7061.42	Payroll Account
2276	2615.24	Payroll Account
2277	19,195.88	Payroll Account

**ANIMAL CONTROL ACCOUNT**

1150	1.20	NJ Dept. of Human Services
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**DEVELOPER ESCROWS**

1019	148.50	Gebhardt & Kiefer P.C.
1020	2,095.50	Gebhardt & Kiefer P.C.

1021	2,362.00	Maser Consulting P.A.
1022	816.00	Maser Consulting P.A.
1023	3,142.00	Maser Consulting P.A.

**SEWER ACCOUNT**

1327	74,294.50	Warren County (PR) MUA
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**PUBLIC ASSISTANCE TRUST FUND**

729109	1,647.00	Warren County Sheriff's Office
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**TOTAL ALL FUNDS....\$1,744,161.15**

**ADJOURNMENT**

Being no further business to come before the Committee, the meeting was adjourned at 8:36p.m. on motion by Mrs. Mackey, seconded by Mr. Herb and carried by unanimous favorable roll call vote.

Respectfully Submitted,

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Kathleen R. Reinalda, RMC  
Township Clerk