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CALL TO ORDER

The mayor called the meeting to order at 7:30 PM. Those assembled saluted the flag and the mayor read the Open Public Meetings Act in accordance with the law.

ROLL CALL

Present: Carpenter, Esposito, Harris, Bianchi
Absent: Baldassare
Also Present: Administrator Monaco, Attorney Belardo, Engineer Timko, Municipal Clerk Pisano

EXECUTIVE SESSION – [Resolution #2019-0232](#)

Motion by Harris, second by Esposito, and unanimously agreed that Resolution #2019-0232 be approved. The meeting temporarily adjourned to Executive Session at 7:31 PM.

WHEREAS, NJSA 10:4-12 allows for a public body to go into closed session during a public meeting; and

WHEREAS, the Township Committee has deemed it necessary to go into closed session to discuss certain matters which are exempted from the public; and

WHEREAS, the regular meeting of the Township Committee will reconvene.

NOW THEREFORE BE IT RESOLVED, that the Township Committee will go into closed session for the following reason(s) as outlined in NJSA 10:4-12; and

NOW THEREFORE BE IT FURTHER RESOLVED, that the Township Committee hereby declares that the discussion of subject(s) may be made public at a time when the Township Attorney advises the Township Committee that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Township or any other entity with respect to said discussion. That time is currently estimated as the time of said matter.

NOW THEREFORE BE IT FINALLY RESOLVED that the Township Committee, hereby declares that the public is excluded from the portion of the meeting during which the discussion(s) shall take place and hereby directs the Municipal Clerk to take the appropriate action to effectuate the terms of this resolution.

Reason for Closed Session

Estimated Time of Disclosure or Upon Occurrence Of

- ☒ Any pending or anticipated litigation or contract negotiations which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as lawyer. *Under certain circumstances, if public disclosure of the matter would have a potentially negative impact on the Township's position in the litigation or negotiation, this information may be withheld until such time that the matter is concluded or the circumstances no longer present a potential impact.*

Litigation - Affordable Housing Mt Laurel SOM-L-899-1 – Pending Plan

Litigation – Millington Quarry vs. Bernards Township – SOM-L-475-08

Contract negotiations – Possible Land Acquisition – Block 9401, Lot 13

Upon Conclusion

The meeting resumed in open session at 7:47 PM and stood in recess until 8:00 PM.

AMEND AGENDA

Motion by Harris, second by Esposito and unanimously agreed that Resolution #2019-0247 be added to the consent agenda as item #17 and that public comment sessions be added after item 7a and 8a.

PUBLIC WORK SESSION

Request from NJAWC for a Waiver to the Township's Noise Ordinance to perform night work on Maple Ave between W. Craig and Prospect Ave. ([N. Maple Ave Plans](#), [S. Maple Ave Plans](#))

Timko stated that NJAWC plans to install a new 20" water main at this location. Granting night work would cut the amount of time needed in half and would be less of a burden on other roadways. The Mayor opened public comments and no comments were heard. Timko was directed to prepare a resolution for the next meeting.

CORRESPONDENCE

[04/25/19 letter from The Friends of the Kennedy-Martin-Stelle Farmstead](#) – Discussion for possible direction to staff

The Mayor opened public comment regarding the 04/25/19 letter from the Farmstead.

Ann Rosenblum – 11 Clive Lane and President of the Friends of KMS Farmstead stated that the request for assistance of township engineering staff was in response to work identified in an approved grant for 2 ADA parking spaces and a sidewalk. Currently, the lease prohibits this [assistance from township engineering staff]¹

The following individuals provided comment:

Patrice Whitehouse – 17 Sun Rd

John Catapano – 76 Crest Dr

Margaret Fanning - 5 Deer Path, Warren Twp. (lessee at KMS Farmstead)

Michele Catapano – 76 Crest Dr

Dr. Burak Guler - 38 Woodward Lane

Leslie Workman – 27 Wellington Dr

Timko recognized the immediate need but cautioned against doing improvements piecemeal and recommends a master plan be created. Timko was directed to prepare a resolution to amend the lease to allow staff to provide consulting services for a limited time and purpose to address the immediate and future needs on the Farmstead property.

MAYOR'S STATEMENT

The Mayor stated pursuant to Resolution No. 2014-0186 and Section 7B(1) of the April 29, 2014, Settlement Agreement and Release between Bernards Township and Millington Quarry, Inc. that establishes a Quarry Oversight Committee (“QOC”), I appoint for calendar year 2019 effective immediately Bernards Township Sewerage Authority Chairman Kevin Orr, Esq. as my designee to QOC to serve with Township Engineer Thomas Timko, P.E. and Chief of Police Michael Shimsky. The QOC shall continue “to address any issues that may arise during the course of implementing the Rehabilitation Plan.

PUBLIC COMMENT

The Mayor opened public comment.

Catherine Santaiti – 26 Patriot Hill Dr commented on political signs

Bill Allen – 44 Holmesbrook Rd commented on the Quarry and permitted future uses

John Korn – 23 Woodstone Rd – commented on field use during rain, specifically on 5/5, and the conditions of field.

TOWNSHIP COMMITTEE/BOARD REPORTS & STAFF COMMENTS

Committee members and staff reported on their recent activities and boards.

FIRE & RESCUE APPOINTMENT

None.

UNFINISHED BUSINESS

[Ordinance #2417](#)- *An Ordinance of the Township of Bernards Appropriating \$6,098,950.00 for Various Capital Improvements – Public Hearing*

The clerk read the ordinance by title and the Mayor opened the public hearing. Todd Edelstein, Riverside Dr, commented on vehicles to be purchased. The hearing was closed.

Motion by Harris, second by Esposito, that the ordinance be adopted and advertised as required by law.

Roll Call

Aye: Carpenter, Esposito, Harris, Bianchi

Nay:

Abstain:

Motion carried.

¹ Clarification added 8/29/19

[Ordinance #2418](#) - Accepting a Temporary Construction Easement on Property Located at 41 Lafayette Lane, Block 7703, Lot 11, from Richard & Lisa Cialone to the Township of Bernards – Public Hearing
The clerk read the ordinance by title and the Mayor opened the public hearing. There were no comments and the hearing was closed.

Motion by Harris, second by Esposito, that the ordinance be adopted and advertised as required by law.

Roll Call

Aye: Carpenter, Esposito, Harris, Bianchi
Nay:
Abstain:
Motion carried.

NEW BUSINESS

Consent Agenda

The items listed within the consent agenda portion of the meeting have been referred to the Township Committee for reading and study, linked to the posted agenda on the website, are considered routine and will be enacted by one motion of the Township Committee with no separate discussion. If separate discussion is required, the item may be removed from the agenda by township committee action and placed on the regular agenda under new business.

Motion by Esposito, second by Carpenter, that the consent agenda items, as amended, be approved.

Roll Call

Aye: Carpenter, Esposito, Harris, Bianchi
Nay:
Abstain:
Motion carried.

****Begin Consent Agenda****

Approval of Minutes:

[04/23/2019 - Open Session](#)

These minutes were approved for content and release.

[Resolution #2019-0231](#) - Approval of the Bill List Dated 05/14/2019

BE IT RESOLVED, that the bill list dated 05/14/2019 be audited, and if found correct, be paid.

May 14, 2019
02:02 PM

TOWNSHIP OF BERNARDS
Check Register By Check Id

Page No: 1

Range of Checking Accts: CASH - CHECKING to CASH - CHECKING Range of Check Ids: 119922 to 120165
Report Type: All Checks Report Format: Super Condensed Check Type: Computer: Y Manual: Y Dir Deposit:
Y
=====

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void Ref Num
119922	05/14/19	90128 SZABO, DENISE	133.05	1437 Direct Deposit
119923	05/14/19	90219 PISANO, RHONDA	248.00	1437 Direct Deposit
119924	05/14/19	90220 BETTLER, DENNIS	194.00	1437 Direct Deposit
119925	05/14/19	90227 SHIMSKY, MICHAEL	10.00	1437 Direct Deposit
119926	05/14/19	90239 SCHLEY, DAVID L	323.34	1437 Direct Deposit
119927	05/14/19	90279 NEIL, DAWN	194.00	1437 Direct Deposit
119928	05/14/19	90286 BURGER, JON	880.60	1437 Direct Deposit
119929	05/14/19	90395 NERI, MARK	15.00	1437 Direct Deposit
119930	05/14/19	90505 DECIBUS, FRANCIS J.	257.47	1437 Direct Deposit
119931	05/14/19	90563 CARTOCCIO, KAITLIN	25.00	1437 Direct Deposit
119932	05/14/19	90569 TALBERT, RACHEL	135.72	1437 Direct Deposit
119933	05/14/19	90573 MCCARTHY, GINDY	28.48	1437 Direct Deposit
119934	05/14/19	90574 JASINA, PHILIP	127.90	1437 Direct Deposit
119935	05/14/19	90580 MCCARTHY, SEAN	60.00	1437 Direct Deposit
119936	05/14/19	90611 SYLVESTER, MARK	65.00	1437 Direct Deposit
119937	05/14/19	90612 PADOVANO, JORDAN	72.00	1437 Direct Deposit
119938	05/14/19	90625 BRAIKOVICH, MARCELLA	13.75	1437 Direct Deposit
119939	05/14/19	90664 POLIZZI, TIMOTHY	182.22	1437 Direct Deposit
119940	05/14/19	A0606 APPRAISAL SYSTEMS INC	9,400.00	1437 Direct Deposit
119941	05/14/19	B0203 DIFRANCESCO,BATEMAN,KUNZMAN,	2,455.08	1437 Direct Deposit
119942	05/14/19	H0411 H&S CONSTRUCTION & MECHANICAL	234,717.39	1437 Direct Deposit
119943	05/14/19	A0044 APPROVED FIRE PROTECTION SYS	380.55	1438
119944	05/14/19	A0123 AMERICAN PUBLIC HEALTH ASSN	205.00	1438
119945	05/14/19	A0126 AFLAC NEW YORK	286.42	1438
119946	05/14/19	A0174 ALL SPORTS STADIUM, LLC	694.55	1438
119947	05/14/19	A0194 AARDVARK ENTERTAINMENT INC	1,575.00	1438
119948	05/14/19	A0232 ARROW ELEVATOR, INC.	300.00	1438
119949	05/14/19	A0237 ACCUCUT SYSTEMS	64.00	1438
119950	05/14/19	A0338 AFLAC	505.12	1438
119951	05/14/19	A0471 APEX AMERICAN ELECTRICAL	36,191.95	1438

119952	05/14/19	A0532	ADVANCED FURNACE & AIR DUCT	5,698.00	1438
119953	05/14/19	A0611	AMERICAN WEAR, INC	1,088.20	1438
119954	05/14/19	B0001	BAKER & TAYLOR, INC.	6,054.24	1438
119955	05/14/19	B0026	BERNARDS TOWNSHIP CURRENT	0.00	05/14/19 VOID 0
119956	05/14/19	B0026	BERNARDS TOWNSHIP CURRENT	19,052.64	1438
119957	05/14/19	B0031	BERNARDSVILLE PRINT CENTER	691.76	1438
119958	05/14/19	B0034	BERNARDS TOWNSHIP PAYROLL ACCT	546,095.68	1438
119959	05/14/19	B0044	BASKING RIDGE ANIMAL HOSPITAL	89.00	1438
119960	05/14/19	B0076	BERNARDS TOWNSHIP TRUST FUND	110,000.00	1438
119961	05/14/19	B0076	BERNARDS TOWNSHIP TRUST FUND	19,000.00	1438
119962	05/14/19	B0098	BERNARDS TOWNSHIP (RECREATION)	4,013.78	1438
119963	05/14/19	B0241	BANISCH ASSOCIATES, INC.	6,489.80	1438
119964	05/14/19	B0328	BROWN KLINGER, SHEILA	50.00	1438
119965	05/14/19	B0388	BLACKSTONE AUDIO BOOKS	516.98	1438
119966	05/14/19	B0518	BERNARDSVILLE HARDWARE	21.93	1438
119967	05/14/19	B0536	BAYSHORE RECYCLING CORPORATION	195.48	1438
119968	05/14/19	B0581	BUY WISE AUTO PARTS	1,022.83	1438
119969	05/14/19	B0646	BROADCAST MUSIC, INC	358.00	1438
119970	05/14/19	B0690	BIBLIOTHECA LLC	2,977.48	1438
119971	05/14/19	B0736	BRUNO, VINCENT	200.00	1438
119972	05/14/19	C0024	GANNETT NEW JERSEY NEWSPAPERS	125.13	1438
119973	05/14/19	C0037	CLERK'S PETTY CASH	80.52	1438
119974	05/14/19	C0068	CENOGENICS CORPORATION	88.50	1438
119975	05/14/19	C0083	CDW GOVERNMENT, INC.	12,544.63	1438
119976	05/14/19	C0289	CHIEF SUPPLY	128.39	1438
119977	05/14/19	C0482	OPTIMUM	184.14	1438
119978	05/14/19	C0613	CIGNA GROUP INSURANCE	1,553.64	1438
119979	05/14/19	C0636	CENTER POINT LARGE PRINT	93.48	1438
119980	05/14/19	C0697	BB&T/CPS	34.43	1438
119981	05/14/19	C0733	CASINO PIER	2,500.00	1438
119982	05/14/19	C0745	CLARKE CATON HINTZ	6,818.05	1438
119983	05/14/19	C0774	COLONIAL LIFE & ACC INSURANCE	1,028.12	1438
119984	05/14/19	C0775	CUSTOM APPLICATIONS INC	95.00	1438
119985	05/14/19	C0806	CHOKSHI, SOHAN	360.00	1438
119986	05/14/19	D0033	DEMCO, INC	94.97	1438
119987	05/14/19	D0038	DEPTCOR	420.00	1438
119988	05/14/19	D0236	DEROCHE TRUCK COVERS & TARPS	229.20	1438
119989	05/14/19	D0270	DIRECT INSPECT, LLC	1,017.50	1438
119990	05/14/19	D0331	DUFFY, PAUL	117.96	1438
119991	05/14/19	D0339	DEER CARCASS REMOVAL SVC, LLC	9,648.51	1438
119992	05/14/19	D0380	DRIVERS TIRE & SERVICE CENTER	161.90	1438
119993	05/14/19	D0754	DC EXPRESS	684.50	1438
119994	05/14/19	D0765	DALESSIO ENGINEERING, LLC	500.00	1438
119995	05/14/19	D0779	DREYLING, ERIN & ARON, JESSE	363.72	1438
119996	05/14/19	D0780	DISABATO, JOSEPH	105.31	1438
119997	05/14/19	E0224	EXCELLENT BUILDING SERVICES	8,385.00	1438
119998	05/14/19	E0231	EKA ASSOCIATES, P.A.	1,923.75	1438
119999	05/14/19	E0246	EMSL ANALYTICAL, INC.	102.00	1438
120000	05/14/19	E0297	EMR POWER SYSTEMS LLC	660.48	1438
120001	05/14/19	E0300	ESPOSITO'S ELECTRIC	12,500.00	1438
120002	05/14/19	F0003	FOLEY, INCORPORATED	3,149.22	1438
120003	05/14/19	F0158	FLEMINGTON DEPARTMENT STORE	2,633.40	1438
120004	05/14/19	F0179	FASTSIGNS	35.00	1438
120005	05/14/19	F0298	FWDSL & ASSOCIATES LP	3,611.83	1438
120006	05/14/19	F0299	FASTENAL CO.	503.63	1438
120007	05/14/19	F0324	FLAGSHIP DENTAL PLANS	455.01	1438
120008	05/14/19	F0326	FX AUTOMOTIVE LLC	110.63	1438
120009	05/14/19	F0330	FIDELITY SECURITY LIFE INS	241.99	1438
120010	05/14/19	G0004	GALLS, INC.	232.00	1438
120011	05/14/19	G0033	GREAT SWAMP GREENHOUSES	168.75	1438
120012	05/14/19	G0066	GRAINGER INC	941.45	1438
120013	05/14/19	G0098	JCP&L	3,839.58	1438
120014	05/14/19	G0133	GARDEN STATE LABORATORIES, INC	3,555.00	1438
120015	05/14/19	G0202	GRASS ROOTS TURF PRODUCTS, INC	118.15	1438
120016	05/14/19	G0333	BEDMINSTER CAR WASH	166.25	1438
120017	05/14/19	G0481	GLOCK PROFESSIONAL, INC.	250.00	1438
120018	05/14/19	G0497	GARTH, LORI	100.00	1438
120019	05/14/19	G0500	GREEN BROOK ELECTRONICS	26.32	1438
120020	05/14/19	G0509	GREEN ROCK RECYCLING	1,224.00	1438
120021	05/14/19	G0596	GRIFFITH - ALLIED TRUCKING LLC	22,008.51	1438
120022	05/14/19	G0605	GANNON, JOHN P & KRISTEN	143.57	1438
120023	05/14/19	G0606	GREEN, AL & JUDITH	405.00	1438
120024	05/14/19	H0004	HEALTH DEPARTMENT PETTY CASH	16.99	1438
120025	05/14/19	H0029	HUMPHREYS PEST CONTROL, INC.	748.80	1438
120026	05/14/19	H0246	HOME DEPOT CREDIT SERVICES	500.85	1438
120027	05/14/19	H0267	MOTT MACDONALD LLC	5,808.00	1438
120028	05/14/19	H0416	HUFFMAN, CJ & KELSEY	675.00	1438
120029	05/14/19	H0417	HEALY, JOHN & LAURA	440.00	1438
120030	05/14/19	H0418	HIMMELREICH, THOMAS	405.00	1438
120031	05/14/19	H0419	HIRUMA, SYLVIE	50.00	1438
120032	05/14/19	H0421	HOWELL, KAREN & GREG	675.00	1438
120033	05/14/19	I0152	IWS TRANSFER SYSTEMS OF NJ	2,844.80	1438
120034	05/14/19	J0093	JOHNNY ON THE SPOT, LLC	65.00	1438
120035	05/14/19	J0204	JANI, SALEL & NILEEM	81.11	1438
120036	05/14/19	J0206	JOY AUTOMOTIVE PRODUCTS, INC	19.10	1438
120037	05/14/19	J0211	J. APPELSEED	312.15	1438
120038	05/14/19	J0223	JONES, BRETT & SALLY	375.00	1438
120039	05/14/19	J0224	JOHN'S PAINTING CONTRACTOR LLC	5,800.00	1438
120040	05/14/19	K0209	KRECICKI, KEITH	128.56	1438
120041	05/14/19	K0259	KONICA MINOLTA PREMIER FINANCE	122.00	1438
120042	05/14/19	K0259	KONICA MINOLTA PREMIER FINANCE	334.14	1438
120043	05/14/19	K0274	KELLER & KIRKPATRICK, INC	4,277.50	1438
120044	05/14/19	K0334	KONICA MINOLTA BUSINESS	90.68	1438
120045	05/14/19	K0341	KONICA MINOLTA PREMIER FINANCE	331.93	1438
120046	05/14/19	K0346	KENYON, LINDA	175.00	1438
120047	05/14/19	K0347	KIESSLING, DANIEL	375.00	1438
120048	05/14/19	K0348	KAVOURAS, THOMAS & MARIA	1,364.65	1438
120049	05/14/19	L0003	LIBERTY CORNER 1ST AID SQUAD	15,000.00	1438
120050	05/14/19	L0054	LORCO PETROLEUM SERVICES	517.20	1438
120051	05/14/19	L0187	LAKELAND BUS COMPANY	1,400.00	1438
120052	05/14/19	L0408	LOUJOR LLC	115.51	1438

120053	05/14/19	L0427	LITTLE NIKKI'S RADIO LLC	1,500.00	1438
120054	05/14/19	L0430	LOUGHNAME, PHILLIP & EILEEN	18.57	1438
120055	05/14/19	M0010	MOBILE LAWMOWER SERVICE, INC.	172.15	1438
120056	05/14/19	M0015	MCKESSON MEDICAL SURGICAL	145.33	1438
120057	05/14/19	M0062	CAVENDISH SQUARE PUBLISHING	195.54	1438
120058	05/14/19	M0178	MARK'S AUTO SERVICE	225.00	1438
120059	05/14/19	M0452	MORRIS REGIONAL PUBLIC HEALTH	1,500.00	1438
120060	05/14/19	M0493	MCELROY, DEUTSCH, MULVANEY &	53,991.72	1438
120061	05/14/19	M0518	KONICA MINOLTA BUSINESS SOL.	252.51	1438
120062	05/14/19	M0518	KONICA MINOLTA BUSINESS SOL.	47.42	1438
120063	05/14/19	M0518	KONICA MINOLTA BUSINESS SOL.	31.85	1438
120064	05/14/19	M0617	MIDDLESEX POWER EQUIPMENT	162.80	1438
120065	05/14/19	M0859	MAXX'S FLEET REPAIRS, LLC	215.00	1438
120066	05/14/19	M0868	M & P RETIREMENT PLAN	7,519.01	1438
120067	05/14/19	M0891	MALHOTRA, SAMIKSHA & SUNEIL	440.00	1438
120068	05/14/19	N0006	NEW JERSEY AMERICAN WATER CO.	16.85	1438
120069	05/14/19	N0006	NEW JERSEY AMERICAN WATER CO.	179.64	1438
120070	05/14/19	N0006	NEW JERSEY AMERICAN WATER CO.	134.80	1438
120071	05/14/19	N0006	NEW JERSEY AMERICAN WATER CO.	207.34	1438
120072	05/14/19	N0006	NEW JERSEY AMERICAN WATER CO.	16.85	1438
120073	05/14/19	N0006	NEW JERSEY AMERICAN WATER CO.	240.31	1438
120074	05/14/19	N0006	NEW JERSEY AMERICAN WATER CO.	43.22	1438
120075	05/14/19	N0006	NEW JERSEY AMERICAN WATER CO.	141.41	1438
120076	05/14/19	N0006	NEW JERSEY AMERICAN WATER CO.	16.85	1438
120077	05/14/19	N0006	NEW JERSEY AMERICAN WATER CO.	286.47	1438
120078	05/14/19	N0006	NEW JERSEY AMERICAN WATER CO.	319.36	1438
120079	05/14/19	N0006	NEW JERSEY AMERICAN WATER CO.	388.08	1438
120080	05/14/19	N0030	NJ STATE ASSN.-CHIEFS/POLICE	810.00	1438
120081	05/14/19	N0032	NJ STATE DEPT HEALTH/SR SVCS	225.60	1438
120082	05/14/19	N0035	NEW JERSEY PLANNING OFFICIALS	115.00	1438
120083	05/14/19	N0053	NJ UNEMPLOYMENT COMP. FUND	11,754.46	1438
120084	05/14/19	N0124	NJACCHO	100.00	1438
120085	05/14/19	N0189	NEW JERSEY FIRE EQUIPMENT CO.	25,689.29	1438
120086	05/14/19	N0304	NRPA	650.00	1438
120087	05/14/19	N0419	NIXON, PAMELA	50.00	1438
120088	05/14/19	N0451	NJ ADVANCE MEDIA	99.20	1438
120089	05/14/19	O0003	ORIENTAL TRADING COMPANY, INC.	393.95	1438
120090	05/14/19	O0021	OFFICE DEPOT	476.20	1438
120091	05/14/19	O0102	OCILC, INC	201.21	1438
120092	05/14/19	O0135	OUTHOUSE LLC	745.00	1438
120093	05/14/19	P0014	PUBLIC SERVICE ELEC. & GAS CO	4,711.18	1438
120094	05/14/19	P0046	RESERVE ACCOUNT	1,409.15	1438
120095	05/14/19	P0546	PETER RUBINETTI PRIVATE DISP	1,871.40	1438
120096	05/14/19	P0577	PIZZO, KENNETH S, JR	769.42	1438
120097	05/14/19	P0589	PETTET, ASHLEY	200.00	1438
120098	05/14/19	P0601	PALFLEET TRUCK EQUIPMENT CO	1,179.00	1438
120099	05/14/19	P0602	PRAXAIR DISTRIBUTION, INC	27.77	1438
120100	05/14/19	P0641	PREFERRED OUTDOOR EXPERIENCE	1,079.00	1438
120101	05/14/19	P0652	PIEPER, DARLYNE & JEFFREY	820.00	1438
120102	05/14/19	Q0002	CINTAS CORP. - #062	441.50	1438
120103	05/14/19	R0005	RECORDER PUBLISHING CO., INC	193.29	1438
120104	05/14/19	R0009	REGENT BOOK COMPANY INC.	17.09	1438
120105	05/14/19	R0023	RICHIES TIRE SERVICE, INC.	786.99	1438
120106	05/14/19	R0050	ROTO-ROOTER	325.00	1438
120107	05/14/19	R0134	RICCIARDI BROTHERS, INC.	1,776.00	1438
120108	05/14/19	R0202	R & R RADAR, INC.	750.00	1438
120109	05/14/19	R0238	RUTGERS CAIT-LTAP	95.00	1438
120110	05/14/19	R0308	ROUTE 23 AUTO MALL	110.95	1438
120111	05/14/19	R0369	RUTGERS -CENTER FOR CONTINUING	295.00	1438
120112	05/14/19	R0490	R & H TRUCK PARTS AND SERVICE	3,335.90	1438
120113	05/14/19	S0016	STORR TRACTOR COMPANY	58.88	1438
120114	05/14/19	S0035	SIRCHIE FINGER PRINT LAB	23.64	1438
120115	05/14/19	S0056	RWJHN - MOBILE HEALTH SERVICE	272.00	1438
120116	05/14/19	S0101	STICKEL,KOENIG,SULLIVAN&DRILL	1,267.25	1438
120117	05/14/19	S0135	CJHRC-CENTRAL JERSEY HOUSING	55,575.79	1438
120118	05/14/19	S0378	STAVOLA ASPHALT	643.03	1438
120119	05/14/19	S0443	STAPLES ADVANTAGE	279.94	1438
120120	05/14/19	S0457	STRAIGHT EDGE STRIPING	4,790.00	1438
120121	05/14/19	S0604	SMITH TRACTOR & EQUIPMENT, INC	150.30	1438
120122	05/14/19	S0628	STATE OF NEW JERSEY-HB	211,894.53	1438
120123	05/14/19	S0678	SAFE KIDS CERTIFICATION	190.00	1438
120124	05/14/19	S0697	RE:SOURCE NEW JERSEY, INC.	1,525.00	1438
120125	05/14/19	S0703	SCOTT, JEFFREY & JENNIFER	375.00	1438
120126	05/14/19	S0741	SUBURBAN CONSULTING ENGINEERS	120.15	1438
120127	05/14/19	S0875	SUNLIGHT GENERAL CAPITAL	239.46	1438
120128	05/14/19	S0977	STAVOLA CONSTRUCTION MATERIALS	675.60	1438
120129	05/14/19	S1007	SPRUCE INDUSTRIES	1,634.80	1438
120130	05/14/19	S1017	STEM, AMY	543.75	1438
120131	05/14/19	S1018	SUTTON, JAMIE	543.75	1438
120132	05/14/19	S1031	SILVERMAN, MICHAEL & MELISSA	90.00	1438
120133	05/14/19	S1032	STONEFIELD INV FUND IV LLC	10,906.02	1438
120134	05/14/19	S1033	SORDILLO, JOSEPH	155.00	1438
120135	05/14/19	T0003	ENVIROTEST LABORATORIES, INC.	2,400.00	1438
120136	05/14/19	T0049	TROPICANA ATLANTIC CITY	273.30	1438
120137	05/14/19	T0066	CENGAGE LEARNING CREDIT SVCS	120.60	1438
120138	05/14/19	T0109	TREASURER, STATE OF NEW JERSEY	182.00	1438
120139	05/14/19	T0142	TODD HARRIS CO., INC.	8,155.00	1438
120140	05/14/19	T0192	TURN OUT UNIFORMS INC	912.84	1438
120141	05/14/19	T0372	TLO, LLC	239.50	1438
120142	05/14/19	U0001	UNITEMP INC.	3,179.81	1438
120143	05/14/19	U0116	US NAVAL ACADEMY PARENTS CLUB	90.00	1438
120144	05/14/19	U0117	UMBRELLA TREES, LLC	1,238.57	1438
120145	05/14/19	V0008	VITAL COMMUNICATIONS, INC.	100.00	1438
120146	05/14/19	V0020	VILLAGE OFFICE SUPPLY	67.84	1438
120147	05/14/19	V0037	VILLAGE SUPERMARKET, INC.	738.05	1438
120148	05/14/19	V0056	VERIZON WIRELESS	2,250.59	1438
120149	05/14/19	V0058	VERIZON	2,204.90	1438
120150	05/14/19	V0084	VERIZON	245.30	1438
120151	05/14/19	V0124	VERIZON BUSINESS FIOS	569.98	1438
120152	05/14/19	V0140	VANTAGEPOINT TRANSFER AGENTS	48,399.59	1438
120153	05/14/19	V0164	VENTURI, MICHAEL & JENNIFER L.	375.00	1438

120154	05/14/19	V0177	VERIZON	464.44	1438
120155	05/14/19	W0016	WARRENVILLE TRUE VALUE	1,111.58	1438
120156	05/14/19	W0056	WELDON CONCRETE CO.	2,606.41	1438
120157	05/14/19	W0074	WELSH'S MOTOR SALES, INC.	1,216.60	1438
120158	05/14/19	W0241	W.B. MASON CO INC.	596.40	1438
120159	05/14/19	W0259	VENTURA, MIESOWITZ, KEOUGH &	3,515.00	1438
120160	05/14/19	W0339	W.B. MASON	113.55	1438
120161	05/14/19	W0347	EDWARD WACKS & ASSOCIATES, LLC	326.00	1438
120162	05/14/19	W0369	WEBER, ERIN	1,532.50	1438
120163	05/14/19	X0003	XEROX CORPORATION	321.13	1438
120164	05/14/19	X0003	XEROX CORPORATION	84.33	1438
120165	05/14/19	X0005	XTEL COMMUNICATION	448.50	1438

Report Totals	Paid	Void	Amount Paid	Amount Void	
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Checks:	222	1	1,419,280.31	0.00	
Direct Deposit:	21	0	249,538.00	0.00	
	=====	=====	-----	-----	
Total:	243	1	1,668,818.31	0.00	

Totals by Year-Fund					
Fund Description	Fund	Budget Total	Revenue Total	G/L Total	Total

CURRENT FUND	8-01	23,564.89	0.00	0.00	23,564.89
CURRENT FUND	9-01	1,138,351.38	0.00	0.00	1,138,351.38
DOG FUND	9-12	942.35	0.00	0.00	942.35
GOLF COURSE UTILITY	9-26	45,762.38	0.00	0.00	45,762.38
Year Total:		1,185,056.11	0.00	0.00	1,185,056.11
CAPITAL FUND	C-04	291,955.10	0.00	0.00	291,955.10
PUBLIC GRANTS	G-02	1,402.89	0.00	0.00	1,402.89
TRUST FUNDS	T-13	146,965.09	0.00	0.00	146,965.09
PROJECTS		19,874.23			19,874.23
Total Of All Funds:		1,668,818.31	0.00	0.00	1,668,818.31

Resolution #2019-0233 - Approval of Street Closing Permit for a Block Party on Stockmar Drive (from Tuxford Terrace to Granville Drive), 05/18/2019 (Rain date 05/19/2019)

WHEREAS, Jamie Daggett, hereinafter “the applicant,” has applied for a street closing permit for a block party on Stockmar Drive from Tuxford Terrace to Granville Drive, on May 18, 2019(rain date May 19, 2019) from 3:00 PM to 7:00 PM; and

WHEREAS, the applicants have satisfied the requirements of the Revised General Ordinances of the Township of Bernards § 7-16.1. et. seq.; and

WHEREAS, the Municipal Clerk and Police Chief have reviewed the application and find it complete,

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Bernards that the street closing permit for a Block Party be approved.

Resolution #2019-0234 - Personnel Appointment Don Colanduoni -Truck Driver - Department of Public Works

WHEREAS, the full-time position of Truck Driver became available due to promotion within the Public Works Department; and,

WHEREAS, the Director of Public Works, Township Administrator, and Human Resources Manager have deemed it necessary to fill this position; and,

WHEREAS, Don Colanduoni has applied for and is qualified to fill said position; and

WHEREAS, the Director of Public Works, Township Administrator, and Human Resources Manager recommend appointment of Don Colanduoni to full time Truck Driver; and

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Bernards that Don Colanduoni be appointed full-time Truck Driver effective April 20, 2019 at an hourly rate of \$19.78 for a 40-hour workweek.

Resolution #2019-0235 - Authorizing Amendment to and Acknowledging Automatic Renewal of 2008-2010 Cooperation Agreements Regarding Community Development Block Grant and Home Investment Partnership Program Activities

WHEREAS, Title I of the Housing and Community Development Act of 1974 provides for substantial federal funds being made available to certain urban counties for use therein; and

WHEREAS, the Community Development Block Grant Program and the HOME Investment Partnership Programs have benefited the County as a whole and has provided a unique opportunity for intermunicipal cooperation and

WHEREAS, the program provides substantial benefits to persons of low and moderate income including the elderly and disabled, and that these benefits would be lost without a renewal of the County cooperation agreement; and

WHEREAS, Bernards Township desires to preserve benefits of the Community Development Block Grant Program and the HOME Investment Partnership Programs for the County by renewing its participation in the Somerset County Community Development Consortium; and

WHEREAS, the Shared Services and Consolidation Act (NJSA 40A:65-1) provides a mechanism through which counties and municipalities may enter into agreements for the provision of joint services; and

WHEREAS, (NJSA 40A:65-1) provides that authorization for participation in such a cooperative program must be by resolution.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Bernards:

1. It does hereby authorize continued participation in the Somerset County Community Development Consortium or Urban County.
2. It does hereby authorize, ratify and confirm a certain agreement (hereinafter referred to as "Contract") between the Township of Bernards and Somerset County entitled "Agreement Between the County of Somerset and Certain Municipalities Located Therein for the Establishment of Cooperative Means of Conducting Certain Community Development Activities" and is further authorized to amend language that is contained in the existing agreement to comply with new requirements from the Department of Housing and Urban Development. This agreement shall automatically renew in every successive qualification period unless notice that it wishes to withdraw is provided to HUD and Somerset County.
3. It hereby authorizes full participation by the Township of Bernards in all aspects of the activities provided for within said Contract pursuant to the terms and conditions as more fully set forth in said Contract.
4. It hereby incorporates said Agreement into this Resolution by reference, as if fully set forth herein.
5. The Mayor and Municipal Clerk are hereby authorized to execute the Contract with the County and Copy of said Contract will remain filed in the Office of the Municipal Clerk for public inspection.

Resolution #2019-0236 - Reusable Bag Design Challenge Sponsored by the Bernards Township Environmental Committee

WHEREAS, it is the desire of the Township Committee of the Township of Bernards to promote the health, welfare, comfort, and safety of the citizens of the community; and

WHEREAS, Bernards Township wishes to encourage positive, environmentally-sound choices; and

WHEREAS, a substantial quantity of non-biodegradable single use plastic bags ends up as unsightly litter on our roadsides and in our trees, in our storm drains and consequently in our waterways where they can be devastating to marine life and seabirds; and

WHEREAS, plastic bags do not decompose and only break down into smaller pieces that pollute our seas and the Township Committee wishes to promote the use of reusable bags; and

WHEREAS, the Environmental Commission wishes to involve children at various schools within Bernards Township with an art design challenge, with the winning design to be used to decorate re-usable bags and that these bags will be distribution to the residents of Bernards Township, free of charge, while supplies last.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Bernards, County of Somerset, State of New Jersey hereby endorses the encouragement of the residents of Bernards Township to use reusable shopping bags and reduce the number of single use bags that are currently being used; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Mayor and Township Committee of the Township of Bernards announce a Reusable Bag Design Challenge sponsored by the Bernards Township Environmental Committee that will commence on Charter Day, May 18, 2019 and is open to children who attend school in Bernards Township.

[Resolution #2019-0237](#) - Award of Bid for 2019-2022 Tree Removal/Tree Trimming to Harmony Tree Care L.L.C., 230 Mt. Harmony Road, Bernardsville, NJ 07924

WHEREAS, The Township received bids on Wednesday, April 17, 2019 at 10:30 A.M. for 2019-2022 Tree Removal/Tree Trimming Services.

The Bid Summary follows:

CREW, EQUIPMENT AND TOOLS

VENDOR	Harmony Tree Care L.L.C.	Millennium Tree Service	Moosewood Tree Service	Rich's Tree Service
HOURLY RATE	\$165.00	\$375.00	\$166.00	\$180.00
HALF DAY RATE	\$700.00	\$1600.00	\$695.00	\$720.00
DAILY RATE	\$1300.00	\$2700.00	\$1340.00	\$1440.00
HOURLY EMERGENCY RATE	\$190.00	\$550.00	\$195.00	\$225.00
HALF DAY EMERGENCY RATE	\$800.00	\$2,400.00	\$850.00	\$900.00
DAILY EMERGENCY RATE	\$1,500.00	\$3,500.00	\$1900.00	\$1800.00

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HOURLY RATE	\$150.00	\$225.00	\$150.00	\$170.00
HALF DAY RATE	\$600.00	\$1,100.00	\$700.00	\$680.00
DAILY RATE	\$1,200.00	\$1,800.00	\$1200.00	\$1360.00
HOURLY EMERGENCY RATE	\$150.00	\$350.00	\$175.00	\$175.00
HALF DAY EMERGENCY RATE	\$600.00	\$1,800.00	\$800.00	\$700.00
DAILY EMERGENCY RATE	\$1,200.00	\$2,425.00	\$1400.00	\$1400.00

STUMP GRINDING SERVICES

GRINDING OF STUMP (PER DIAMETER INCH)	\$4.00	\$20.00	\$5.00	\$4.00
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DISPOSAL COSTS

DISPOSAL OF WOOD (ON A NEEDED BASIS, PER CUBIC YARD)	\$9.00	\$45.00	\$10.00	\$20.00
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WHEREAS, it is the combined recommendation of the Director of Public Works, Administrator and Purchasing Agent to award a contract to the low bidder, Harmony Tree Care L.L.C., 230 Mt. Harmony Road, Bernardsville, NJ 07924 and

WHEREAS, the Chief Financial Officer has certified that funds are available in the budget; the line item appropriations to be charged is 9-01-26-290-234, 0-01-26-290-234, 1-01-26-290-234 and 2-01-26-290-234 (pending Township Committee budget year approval); and

WHEREAS, this contract has been awarded to Harmony Tree Care L.L.C., through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4, et seq."; and

WHEREAS, as provided by Local Public Contract Law 40A:11-15, this contract is for one (1) year with an option for renewal for two (2) additional one-year (1) year periods providing that funds are appropriated in the respective operating budgets for the expenditure and performance is satisfactory.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Bernards that in accordance with the bid specifications, the contract between Bernards Township ("Owner") and Harmony Tree Care L.L.C., ("Contractor") shall contain:

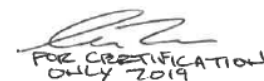
1. The Contractor shall commence the work not later than 10 calendar days after the owner has given the Notice to Proceed Date to the Contractor in writing.
2. This contract shall, for all-purpose be deemed a New Jersey Contract and any provision of this contract shall be governed and interpreted with the Laws of the State of New Jersey.
3. Any modification to this contract shall be in writing and signed by both parties and upon obtaining said signatures shall immediately become part of the contract.
4. The cost of this contract is for a not to exceed the total bid amount of as specified unless negotiated in advance of service delivery, and the Township Committee approves an amendment revising that figure.
5. Billing must be rendered within 30 days of service delivery.
6. As required by law, the parties to this contract agree to incorporate into this contract the mandatory affirmative action language promulgated by the Treasurer pursuant to P.L. 1975, c.127, which is attached to resolution as Exhibit A.
7. The Township may terminate this contract if contractor does not full its obligations as set forth in the Bid Specification, upon thirty days written notice via certified mail.
8. The work contemplated under the Contract shall begin May 15, 2019 through May 15, 2020.
9. To the extent the terms of the resolution are inconsistent with the contract, the terms of the contract shall govern.

NOW THEREFORE BE IT FURTHER RESOLVED, by the Township Committee of the Township of Bernards, Somerset County, New Jersey that the Purchasing Agent is hereby authorized to issue a contract and purchase order to: Harmony Tree Care L.L.C., 230 Mt. Harmony Road, Bernardsville, NJ 07924.

CFO CERTIFICATION

I, Sean McCarthy, Chief Financial Officer of the Township of Bernards, hereby certify that adequate funds are available for the above referenced contract for Tree Service. Monies are available in: is 9-01-26-290-234, 0-01-26-290-234, 1-01-26-290-234 and 2-01-26-290-234 (pending Township Committee budget year approval).

Date: 04/30/19



Sean McCarthy, Chief Financial Officer

PURCHASING CERTIFICATION

I hereby certify that I have prepared this resolution and reviewed it for accuracy.



Francis J. Decibus, QPA, Purchasing Agent

Date: May 6, 2019

Resolution #2019-0238 - Award of Purchase Orders for Identified Vendors – Flemington Department Store, Shaughnessy Sports Construction, LLC.

WHEREAS, the Township Committee of Bernards has adopted Ordinance #1854 "Known as Pay to Play" and P. L. 2004, Chapter 19; and


WHEREAS, pursuant to the ordinance window contracts determined to exceed \$17,500.00 and within the bid threshold of \$40,000.00 requires governing body approval; and

WHEREAS, the purchasing agent has determined that the value of the expenditures with the vendor(s) listed below will exceed \$17,500.00 in purchases; and

Vendor	Not to Exceed	Vendor	Not to Exceed
Flemington Department Store	\$ 40,000.00	Shaughnessy Sports Construction, LLC	\$ 40,000.00

WHEREAS, in anticipation of the listed expenditure, a Business Entity Disclosure Certification has been secured in compliance with N.J.S.A.19:44A 20-4 et seq., and that the principals of the said companies, have not made any reportable contributions to a political or candidate committee in the Township of Bernards in the previous one year, and that the contract will prohibit the principals of said companies from making ANY contributions through the term of the contract pursuant to Bernards Township Ordinance #1854 adopted on February 28, 2006, that would prohibit any business entity or professional that procures goods, services or contracts from the Township without the formal bid process from making “any” contribution whatsoever in the prior calendar year.

NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bernards, Somerset County, New Jersey that the Purchasing Agent is hereby authorized to issue purchase orders to the vendor listed above to maintain continuity and facilitate the ordering process through December 31, 2019.

PURCHASING CERTIFICATION	
Pursuant to the adoption of the Bernards Township Pay to Play ordinance #1854 and P. L. 2004, Chapter 19, adoption will permit the purchases from noted vendor(s) relative to the day to day operation of the township departments. I hereby certify that I have prepared this resolution and reviewed it for accuracy.	
 For Purchasing Agent.	
Date: May 6, 2019	Francis J. Decibus, QPA, RPPO Purchasing Agent

Resolution #2019-0239 - Canceling Golf Utility Fund 2018 Budget Appropriation Balances

WHEREAS, the following Golf Utility Fund 2018 Budget appropriation balances remain unexpended:

<u>Budget Account:</u>	<u>Amount:</u>
Golf Utility OE	\$10,000.00
Total Cancellations:	\$10,000.00

WHEREAS, it is necessary to formally cancel said balances so that the unexpended balance may be credited to Fund Balance; and

WHEREAS, this appropriation cancellation shall be effective December 31, 2018.

NOW THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Bernards, that the above listed unexpended balances totaling \$10,000.00 of the Golf Utility Fund’s 2018 Budget Appropriations be cancelled.

Resolution #2019-0240 - Commendation on the Occasion of Your Retirement Records Specialist Marie LaMaire

WHEREAS, the Township Committee of the Township of Bernards desires to convey to you an expression of its appreciation and grateful acknowledgment for the valued services rendered by you as an employee of the Township of Bernards for the past 10 years; and

WHEREAS, you have given generously of your time and efforts in a dignified, faithful and professional manner; and

WHEREAS, the Township Committee of the Township of Bernards sincerely appreciates the worthwhile contributions you have made towards the material development, communal welfare, safety and quality of life in Bernards Township; and

WHEREAS, on the occasion of your 10 years of service you are retiring to start the next challenging and exciting chapter of your life;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bernards that its sincere congratulations are expressed on the occasion of your retirement.

Resolution #2019-0241 - *Commendation on the Occasion of Your Retirement Deputy Chief Michael Voorhees*

WHEREAS, the Township Committee of the Township of Bernards desires to convey to you an expression of its appreciation and grateful acknowledgment for the valued services rendered by you as an employee of the Township of Bernards Police Department for the past 26 years; and

WHEREAS, you have given generously of your time and efforts in a dignified, faithful and professional manner; and

WHEREAS, the Township Committee of the Township of Bernards sincerely appreciates the worthwhile contributions you have made towards the material development, communal welfare, safety and quality of life in Bernards Township; and

WHEREAS, on the occasion of your 26 years of service you are retiring to start the next challenging and exciting chapter of your life;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bernards that its sincere congratulations are expressed on the occasion of your retirement.

Resolution #2019-0242 - *Personnel Appointment Timothy Dees –Mechanic Public Works Department*

WHEREAS, the fulltime position of Mechanic became available due to a resignation, and

WHEREAS, the Superintendent of Public Works, Township Administrator and Human Resources Manager have deemed it necessary to fill this position; and,

WHEREAS, Timothy Dees is well qualified to fill said position; and

WHEREAS, the Superintendent of Public Works, Township Administrator and Human Resources Manager recommend appointment of Timothy Dees to the position of full time Mechanic.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bernards, that Timothy Dees be appointed full time Mechanic with an effective date of Tuesday, May 28, 2019 at an hourly rate of \$22.97 for a 40 hour work week. This offer of employment is contingent upon the results of pre-employment screening as per Township policy.

Resolution #2019-0243 - *Personnel Appointment Maria Dimarzio Fill-In Municipal Court Staff*

WHEREAS, there is a need for part-time Municipal Court staff to fill in, as needed, when either the Court Administrator or Deputy Court Administrator is out due to vacation, sick time or other permitted leave; and

WHEREAS, the Municipal Court Administrator, Township Administrator Human Resources Manager have deemed it necessary to fill this position; and

WHEREAS, Maria Dimarzio, DCA is qualified to fill said position; and

WHEREAS, the Court Administrator, Township Administrator and Human Resources Manager recommend appointment of Maria Dimarzio; and

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bernards, that Maria Dimarzio be appointed as part-time Municipal Court fill in staff effective May 15, 2019, at an hourly rate of \$25.00 during municipal court operations.

Resolution #2019-0244 - *Approval of Special Event Permit for Bernards Township Charter Day 05/18/2019, Including Street Closures*

WHEREAS, Jennifer Gander, Director, representing the Bernards Township Department of Parks & Recreation “the applicant,” has requested a special event permit for 05/18/2019, from 7:00 A.M. to 11:00 P.M. for the purpose of holding Charter Day; and

WHEREAS, the applicant has satisfied the requirements of the Revised General Ordinances of the Township of Bernards § 4-4. et. seq.; and

WHEREAS, the Municipal Clerk, Police Chief, Construction Code Official, Fire Official, Health Officer, Recreation Director, Zoning Officer, Director of Public Works, and Risk Manager have reviewed the application and recommend approval; and

WHEREAS, Charter Day is a township-sponsored event, and all costs for township support personnel are paid for by the township.

NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bernards that the special event permit, to include the following temporary street closure, is hereby approved:

1. Temporary Street Closures –

- a. S. Finley Avenue between Collyer Lane and West Oak Street
- b. Henry Street
- c. West Oak Street between S. Maple Ave. & S. Finley Avenue; and Brownlee Pl. becomes a 2-way street with access from West Oak Street.

Resolution #2019-0245 - Authorization of the Sale at Public Auction of the Township's Personal Property Not Needed for Public Use through USGovBid

WHEREAS, the Purchasing Agent has presented the following listing of personal property which are no longer needed for public use by the Township of Bernards:

2004 Ford F450 Mason Dump	1FRXF47P44ED45124
2002 Ford Explorer	1FMZU72E92UB31917
2005 Jeep Liberty	1J4GL48K652652431
2003 Dodge Durango	1D4HS38N43F595051
2003 Dodge Durango	1D4HS38N63F583838
2004 Dodge Durango	1D4HB38N24F190792
(6) 4 Drawer Metal Vertical Cabinets	
(1) Metal Wardrobe Cabinet	
Eaton Powerware 9170 Battery Tower	660C20AAAAAAAP
Traffic Logic Safe Pace 250 Speed Sign	17110328
Traffic Logic Safe Pace 250 Speed Sign	17090248
(6) UNK Motorcycle Helmets	
ISS TR6000 Alert AM Radio Station	H4975
Lot of Motorola VHF Portable Radios	
Lot of Motorola VHF Mobile/Base Radios	
Lot of Motorola Misc Band Mobile Radios	
Misc Office Chairs/Desks	
Misc Computer Equipment	
Misc HP Printers	
Adtran/Netvanta Switches	
Display Unit - 360 degree swivel	
2-Sided Book Case	
Sm. Bookcase #1	
Adjustable Height Projector Mount	
Amazon Kindle 2nd Generation (2009)	
Amazon Kindle 4th Generation (2009)	
Assorted Cables	
Belken 8 Port Gigabit Switches	
Technicians Toolkit	
Cable Management Panels	
Canon Rebel Eos T2i with 2 lenses	
Cisco 1800 Series Router	

Kindle Fire HD 8.9	
15.5" Lenovo IBM Thinkpad	
Dell Monitors	
Netgear ProSafe Spirit Gigabit Switch	
Nook Color	
Nook Simple Touch with Glowlight	
Panasonic Digital Cordless Answering System	
Polycom Phones	
Rio Nitrus MP3 Player	
Sanus VisionMount Wall Mount	
Sony Reader Pocket Edition	
Windows Surface Tablet	
Kodak EasyShare DX7590	
2007 Crack Pro #820	CRACKPRO E2735 100GAL
2000 Toro Workman #611	Toro 4300D
2001 Toro Mower #619	Toro 3500D
2000 Toro Blower#642	Toro 150 Snow Blower
2002 DAKOTA #650	410 TURF TENDER
1994 OLATH BLOWER#669	PTO DRIVEN BLOWER
1996 LITTLE WONDER #670	WALK BEHIND BLOWER
1996 LITTLE WONDER #671	WALK BEHIND BLOWER
FOLEY GRINDER #1651	BENCH GRINDER
GRINDER #1654	BENCH GRINDER
2010 GRACO # 1660	LINE LAZER
2000 GRACO #0640	LINE PAINTER
2004 GRACO#690	PAINT MACHINE
STIHL BLOWER	LEAF BLOWER
STIHL BLOWER	LEAF BLOWER BG85C
2001 TORO 325D#628	Toro MOWER
POND AERATOR #1 & #4	

WHEREAS, pursuant to N.J.S.A.40A:11-36, "Sale or other disposition of personal property," the governing body may authorize the public sale of municipal owned property no longer needed for public use; and

WHEREAS, the sale of surplus property shall be conducted through USGovBid pursuant to State Contract T2581/A-70967 in accordance with the terms and conditions of the state contract; and

WHEREAS, the terms and conditions of the agreement entered into with USGovBid is available on-line at; www.USGovBid.com and placed on file and available for public inspection in the office of the Bernards Township Purchasing Agent; and

WHEREAS, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) authorizes the sale of surplus personal property no longer needed for public use through the use of an online auction service; and

WHEREAS, the sale will be conducted online and the address of the auction site is; www.USGovBid.com; and

WHEREAS, the sale is being conducted pursuant to Local Finance Notice 2008-09; and

WHEREAS, no express or implied warranty is made for the property subject to sale. All property is being sold in "as is"- "where is" condition; and

WHEREAS, all sales are final; and

WHEREAS, method of payment is Cash, Certified Check, Money Order or Company Check (with bank letter guaranteeing funds-mandatory); and

WHEREAS, all merchandise shall be removed within 10 business days from the time and date of issuance of the Buyers Certification otherwise buyers will be charged \$ 10.00 per day per item storage fee; and

WHEREAS, this resolution shall be published in accordance with provisions of N.J.S.A. 40A-11-36.

BE IT RESOLVED, that the Resolution (or Notice of the date, time and place of the auction, with a description of the items to be sold) shall be published in an official newspaper as required by N.J.S.A. 40A:11-36(3).

BE IT FURTHER RESOLVED, that the Bernards Township Committee does hereby declare that the personal property listed above are surplus and no longer needed for Township use; and

NOW, THEREFORE BE IT RESOLVED, that the Township Committee does hereby authorize the purchasing agent to enter into an agreement with USGovBids to conduct an internet auction of surplus property identified.

PURCHASING CERTIFICATION

The Township has accumulated vehicles and equipment not needed for public use. Notification of the surplus sale will be posted on the township website and bulletin board located in the municipal building. USGovBids service includes complete photo shoot, listing of items on internet and collection of all proceeds.

I hereby certify that I have prepared this resolution in accordance with Local Public Contracts Law N.J.S.A.40A:11-36.



Francis J. Decibus, QPA, RPPO
Purchasing Agent

Dated: May 8, 2019

[Resolution #2019-0246](#) - *Approval of a Rehabilitation Manual and Independent Agreement with Central Jersey Housing Resource Center (CJHRC) to provide Services for Administration of Rehabilitation Services to Affordable Housing Units (Operating Manual, Contract Proposal)*

WHEREAS, Central Jersey Housing Resource Center (CJHRC) is a nonprofit collaboration of businesses, financial institutions, social service agencies, public officials and housing advocates who work to increase the accessibility and availability of affordable housing in Central New Jersey; and

WHEREAS, Bernards Township (Township) is required pursuant to Mount Laurel Affordable Housing obligations to have a HUD certified agency to provide such administrative services as CJHRC provides for existing low and moderate income rental and purchase units; and

WHEREAS, CJHRC currently operates a centralized housing resource information center in Somerset County and is a HUD certified agency specialized in the state and federal housing regulations; and

WHEREAS, CJHRC proposes to enter into an agreement with Township to provide such services for the Administration of Rehabilitation Units in Township in accordance with proposal of the Independent Agreement attached as **Exhibit A** and in accordance with the Rehabilitation Manual attached as **Exhibit B**; and

WHEREAS, Township may terminate its Agreement with CJHRC on 90 days written notice and pay CJHRC for the services rendered up to the termination date; and

WHEREAS, this contract was awarded without public advertisement as defined in N.J.S.A. 19:44A-20-7 and pursuant to the provisions of N.J.S.A. 19:44A-20-4; and

WHEREAS, Township shall provide a maximum of \$10,000 per unit in its rehabilitation program. Of that amount, 80% shall constitute rehabilitation hard costs and 20% shall constitute administrative expenses payable to CJHRC. The maximum number of rehabilitation units will be eight; and

WHEREAS, the Independent Agreement with CJHRC sets forth the scope of work for the Administrative Agent for the Rehabilitation Program and the Application Procedures for the interested owners; and

NOW BE IT FURTHER RESOLVED, by the Township Committee of the Township that it approves an agreement at a cost not to exceed 20% of the rehabilitation amount for administrative expenses with the Central Jersey Housing Resource Center effective May 15, 2019 through June 30, 2025 and the Rehabilitation Manual; and

NOW THEREFORE BE IT FURTHER RESOLVED, by the Township Committee of the Township that it authorizes the Mayor and Clerk to execute the agreement with the Central Jersey Housing Resource Center (CJHRC) on behalf of the Township; and

NOW THEREFORE BE IT FINALLY RESOLVED, by the Township Committee of the Township that notice of this contract award be published in the official Township newspaper, and a copy of the resolution be on file and available for public inspection, in the office of the Bernards Township Purchasing Department, Municipal Building, Basking Ridge, New Jersey 07920.

[Resolution #2019-0247](#) - *Approval of Special Event Permit for Bernards Township Memorial Day Parade and Memorial Service – 05/27/2019*

WHEREAS, Michael Barth, of the Liberty Corner Fire Company, acting in the capacity of the Bernards Township Memorial Day Parade Coordinator has submitted a special event application for the Memorial Day Parade to be held on 05/27/2019 from 8:30 AM to 11:30 AM, with the parade beginning at 9:30 AM in downtown Liberty Corner; and

WHEREAS, the Municipal Clerk, Police Chief, and Recreation Director have reviewed the application and find it complete; and

WHEREAS, Somerset County has authorized the temporary closure of Church Street.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Bernards that the special event permit be issued, including a temporary street closure of Church Street, from Somerville Road to Lyons/Valley Roads and other streets named in the application on file with the municipal clerk, to accommodate the parade.

*****End Consent Agenda*****

[Ordinance #2420](#) - *An Ordinance of the Township of Bernards, County of Somerset, State of New Jersey, Amending Chapter 21, "Revised Land Use Ordinances," Article XIII "Affordable Housing", to Address the Requirements of the Fair Housing Act, the Uniform Housing Affordability Controls (UHAC) Regulations, and the Court-Approved Settlement Agreement with Fair Share Housing Center Regarding Compliance with the Township's Affordable Housing Obligations and Amending Section 85 "Affordable Housing Obligation", Section 3 "Affordable Housing Programs", Subsection d. "Down Payment Affordability Assistance Program" and Subsection e. "Homeowner Affordability Assistance Program" - Introduction*

Motion by Esposito, second by Harris, that Ordinance #2420 be introduced on first reading, advertised as required by law, referred to the Planning Board and scheduled for a public hearing on 05/28/2019.

Roll Call

Aye: Carpenter, Esposito, Harris, Bianchi
Nay:
Abstain:
Motion carried.

BE IT ORDAINED by the Township Committee of the Township of Bernards, Somerset County, New Jersey, that Chapter 21 of the Code of the Township of Bernards is hereby amended in accordance with Bernards 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. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

The Bernards 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 Housing Element and Fair Share Plan has been endorsed by the

Township Council. 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.

This ordinance identifies corrections to Ordinance #2415, adopted by the governing body on April 23, 2019. The corrections in this ordinance include revisions to references to N.J.A.C. 5:96-1 et seq. and N.J.A.C. 5:97-1 et seq. and portions thereof and the Down Payment Affordability Assistance Program and eliminates the Homeowner Affordability Assistance Program.

Section 1. The entirety of Article XIII (Ordinance #2415 as adopted by the governing body on April 23, 2019) is reproduced below with amendments consisting of new text, which is underlined “thus”; and deleted text, which is stricken, “thus”.

**Chapter 21. Land Development
ARTICLE XIII. Affordable Housing
SECTION 21-85. Affordable Housing Obligation**

§ 21-85.1. Purpose.

[Ord. #2117, § 1, 6-26-2010, added]

- (a) This article 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 individuals and households shall occupy these units.
- (b) The Township of Bernards 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 Fair Share Plan has been endorsed by the Township Committee. The Fair Share Plan describes the ways the Township of Bernards shall address its fair share for low- and moderate-income housing as determined by the Superior Court and documented in the Housing Element.
- (c) This article implements and incorporates the 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, as may be amended and supplemented.
- (d) The Township of Bernards shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Housing Element and Fair Share Plan:

1. Beginning on August 28, 2019, and on every anniversary of that date through April 1, 2025, the Township shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council 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), Council 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 August 28, 2019, and on every anniversary of that date through April 1, 2025, the Township shall 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, 2020, 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 July 28, 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.

(e) Applicability

1. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Bernards pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.

2. This Ordinance shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units, and also including projects funded with Low Income Housing Tax Credits.

3. Any property in the Township of Bernards that is currently zoned for nonresidential uses and subsequently receives a zoning change or use variance or approval of a redevelopment plan to permit residential development, or that is currently zoned for residential uses and receives a zoning change or density variance or approval of a redevelopment plan to permit higher density residential development, provided such density is at least twice the density previously permitted, shall provide an affordable housing set-aside of 15% if the affordable units will be for rent and 20% if the affordable units will be for sale. No property shall be subdivided so as to avoid compliance with this requirement. Moreover, this provision governs municipal actions only and shall not entitle any property owner or developer to such action by the Township. All affordable units created pursuant to this paragraph shall be governed by the provisions of this Ordinance.

(f) General requirements

1. 13% of all affordable units created subsequent to July 1, 2008 shall be very low-income units as defined herein with half of the very low-income units being available to families.
2. At least 50 percent of the units addressing the Third Round Prospective Need of 873 affordable units shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
3. At least twenty-five percent of the Third Round Prospective Need of 873 affordable units shall be met through rental units, including at least half (12.5%) in rental units available to families.
4. At least 50% of the units addressing the Third Round Prospective Need of 873 affordable units shall be available to families.
5. Not more than 25% of the Township's Prior Round Need of 508 affordable units and Third Round Prospective Need of 873 affordable units shall be addressed with age-restricted units.
6. Affirmative marketing of affordable units available in Bernards Township shall be in accordance with the Township's Affirmative Marketing Plan, with notice of available units to the following organizations: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.

7. All affordable housing developments shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of the UHAC requirement for 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law.
8. Income limits for affordable housing units for which income limits are not 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 Housing Region 3 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 the Township's housing region. 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 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 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 Township 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.
9. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.

§ 21-85.2. Definitions.

[Ord. #2117, § 1, 6-26-2010, added]

The following terms, when used in this article, shall have the meanings given in this section:

ACCESSORY APARTMENT

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

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

ADAPTABLE

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

ADMINISTRATIVE AGENT

The entity responsible for the administration of affordable units in accordance with this article, ~~N.J.A.C. 5:96, N.J.A.C. 5:97~~ and N.J.A.C. 5:80-26.1 et seq.

AFFIRMATIVE MARKETING

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

The average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

AFFORDABLE

A sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. ~~5:97-9.5:93-7.4~~; 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

A housing development all or a portion of which consists of restricted units.

AFFORDABLE HOUSING DEVELOPMENT

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 one-hundred-percent affordable development.

AFFORDABLE HOUSING PROGRAM(S)

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT

A housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. ~~5:9793-43~~, and/or funded through an affordable housing trust fund.

AGENCY

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

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that:

- a. All the residents of the development where the unit is situated are 62 years or older; or
- b. At least 80% of the units are occupied by one person that is 55 years or older; or
- c. The development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

ALTERNATIVE LIVING ARRANGEMENT

A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities

for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

ASSISTED LIVING RESIDENCE

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

A household that has been certified by an administrative agent as a low-income household or moderate-income household.

COAH

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

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

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

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

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.

INCLUSIONARY DEVELOPMENT

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 nonresidential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 50% or less of the median household income.

LOW-INCOME UNIT

A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM

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

Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME

The median income by household size for the applicable county, as adopted annually by COAH, or as calculated in accordance with the procedures set forth in § 21-85.1 (f) 8.a.

MODERATE-INCOME HOUSEHOLD

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

A restricted unit that is affordable to a moderate-income household.

NONEXEMPT SALE

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

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

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 as calculated in accordance with the procedures set forth in § 21-85.1 (f) 8.b.

REHABILITATION

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

RENT

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

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 UHOP or MONI.

UHAC

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

VERY-LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 30% or less of the median household income.

VERY-LOW-INCOME UNIT

A restricted unit that is affordable to a very-low-income household.

WEATHERIZATION

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.

§ 21-85.3. Affordable Housing Programs.

[Ord. #2117, § 1, 6-26-2010, added]

The following affordable housing regulations and mechanisms shall apply to : alternative living arrangements; 100% affordable new development; extension of expiring controls; market to affordable programs; inclusionary zoning and rehabilitation programs.

a. A Rehabilitation Program.

1. The Township of Bernards' rehabilitation program shall be designed to renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
2. Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds.
3. All rehabilitated units shall remain affordable to low- and moderate-income households for a minimum period of 10 years (the control period). For owner-occupied units the control period will be enforced with a lien and for renter-occupied units the control period will be enforced with a deed restriction.
4. The Township of Bernards shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
5. The Township of Bernards shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Township of Bernards.
6. The Township of Bernards shall designate, subject to the approval by the Court, one or more administrative agents to administer the rehabilitation program in accordance with N.J.A.C. 5:~~96-93~~and N.J.A.C. 5:97. The administrative agent(s) shall provide a rehabilitation manual for the owner-occupancy rehabilitation program and a rehabilitation manual for the rental-occupancy rehabilitation program to be adopted by resolution of the governing body and subject to Court's approval. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the administrative agent(s).
7. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:~~9793-11-9~~ and uniform housing affordability controls (UHAC), but shall be administered in accordance with the following:
 - (a) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:~~97-993-11~~ and UHAC.
 - (b) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:~~97-993-7~~ and UHAC.
 - (c) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:~~97-993-7~~.

- (d) Applicant and/or tenant households shall be certified as income- eligible in accordance with N.J.A.C. 5:~~9793~~-9 and UHAC, except that households in owner-occupied units shall be exempt from the regional asset limit.

b. A Market to Affordable program.

1. A market to affordable program is established to permit the purchase or subsidization of units through a written agreement with the property owner and sold or rented to low- and moderate-income households. Subject to the provisions of Subparagraph b2(c) below, the market to affordable programs may produce both low- and moderate-income units. (The program may be limited to only low- or only moderate-income units as per the Fair Share Plan.)
2. The following provisions shall apply to market to affordable programs:
 - (a) At the time they are offered for sale or rental, eligible units may be new, preowned or vacant.
 - (b) The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
 - (c) The municipality will provide a minimum of \$25,000 per unit to subsidize each moderate-income unit and/or \$30,000 per unit to subsidize each low-income unit, with additional subsidy depending on the market prices or rents in a municipality.
 - (d) The maximum number of creditable market to affordable units shall be equal to no more than 10 for-sale units and 10 rental units or a combined total of 10% of the fair share obligation, whichever is greater. (Additional units may be approved through the Court process if the municipality demonstrates the successful completion of its initial market to affordable program.)
3. The units shall comply with N.J.A.C. 5:~~9793~~-~~9-7~~ and UHAC with the following exceptions:
 - (a) Bedroom distribution [N.J.A.C. 5:80-26.3(b) and (c)];
 - (b) Low/moderate-income split [N.J.A.C. 5:80-26.3(a)]; and
 - (c) Affordability average [N.J.A.C. 5:80-26.3(d) and (e)]; however:
 - (1) The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60% of the median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44% of the median income; and
 - (2) The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70% of the median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40% of median income.

c. Extension of controls.

1. N.J.A.C. 5:97-6.14(a), as upheld by the New Jersey Supreme Court, permits a municipality to address a portion of its new construction obligation through the extension of affordability controls in accordance with N.J.A.C. 5:97-9 and UHAC, subject to the following:
 - (a) The unit meets the criteria for prior-cycle or post-1986 credits set forth in N.J.A.C. 5:~~9793~~-~~3.2~~ or 3.3-4.2 or 4.3;

- (b) The affordability controls for the unit are scheduled to expire during the 1999 through 2025 period;
 - (c) The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards; and
 - (d) If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work. A municipality may utilize its affordable housing trust fund to purchase the unit and/or complete the necessary repair and/or rehabilitation work.
2. The effect of expiring controls on the affordable housing stock is a serious concern for Bernards Township, and Bernards plans to make every effort to extend these controls and retain this affordability within the existing housing stock.
 3. Bernards Township intends to expend funds from its Housing Trust program to secure a written commitment from the owner to extend controls.
- d. Down Payment Affordability Assistance Program. [Ord. #2213, added]
1. Pursuant to Section 21-86.1h3(a), there is established a Down Payment Affordability Assistance Program funded by development fees payable only from the Affordable Housing Trust Fund and administered through the affordable housing program for eligible purchasers ("purchasers") who seek to purchase low- or moderate-income housing (an "affordable unit"). Purchasers will not receive development fee funds directly, but the Township will make funds available at closing to the purchaser's attorney trust account.
 - (a) Purchasers that seek down payment assistance through the Township's grant program must submit an application to the administrative agent. The maximum amount of any Township grant shall not exceed ~~\$158,000~~, and the Township shall not award more than ~~two~~four per year. The Chief Financial Officer must certify that funds are available from the Affordable Housing Trust Fund.
 - (b) Qualification and eligibility for this Township Down Payment Assistance Program is as follows in Paragraphs 2 to 10:
 2. Purchasers must submit an application to the administrative agent and be deemed precertified, meaning that the purchaser demonstrates to the reasonable satisfaction of the administrative agent that there is a very high likelihood that with the receipt of the grant the purchaser will be able to pay all of the required expenses relating to owning an affordable unit.
 3. Purchasers will only be awarded a grant by the Township after entering a contract to purchase an affordable unit and the attorney review process has been concluded. The purchaser is responsible to pay the attorney review fee of the Township's attorney for the grant review process and closing.
 4. Purchasers must have incomes not exceeding low- or moderate-income guidelines as applicable for Somerset County pursuant to the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq.
 5. An affordable unit to qualify for purchase must meet housing quality standards as evidenced by a professional and written home inspection report accepted by the administrative agent.
 6. The administrative agent must certify purchasers creditworthy, and the amount of the mortgage principal shall not exceed three times the purchaser's gross annual income.
 7. Purchasers must occupy the affordable unit as a principal residence and own no other real property or

dwelling. The affordable unit is for purchase only and purchasers may not lease the unit.

8. Purchasers must attend a prepurchase homebuyer education class administered by the administrative agent before entering a contract of sale for an affordable unit and thereafter receive an approval certificate by meeting with a counselor of the administrative agent.
9. The Township will make available affording housing funds at closing to the purchaser's attorney trust account. The purchaser is responsible to pay the attorney review fee of the Township's attorney for the grant review process and closing.
10. At no time will a purchaser be permitted to receive funding approval under any of the Township's affordability assistance programs more than once in a ~~five~~ten-year time period.
11. ~~The Township's Down Payment Assistance Program is a grant. The purchaser must repay the grant amount upon a sale of the affordable unit if less than five years from closing.~~

~~e. Homeowner Affordability Assistance Program.~~

~~1. Homeowners that may be in arrears with their mortgage, sewer/water, real estate taxes, and/or association fees may apply for the Homeowner Affordability Assistance Program, funded by developer fees and payable only from the Township Housing Trust Fund and administered through the Township of Bernards affordable housing program, for low and moderate income households owning units as part of said program.~~

~~2. Qualification and eligibility for this program:~~

~~(a). Any low or moderate income households, as defined by New Jersey Fair Housing Act for Somerset County, paying as part of their shelter costs, mortgage, sewer/water, real estate taxes or homeowners' association (condominium) fees (collectively defined as "shelter costs"), who are in arrears are eligible to apply for this program.~~

~~(b). On application for homeowner affordability assistance, the administrative agent will determine whether or not the given household is spending more than 30% of its gross income for shelter costs. This program is not available to households spending less than 30% of their gross income for shelter costs.~~

~~(c). If the aforementioned shelter costs, by paying off the arrearages, would allow the household to spend between 30% and 40% of gross income on shelter costs, then the household may request affordability assistance in the form of a deferred loan to assist the affordable homeowner in becoming current with his or her shelter expenses.~~

~~(d). The eligible household shall then submit to the office of the administrative agent income and expense information concerning the household's shelter costs and requested loan amount. The administrative agent, with the assistance of the Township of Bernards will evaluate the request for the above referenced loan for a maximum amount not to exceed \$15,000.~~

~~(e). After review and approval by the administrative agent, Township Attorney, and Township of Bernards Municipal Housing Liaison and subject to the availability of funding through the Township's affordable housing program for this form of affordability assistance, the Township of Bernards may approve a loan to assist with the payment of the aforementioned shelter costs. Approval shall only be granted to applicants who demonstrate to the reasonable satisfaction of the administrative agent and the Township of Bernards that there is a very high likelihood that with the receipt of the affordability assistance provided herein that the applicant will be able to stay current with his or her shelter costs in the future. If denied, a written determination of why the funding assistance has been denied will be provided by the administrative agent. This determination shall be final and nonappealable.~~

~~(f). The Homeowner Affordability Assistance Program is a deferred payment loan, with the loan amount (and no interest) to be repaid either upon the sale of the unit (if less than five years) or it is forgiven upon the expiration of five years from the date of the second mortgage, whichever comes first.~~

~~(g). Loans for all properties participating in the Homeowner Affordability Assistance Program shall be secured through a mortgage and mortgage note executed by the property owner in favor of the Township~~

~~of Bernards. Further, approval of any loan shall also be subject to certification by the Township Housing Liaison and Chief Financial Officer that funds are available for this form of affordability assistance.~~

~~(h). The administrative agent will record said documents with the County Clerk's office. A copy of this information will be kept in the unit file.~~

~~(i). At no time will any individuals/households be allowed to receive funding approval under any of the local affordability assistance programs more than once in a five year time frame.~~

~~(j). The purchaser is responsible to pay the attorney review fee of the Township's attorney for the loan review process and closing.~~

f.e. Alternative living arrangements.

- (a) The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and Uniform Housing Affordability Controls (UHAC), with the following exceptions:
 - (1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by COAH or the Court;
 - (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- (b) With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by COAH or the Court.
- (c) The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§ 21-85.4. through § 21-85.6. (Reserved)

§ 21-85.7. New construction.

[Ord. #2117, § 1, 6-26-2010, added]

The following general guidelines apply to all newly constructed developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

a. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

- 1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
- 2. In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
 - (a) In each affordable development, at least 13% of the restricted units within each bedroom distribution shall be very low-income units, which shall be part of the 50% low-income requirement in this section.
- 3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units 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.
- 4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two- bedroom unit for each efficiency unit.
 - 5. In inclusionary developments, the following schedule for the issuance of certificates of occupancy for the required affordable housing units relative to the issuance of certificates of occupancy for the permitted market units shall be followed:

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

b. Accessibility requirements.

- 1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 ~~and~~ ~~N.J.A.C. 5:97 3.14.~~
- 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. 5:23-7₂ ~~and N.J.A.C. 5:97 3.14~~, or evidence that the Township of Bernards 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 Bernards 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 b2(f)(2) above shall be used by the Township of Bernards 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 Bernards.
- (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 N.J.A.C. 5:97-3.14~~, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township of Bernards Affordable Housing Trust Fund in care of the Municipal Treasurer 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 site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7 ~~and N.J.A.C. 5:97-3.14~~.

c. Design.

- (1) In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- (2) In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

d. Maximum Rents and Sales Prices.

1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC , utilizing the regional income limits established by the procedures set forth in § 21-85.1 (f) 8.b.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of the median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of the 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 the Township's low- and moderate-income rental units shall be affordable to households earning no more than 30% of the 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 the 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 used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one-and-one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four-and-one-half person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one-and-one-half person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% 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 based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.
11. Utilities. 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.

§ 21-85.8. Affirmative Marketing Requirements.

[Ord. #2117, § 1, 6-26-2010, added]

The following general guidelines apply to all developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

- a. The Township of Bernards shall adopt by resolution an affirmative marketing plan, subject to approval through the Court process, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented, and the Township's Third Round settlement agreement with Fair Share Housing Center, dated August 28, 2018.
- b. 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, affection 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 3, and covers the period of deed restriction.
- c. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 3, comprised of Somerset, Middlesex and Hunterdon Counties.
- d. The administrative agent designated by the Township of Bernards shall assure the affirmative marketing of all affordable units consistent with the affirmative marketing plan for the municipality.
- e. 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.
- f. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- g. 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 Bernards.

§ 21-85.9. Occupancy standards.

[Ord. #2117, § 1, 6-26-2010, added]

- 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 sex with separate bedrooms; and
 3. 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.

§ 21-85.10. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

[Ord. #2117, § 1, 6-26-2010, added]

- a. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this section until the Township of Bernards elects to release the unit from such requirements; however, and

prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.

- b. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- c. 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 nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- d. At the time of the first sale of the unit, the 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 nonexempt sale after the unit's release from the requirements of this section, an amount equal to the difference between the unit's nonrestricted 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.
- e. The affordability controls set forth in this section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- f. 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.

§ 21-85.11. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

[Ord. #2117, § 1, 6-26-2010, added]

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 and only if the appropriate permits are granted by the Township of Bernards and the administrative agent, with pertinent information supplied so as to compute the adjusted price.

§ 21-85.12. Buyer Income Eligibility.

[Ord. #2117, § 1, 6-26-2010, added]

- 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 the median income, and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of the median income.
- b. 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.

§ 21-85.13. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

[Ord. #2117, § 1, 6-26-2010, added]

- 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 80% 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).

§ 21-85.14. Control Periods for Restricted Rental Units.

[Ord. #2117, § 1, 6-26-2010, added]

- a. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this article until the Township of Bernards elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- b. 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 Somerset. A copy of the filed document shall be provided to the administrative agent within 30 days of the receipt of a certificate of occupancy.
- c. A restricted rental unit shall remain subject to the affordability controls of this article, 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.

§ 21-85.15. Price Restrictions for Rental Units; Leases.

[Ord. #2117, § 1, 6-26-2010, added]

- a. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, 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 article.

§ 21-85.16. Tenant Income Eligibility.

[Ord. #2117, § 1, 6-26-2010, added]

- 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 the median income.
 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the median income.
 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the 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 or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% 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% 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% of its 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 Paragraph b1 through 5 above with the administrative agent, who shall counsel the household on budgeting.

§ 21-85.17. Administration.

[Ord. #2117, § 1, 6-26-2010, added]

- a. The position of Municipal Housing Liaison (MHL) for the Township of Bernards is established by this section. The Township Committee shall make the actual appointment of the MHL by means of a resolution.
 1. The MHL must be either a full-time or part-time employee of the Township of Bernards.
 2. The person appointed as the MHL must be identified as required through the Court process.
 3. The MHL must meet all requirements for qualifications accepted by the Court, including initial and periodic training.
 4. The Municipal Housing Liaison shall be responsible for oversight administration of the affordable

housing program for the Township of including the following responsibilities which may not be contracted administrative agent:

- (a) Serving as the municipality's primary point of contact for a from the state, affordable housing providers, administrative agents interested households;
 - (b) The implementation of the affirmative marketing plan and affordability controls.
 - (c) When applicable, supervising any contracting administrative agent.
 - (d) Monitoring the status of all restricted units in the Township of Bernards Fair Share Plan;
 - (e) Compiling, verifying and submitting annual reports as required by the Township's Third Round affordable housing settlement agreement and enumerated in § 21-85.1(d) above;
 - (f) Coordinating meetings with affordable housing providers and administrative agents, as applicable; and
 - (g) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of NJ (AHPNJ), or Fair Share Housing Center.
- b. The Township of Bernards shall designate by resolution of the Township Committee one or more administrative agents to administer newly constructed affordable units in accordance UHAC and the requirements of this ordinance. The Township reserves the right to contract, from time to time, with an administrative agent, other than the administrative agent named herein. Any such contract shall be authorized by resolution of the Township Committee, and shall not require amendment of this section.
- c. An operating manual shall be provided by the administrative agent(s) to be adopted by resolution of the Township Committee. The operating manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the administrative agent(s).
- d. Duties and responsibilities.
1. The administrative agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the operating manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
- (a) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by AHPNJ;;
 - (b) Affirmative marketing;
 - (c) Household certification;
 - (d) Affordability controls;
 - (e) Records retention;
 - (f) Resale and rental;
 - (g) Processing requests from unit owners; and
 - (h) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.

2. The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

§ 21-85.18. Enforcement of Affordable Housing Regulations.

[Ord. #2117, § 1, 6-26-2010, added]

- 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 \$2,000 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 Bernards 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 Township.

- 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.

§ 21-85.19. Appeals.

[Ord. #2117, § 1, 6-26-2010, added]

Appeals from all decisions of an administrative agent designated pursuant to this article shall be filed in writing with the Superior Court.

SECTION 21-86. Affordable Housing Development Fees

§ 21-86.1. Standards for Collection, Maintenance and Expenditure.

[Ord. #1372, 8-24-1999, added; Ord. #1391, § 1, 2-15-2000, amended; Ord. #1779, 3-29-2005, amended; Ord. #2044, § 1, 12-9-2008, amended; Ord. #2056, § 1, 3-10-2009, amended; Ord. #2117, § 3, 6-26-2010, amended]

- a. Findings and Purposes.
 - 1. The Township Committee of the Township of Bernards finds and declares that the creation and preservation of affordable housing in the Township serves the public interest. Maintaining and improving a stock of sound affordable housing requires affirmative steps by local government working cooperatively with public bodies at all levels and with the private sector.
 - 2. The New Jersey Supreme Court, in Holmdel Builder's Ass'n v. Holmdel Township, 121 N.J. 550 (1990), determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A.

52:27D-301 et seq., and the State Constitution.

3. Pursuant to P.L. 2008, c. 46, Section 8 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 55D-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 Court-approved spending plan may retain fees collected from nonresidential development.
 4. The purpose of this subsection is to establish standards for the collection, maintenance and expenditure of development fees in accordance with COAH's rules and regulations, and in accordance with P.L. 2008, c. 46, Section 8 and 32-38. Fees collected pursuant to this subsection shall be used for the sole purpose of providing low- and moderate-income housing. This subsection shall be interpreted within the framework of regulations on development fees, including N.J.A.C. 5:93-1 et seq and the Fair Housing Act of 1985, and as may be amended.
- b. Basic Requirements.
1. This subsection shall not be effective until approved by the Court.
 2. The Township of Bernards shall not spend development fees until the Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:93-1 et seq.
- c. Definitions. For the purposes of this subsection, the following terms shall have the following meanings:

AFFORDABLE means a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:93-1 et seq.

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 one- hundred-percent affordable development.

AFFORDABLE UNIT means any housing unit proposed or created pursuant to the Fair Housing Act of 1985, credited pursuant to N.J.A.C. 5:93-1 et seq, or funded through the Township's affordable housing trust fund.

COAH or COUNCIL means the New Jersey Council on Affordable Housing established under the Fair Housing Act of 1985, which has primary jurisdiction for the administration of affordable housing obligations in accordance with sound regional planning considerations in the state.

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 individual, person, partnership, association, company, or corporation having an enforceable proprietary interest in such land.

DEVELOPMENT FEES means money paid by a developer for the improvement of property as permitted in the Fair Housing Act of 1985, as amended.

EQUALIZED ASSESSED VALUE means the assessed value of a property divided by the current average ratio of assessed to true value for the Township as determined in accordance with Sections 1, 5, and 6 of P.L. 1973,123 (N.J.S.A. 54:1-35a through 54:1-35c). Estimates at the time of building permit may be obtained by the Tax Assessor utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Tax Assessor.

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.

SUBSTANTIAL CHANGE means a modification or elimination of a significant condition or conditions in a memorializing resolution or any significant modification in the design or layout of the subdivision plan previously approved which require a revised or amended subdivision plan application.

c. Development Fee Schedule.

1. Residential Development.

- (a) Within the R-1, R-2, R-3, R-4, R-5, R-6, R-7, RC-1, RC-2, RC-3, RC-4, SH-1, SH-2, and SH-3 Zone Districts in the Township of Bernards, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for the residential development, provided no increased density is permitted.
- (b) When an increase in residential density pursuant to N.J.S.A. 40:55D- 70d(5) (known as a "d" variance) has been permitted, developers shall pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application. [Ord. #2056, § 1, 3-10-2009, amended]

2. Nonresidential Development.

- (a) Within all zoning districts in the Township of Bernards, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots. [Ord. #2056, § 1, 3-10-2009, amended]
- (b) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes. [Ord. #2056, § 1, 3-10-2009, amended]
- (c) Development fees shall be imposed and collected when an existing nonresidential structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvements and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

d. Eligible Exactions, Ineligible Exactions and Exemptions.

- 1. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- 2. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- 3. Residential developments that have received preliminary or final site plan approval prior to the

effective date of the initial development fee ordinance codified in this subsection shall be exempt from paying a development fee, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary and final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

4. Development fees shall not be imposed when an existing residential structure is expanded (including additions, alterations, renovations or reconstruction work).
5. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the two-and-one-half-percent development fee, unless otherwise exempted below.
6. The two-and-one-half-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 to nonresidential developments.
7. Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act, P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.1, et seq.), as specified in the Form N- RDF, State of New Jersey Non-Residential Development Certification/Exemption Form. Specifically, all nonresidential construction of buildings or structures on property used by churches, synagogues, mosques, and other houses of worship, and property used for educational purposes, which is tax exempt pursuant to N.J.S.A. 54:4-3.6, shall be exempt from the imposition of a nonresidential development fee, provided that the property continues to maintain its tax exempt status under the statute for a period of at least three years from the date of issuance of the certificate of occupancy. In addition, the following shall be exempt from the imposition of a nonresidential development fee:
 - (a) Parking lots and parking structures, regardless of whether the parking lot or parking structure is constructed in conjunction with a nonresidential development, such as an office building, or whether the parking lot is developed as an independent nonresidential development;
 - (b) Any nonresidential development which is an amenity to be made available to the public, including, but not limited to, recreational facilities, community centers, and senior centers, as defined by the Statewide Non-Residential Development Fee Act, which are developed in conjunction with or funded by a non-residential developer;
 - (c) Nonresidential construction resulting from a relocation of or an on-site improvement to a nonprofit hospital or a nursing home facility;
 - (d) Projects that are located within a specifically delineated urban transit hub, as defined pursuant to N.J.S.A. 34:1B-208;
 - (e) Projects that are located within an eligible municipality, as defined under N.J.S.A. 34:1B-208, which a majority of the project is located within a one-half-mile radius of the midpoint of a platform area for a light rail system; and
 - (f) Projects determined by the New Jersey Transit Corporation to be consistent with a transit village plan developed by a transit village designated by the Department of Transportation.
8. Any exemption claimed by a developer shall be substantiated by that developer. A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46 shall be subject to it at such time as the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.

9. If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Township of Bernards as a lien against the real property of the owner.

e. Collection of Development Fees.

1. 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 or other designated Township official responsible for the issuance of a building permit.
2. For nonresidential 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 nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential 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.
3. The construction official or other Township official responsible for the issuance of a building permit shall notify the Township Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
4. Within 90 days of receipt of that notice, the Township Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
5. The construction official responsible for the issuance of a final certificate of occupancy shall notify the Tax Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
6. Within 10 business days of a request for the scheduling of a final inspection, the Township Tax 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.
7. Should the Township 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 (N.J.S.A. 40:55D-8.6).
8. The Township shall collect up to 50% of the calculated development fee at the time of the issuance of the building permit, with the remaining portion to be collected at the issuance of the certificate of occupancy. Regardless of the time of collection, the development fee shall be based on the percentage that applies on the date that building permits are issued.
[Ord. #2056, § 1, 3-10-2009, amended]
9. (Reserved)
10. Appeal of development fees.
 - (a) A developer may challenge residential development fees imposed by filing a challenge with the Somerset County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Township of Bernards. 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, N.J.S.A. 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.

- (b) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Township of Bernards. 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, N.J.S.A. 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.

f. Affordable Housing Trust Fund.

1. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer of the Township for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls, which shall be designated as the "Affordable Housing Trust Fund."
2. The following additional funds may be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (a) Payments in lieu of on-site construction of affordable units;
 - (b) Developer contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (c) Rental income from municipally operated units;
 - (d) Repayments from affordable housing program loans;
 - (e) Recapture funds;
 - (f) Proceeds from the sale of affordable units; and
 - (g) Any other funds collected in connection with the Township of Bernards' affordable housing program.
3. In the event of a failure by the Township to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

4. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court.

g. Use of Money.

1. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Township of Bernards' 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 nonresidential 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 authorized by law or regulation and specified in the approved spending plan.
 2. Funds shall not be expended to reimburse the Township for past housing activities.
 3. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
 - (a) 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.
 - (b) Affordability assistance to households earning 30% 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% or less of median income.
 - (c) 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.
 4. The 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.
 5. No more than 20% of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with 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.
- i. Monitoring. The Township shall complete and submit to the Court, Special Master, and FSHC all monitoring reports included in the monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of construction 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's affordable housing program, as well as to the expenditure of revenues and implementation of the plan approved by the Court.

1. Ongoing Collection of Development Fees. The Township's ability to impose, collect and expend development fees shall expire on July 1, 2025 unless the Court has approved the Township's ability to continue to collect and expend development fees beyond that date. If the Township fails to secure the Court's approval to renew its ability to impose and collect development fees prior July 1, 2025, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing 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 (N.J.S.A. 52:27D-320). The Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its judgment of compliance, nor shall the Township retroactively impose a development fee on such a development. The Township shall not expend development fees after the expiration of its judgment of compliance, unless approved by the Court.

Ordinance #2421- Accepting a Stormwater Drainage Easement on Property Located at 148 Childs Road, Block 603, Lot 3, from Peter and Kathy Sue Krell to the Township of Bernards – Introduction

The clerk read the ordinance by title. Motion by Esposito, second by Harris, that Ordinance #2421 be introduced on first reading, advertised as required by law, with a public hearing on 05/28/2019.

Roll Call

Aye: Carpenter, Esposito, Harris, Bianchi
Nay:
Abstain:
Motion carried.

WHEREAS, the Township of Bernards is undertaking a project to replace the existing storm water drainage facilities located in the easement running through the property identified as Block 603, Lot 3, 148 Childs Road, in the Township of Bernards (the "Property"); which property is owned by Peter and Kathy Sue Krell; and

WHEREAS, while the Township already was granted an easement on this portion of the Property by way of map dated January 1955, and accepted by Ordinance No. 85 adopted on February 16, 1960, given the scope of work in the project it was determined appropriate to set forth and memorialize the terms of the easement in a written instrument; and

WHEREAS, in connection with improvements being undertaken by the Township in furtherance of the project, Mr. and Ms. Krell agreed to memorialize the easement in a Stormwater Drainage Easement to the Township; which Easement is attached hereto and made a part hereof; and

WHEREAS, pursuant to the Local Lands and Buildings Law, N.J.S.A. 40A:12-1, *et seq.*, specifically, N.J.S.A. 40A:12-3, -4, and -5, the Township is authorized to acquire and accept the Easement by ordinance; and

WHEREAS, the Mayor and Township Committee of the Township of Bernards finds it to be in the best interest of the Township and its citizens to accept the Stormwater Drainage Easement in connection with the drainage project.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Bernards, in the County of Somerset and State of New Jersey as follows:

1. The Township hereby accepts from Peter and Kathy Sue Krell a Stormwater Drainage Easement on the property identified as Block 603, Lot 3, 148 Childs Road, in the Township of Bernards.
2. The Mayor and Clerk are hereby authorized to execute the attached Stormwater Drainage Easement in substantially the form attached hereto.
3. The Easement is on file with the office of the Township Clerk.
4. This Ordinance shall take effect upon its final passage and publication according to law.

PUBLIC COMMENT

Todd Edelstein – Riverside Dr, corrected quotes in newspaper and commented on police department structure

ADJOURNMENT

By unanimous consent the meeting adjourned at 9:15 PM

Respectfully submitted,

Rhonda Pisano
Municipal Clerk

Carol Bianchi
Mayor