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August 28, 2018 – COMBINED AGENDA/REGULAR MEETING

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CALL TO ORDER

The mayor called the meeting to order at 7:30 PM in the Municipal Building, 1 Collyer Lane, Basking Ridge, NJ. Those assembled saluted the flag and the mayor read the open public meetings statement in accordance with the law.

ROLL CALL

Present: Baldassare, Bianchi, Malay, Carpenter

Absent: Gaziano

Also Present: Administrator Monaco, Attorney Belardo, and Municipal Clerk/Assist. Admin. Szabo

EXECUTIVE SESSION – [Resolution #2018-0373](#)

Motion by Baldassare, second by Malay, and unanimously agreed that Resolution #2018-0373 be approved. The meeting temporarily adjourned to Executive Session at 7:31.

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.

<u>Reason for Closed Session</u>	<u>Estimated Time of Disclosure or Upon Occurrence Of</u>
<input checked="" type="checkbox"/> 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. <i>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.</i> Litigation - Affordable Housing SOM-L-899-1	Upon conclusion of litigation

The meeting resumed in open session at 7:40 PM and stood in recess until 8:00 PM.

[NJDEP STORMWATER MANAGEMENT RULES NJAC 7:8 - PUBLIC EDUCATION](#)

Timko was unable to attend this meeting to make the presentation and the matter was tabled.

PUBLIC COMMENT

The following commented on increases in HOA fees in Society Hills relative to affordable housing units:

Mary Jane Postal, Irving Place

William Crum, Penns Way

Connie Kain, Penns Way

Ann Parsekian, Berta Place, commented on the CIP lawsuit.

The following commented on affordable housing:

Joan Harris, Watchung Drive

Michael Barth, Annin Road

Bill Allen, Holmesbrook Road

Suzzane Glassman, Emerald Valley Lane

Rosella Wolfson, Emerald Valley Lane
Lourdes Cornejo-Krones, Emerald Valley Lane

Bruce McArthur, Pond Hill Road, voiced support for the employee promotions listed on the Consent Agenda and wished those well that were leaving the township's employ.

CORRESPONDENCE

None Listed.

TOWNSHIP COMMITTEE/STAFF COMMENTS

Committee and staff members reported on their activities.

FIRE & RESCUE APPOINTMENT

None.

UNFINISHED BUSINESS

[Ordinance #2402](#) - *An Ordinance to Amend the Revised General Ordinances of the Township of Bernards Chapter 3 "Police Regulations," Section 14 "Drug-Free School, Park, Public Housing and Public Building Zone," Subsection 1 Adoption of "Map 1 & Map 2" – 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 Malay, second by Baldassare, that Ordinance #2402 be adopted and advertised as required by law.

Roll Call:

Aye: Bianchi, Malay, Carpenter

Nay:

Abstain: Baldassare

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 Malay, second by Baldassare, that Resolution #2018-0380 be removed from the Consent Agenda, and that the remaining items be approved.

Roll Call:

Aye: Baldassare, Bianchi, Malay, Carpenter

Nay:

Abstain:

Motion carried.

**** Begin Consent Agenda ****

Approval of Minutes

[08/14/2018 Open Session](#)

These minutes were approved for content and release.

[08/14/2018 Executive Session](#)

These minutes were approved for content only.

[Resolution #2018-0374](#) - *Approval of the Bill List Dated 08/28/2018*

BE IT RESOLVED, that the bill list dated 8/28/2018 be audited, and if found correct, be paid.

Check #	Check Date	Vendor	Amount Paid	Reconciled/Void Ref Num
CASH - CHECKING CURRENT CHECKING				
117121	08/28/18	90093 NICOLETTI, THOMAS J	82.52	1385 Direct Deposit
117122	08/28/18	90327 MCKNIGHT, ALEX	6.00	1385 Direct Deposit
117123	08/28/18	90520 SWEENEY, MICHAEL	30.00	1385 Direct Deposit
117124	08/28/18	90594 BUTERBAUGH, ANDREW	167.86	1385 Direct Deposit
117125	08/28/18	90639 ABOOSAMARA, DOMINICK	199.12	1385 Direct Deposit
117126	08/28/18	A0044 APPROVED FIRE PROTECTION SYS	463.80	1386
117127	08/28/18	A0168 ALLIED OIL COMPANY, LLC	11,779.90	1386
117128	08/28/18	A0232 ARROW ELEVATOR, INC.	200.00	1386
117129	08/28/18	A0425 ATLANTIC TACTICAL	199.79	1386
117130	08/28/18	A0476 GENERAL BINDING CORPORATION	2,003.00	1386
117131	08/28/18	A0559 ARCARI IOVINO ARCHITECTS,PC	1,605.00	1386
117132	08/28/18	A0640 ABRAHAM GENERAL CONSTRUCTION	38,417.30	1386
117133	08/28/18	A0641 ANDREWS, KATIE & LEE	225.00	1386
117134	08/28/18	A0642 ABDOU, YOUSRI AND MARIAN	225.00	1386
117135	08/28/18	A0643 ABDELAZIZ, NANCY	450.00	1386
117136	08/28/18	B0001 BAKER & TAYLOR, INC.	3,001.39	1386
117137	08/28/18	B0015 BRODART COMPANY	133.82	1386
117138	08/28/18	B0026 BERNARDS TOWNSHIP CURRENT	8,517.55	1386
117139	08/28/18	B0029 BERNARDS TWP BD OF EDUCATION	7,544,509.00	1386
117140	08/28/18	B0031 BERNARDSVILLE PRINT CENTER	128.74	1386
117141	08/28/18	B0034 BERNARDS TOWNSHIP PAYROLL ACCT	579,334.56	1386
117142	08/28/18	B0038 BERNARDS TOWNSHIP (COURT)	152.21	1386
117143	08/28/18	B0044 BASKING RIDGE ANIMAL HOSPITAL	750.00	1386
117144	08/28/18	B0076 BERNARDS TOWNSHIP TRUST FUND	39,036.28	1386
117145	08/28/18	B0098 BERNARDS TOWNSHIP (RECREATION)	348.53	1386
117146	08/28/18	B0203 DIFRANCESCO,BATEMAN,COLEY,YOSP	3,422.23	1386
117147	08/28/18	B0241 BANISCH ASSOCIATES, INC.	2,465.00	1386
117148	08/28/18	B0388 BLACKSTONE AUDIO BOOKS	12.95	1386
117149	08/28/18	B0413 BROWNELLS, INC	114.18	1386
117150	08/28/18	B0690 BIBLIOTHECA LLC	2,551.95	1386
117151	08/28/18	B0742 BLUE 360 MEDIA	161.67	1386
117152	08/28/18	B0743 BREGARTNER, CAROLYN	4,168.49	1386
117153	08/28/18	C0024 GANNETT NEW JERSEY NEWSPAPERS	67.08	1386
117154	08/28/18	C0037 CLERK'S PETTY CASH	24.40	1386
117155	08/28/18	C0083 CDW GOVERNMENT, INC.	294.00	1386
117156	08/28/18	C0289 CHIEF SUPPLY	39.47	1386
117157	08/28/18	C0346 CROWN TROPHY OF GREEN BROOK	321.00	1386
117158	08/28/18	C0597 CLIFFSIDE BODY CORPORATION	217.45	1386
117159	08/28/18	D0020 DELTA DENTAL OF NJ	12,673.15	1386
117160	08/28/18	D0339 DEER CARCASS REMOVAL SVC, LLC	1,801.13	1386
117161	08/28/18	D0380 DRIVERS TIRE & SERVICE CENTER	8,120.11	1386
117162	08/28/18	D0661 DAVID WEBER OIL CO.	383.35	1386
117163	08/28/18	D0770 DONNELLY, KEVIN & MOLLY	197.50	1386
117164	08/28/18	D0773 DOBSON, WILLIAM C & LAURIE E	524.25	1386
117165	08/28/18	E0224 EXCELLENT BUILDING SERVICES	9,744.00	1386
117166	08/28/18	F0001 FEDEX	24.34	1386
117167	08/28/18	F0069 CORELOGIC	6,600.50	1386
117168	08/28/18	F0158 FLEMINGTON DEPARTMENT STORE	135.89	1386
117169	08/28/18	F0258 FINDAWAY WORLD, LLC	66.94	1386
117170	08/28/18	F0271 MTI	543.00	1386
117171	08/28/18	G0025 GARDEN STATE HIGHWAY PRODUCTS	4,538.46	1386
117172	08/28/18	G0300 GOLD TYPE BUSINESS MACHINES	677.70	1386
117173	08/28/18	G0560 GMIS INTERNATIONAL	100.00	1386
117174	08/28/18	G0583 GILLIS, HEATHER	75.00	1386
117175	08/28/18	H0004 HEALTH DEPARTMENT PETTY CASH	12.76	1386
117176	08/28/18	H0075 HARBOR FREIGHT TOOLS	143.94	1386
117177	08/28/18	H0246 HOME DEPOT CREDIT SERVICES	62.28	1386
117178	08/28/18	H0312 HEFFERNAN, ROBERT F	5,706.25	1386
117179	08/28/18	H0326 THE HOBBY QUEST	800.00	1386
117180	08/28/18	H0349 H.A. FERNOT CO., INC	476.25	1386
117181	08/28/18	I0010 INTERNATIONAL ASSN.OF ARSON	250.00	1386
117182	08/28/18	I0155 IDEAL AUTO BODY	1,472.97	1386
117183	08/28/18	I0159 IMPERIAL DADE	500.50	1386
117184	08/28/18	J0093 JOHNNY ON THE SPOT	65.00	1386
117185	08/28/18	J0219 JI, YAN & TAO	450.00	1386
117186	08/28/18	K0033 KEY-TECH	2,100.00	1386
117187	08/28/18	K0036 KONICA MINOLTA BUSINESS	379.70	1386
117188	08/28/18	K0039 KOBESKY, GREGG S.	298.00	1386
117189	08/28/18	K0259 KONICA MINOLTA PREMIER FINANCE	167.07	1386
117190	08/28/18	K0331 KONICA PREMIER FINANCE	82.60	1386
117191	08/28/18	K0340 KAMINENI, SANDHYA	450.00	1386
117192	08/28/18	L0003 LIBERTY CORNER 1ST AID SQUAD	15,000.00	1386
117193	08/28/18	L0004 LIBERTY CORNER FIRE COMPANY	17,493.65	1386
117194	08/28/18	L0187 LAKELAND BUS COMPANY	1,725.00	1386
117195	08/28/18	L0304 LKE CATERING, INC.	432.50	1386
117196	08/28/18	M0062 CAVENDISH SQUARE PUBLISHING	195.54	1386
117197	08/28/18	M0091 MCAA OF NJ-TREASURER	80.00	1386
117198	08/28/18	M0165 METRO HYDRAULIC JACK CO.	32.08	1386
117199	08/28/18	M0178 MARK'S AUTO SERVICE	75.00	1386
117200	08/28/18	M0279 MITZNER, SCOTT C.	1,147.50	1386
117201	08/28/18	M0441 MAIN LINE COMMERCIAL POOLS,INC	3,133.00	1386
117202	08/28/18	M0493 MCELROY, DEUTSCH, MULVANEY &	14,919.91	1386
117203	08/28/18	M0518 KONICA MINOLTA BUSINESS SOL.	162.00	1386
117204	08/28/18	M0518 KONICA MINOLTA BUSINESS SOL.	31.85	1386
117205	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	138.04	1386
117206	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	264.68	1386
117207	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	17.26	1386
117208	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	215.43	1386
117209	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	94.65	1386
117210	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	433.53	1386
117211	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	38.37	1386
117212	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	6,638.90	1386
117213	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	180.25	1386
117214	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	24.29	1386
117215	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	113.50	1386
117216	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	31.33	1386
117217	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	43.14	1386
117218	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	43.14	1386
117219	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	189.72	1386
117220	08/28/18	N0006 NEW JERSEY AMERICAN WATER CO.	337.28	1386

117221	08/28/18	N0006	NEW JERSEY AMERICAN WATER CO.	292.82	1386
117222	08/28/18	N0006	NEW JERSEY AMERICAN WATER CO.	5,752.42	1386
117223	08/28/18	N0083	NJRPA	8,630.00	1386
117224	08/28/18	N0470	NATIONWIDE	82.65	1386
117225	08/28/18	00021	OFFICE DEPOT	511.67	1386
117226	08/28/18	P0437	POS PAPER.COM	179.85	1386
117227	08/28/18	P0534	PLUG 'N PAY TECHNOLOGIES, INC.	20.00	1386
117228	08/28/18	P0538	PROVIDENT LIFE & ACCIDENT	260.44	1386
117229	08/28/18	P0546	PETER RUBINETTI PRIVATE DISP	1,000.00	1386
117230	08/28/18	P0617	PANZARELLA, RICHARD & MELISSA	225.00	1386
117231	08/28/18	P0639	POWZANIUK, OLGA	380.00	1386
117232	08/28/18	R0005	RECORDER PUBLISHING CO., INC	28.05	1386
117233	08/28/18	R0010	REIDER ASSOCIATES, INC.	1,900.00	1386
117234	08/28/18	R0045	RUTGERS - THE STATE UNIVERSITY	434.00	1386
117235	08/28/18	R0308	ROUTE 23 AUTO MALL	2,987.02	1386
117236	08/28/18	R0398	CLEARSTREAM RECYCLING, INC.	1,099.00	1386
117237	08/28/18	R0418	REALE, STEPHEN	500.00	1386
117238	08/28/18	S0184	SOCIETY HILL AT BERNARDS I	7,745.91	1386
117239	08/28/18	S0202	SUBURBAN PROPANE	219.43	1386
117240	08/28/18	S0378	STAVOLA ASPHALT	5,821.15	1386
117241	08/28/18	S0403	SOMERSET COUNTY EDUCATIONAL	10,296.00	1386
117242	08/28/18	S0443	STAPLES ADVANTAGE	513.38	1386
117243	08/28/18	S0973	SEA OTT SWIMMING LLC	5,100.00	1386
117244	08/28/18	S1007	SPRUCE INDUSTRIES	1,634.80	1386
117245	08/28/18	S1010	SATEEJA, MANISH	225.00	1386
117246	08/28/18	S1011	STRAUS, FRANCES	425.00	1386
117247	08/28/18	T0024	TRIU OF NJ INC	879.84	1386
117248	08/28/18	T0049	TROPICANA ATLANTIC CITY	480.00	1386
117249	08/28/18	T0049	TROPICANA ATLANTIC CITY	240.00	1386
117250	08/28/18	T0066	CENGAGE LEARNING CREDIT SVCS	23.20	1386
117251	08/28/18	T0090	TREASURER, STATE OF NEW JERSEY	115.00	1386
117252	08/28/18	T0142	TODD HARRIS CO., INC.	526.25	1386
117253	08/28/18	T0192	TURN OUT UNIFORMS INC	124.97	1386
117254	08/28/18	T0378	THE GUARDIAN LIFE INS CO OF AM	105.77	1386
117255	08/28/18	U0001	UNITEMP INC.	2,306.52	1386
117256	08/28/18	U0090	UNUM LIFE INSURANCE COMPANY	361.41	1386
117257	08/28/18	V0020	VILLAGE OFFICE SUPPLY	59.99	1386
117258	08/28/18	V0037	VILLAGE SUPERMARKET, INC.	326.17	1386
117259	08/28/18	V0056	VERIZON WIRELESS	1,837.95	1386
117260	08/28/18	V0058	VERIZON	158.71	1386
117261	08/28/18	V0084	VERIZON	513.30	1386
117262	08/28/18	V0177	VERIZON	425.15	1386
117263	08/28/18	W0014	BEYER-WARNOCK FLEET	1,284.32	1386
117264	08/28/18	W0085	WARREN TOWNSHIP	10.00	1386
117265	08/28/18	W0241	W.B. MASON CO INC.	432.60	1386
117266	08/28/18	W0259	VENTURA, MIESOWITZ, KEOUGH &	1,422.00	1386
117267	08/28/18	W0339	W.B. MASON	186.33	1386
117268	08/28/18	W0358	WAVELENGTH AUDIO VIDEO LLC	1,600.00	1386
117269	08/28/18	X0003	XEROX CORPORATION	170.10	1386
117270	08/28/18	X0005	XTEL COMMUNICATION	401.98	1386
117271	08/28/18	X0005	XTEL COMMUNICATION	1,436.65	1386
117272	08/28/18	Y0211	YAN, LIXIA & ZHOU, PENG	225.00	1386

Checking Account Totals	Paid	Void	Amount Paid	Amount Void
Checks:	147	0	8,440,111.72	0.00
Direct Deposit:	5	0	485.50	0.00
Total:	152	0	8,440,597.22	0.00

Report Totals	Paid	Void	Amount Paid	Amount Void
Checks:	147	0	8,440,111.72	0.00
Direct Deposit:	5	0	485.50	0.00
Total:	152	0	8,440,597.22	0.00

Totals by Year-Fund	Fund	Budget Total	Revenue Total	G/L Total	Total
CURRENT FUND	7-01	7,745.91	0.00	0.00	7,745.91
CURRENT FUND	8-01	8,263,316.15	0.00	0.00	8,263,316.15
DOG FUND	8-12	1,076.20	0.00	0.00	1,076.20
GOLF COURSE UTILITY	8-26	11,290.20	0.00	0.00	11,290.20
Year Total:		8,275,682.55	0.00	0.00	8,275,682.55
CAPITAL FUND	C-04	40,517.30	0.00	0.00	40,517.30
PUBLIC GRANTS	G-02	43,324.08	0.00	0.00	43,324.08
TRUST FUNDS	T-13	68,865.08	0.00	0.00	68,865.08
PROJECT		4,462.30	0.00	0.00	4,462.30
Total Of All Funds:		8,440,597.22	0.00	0.00	8,440,597.22

Resolution #2018-0375 - Personnel Appointment, Ryan Wallace – Public Works Supervisor, Public Works Department

WHEREAS, the full time position of Public Works Supervisor become available due to a resignation; and

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

WHEREAS, Ryan Wallace has applied for and is qualified to fill said position; and

WHEREAS, the Superintendent of Public Works, Township Administrator and Chief Financial Officer/Human Resources Officer recommend appointment of Ryan Wallace to the position of full time Public Works Supervisor.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bernards, that Ryan Wallace be appointed full time Public Works Supervisor with a hire date of Monday, September 3, 2018 at rate of \$83,000 for a 40 hour work week.

[Resolution #2018-0376](#) - *Personnel Appointment, Sean McCarthy – Chief Financial Officer, Finance Department*

WHEREAS, the full time position of Chief Financial Officer became vacant due to a retirement; and

WHEREAS, state statute 40A:9-140.10 requires every municipality have a chief financial officer appointed; and

WHEREAS, state statute 40A:9-140.13 requires said appointed chief financial officer hold a municipal finance officer certificate issued pursuant to provisions 40A:9-140.1; an

WHEREAS, Sean McCarthy has applied for and is qualified to fill said position; and

WHEREAS, Sean McCarthy holds the required state certification to accept this appointment; and

WHEREAS, the Township Administrator and Chief Financial Officer/Human Resources Officer recommend appointment of Sean McCarthy to the position of full time Chief Financial Officer; and

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Bernards, that Sean McCarthy be appointed full time Chief Financial Officer with a hire date of Monday, September 3, 2018 at an annual rate of \$114,000.00 for a 40 hour work week. Mr. McCarthy is eligible for a salary adjustment July 1, 2019.

NOW, THEREFORE BE IT FURTHER RESOLVED, the Township Committee of the Township of Bernards appoints Sean McCarthy as Chief Financial Officer for a 4-year term expiring December 31, 2022.

[Resolution #2018-0377](#) - *Personnel Appointment, Judith O'Connell – Supervisor of Treasury Services, Finance Department*

WHEREAS, the full time position of Supervisor of Treasury Services became available due to a staffing move within the finance department; and

WHEREAS, the Township Administrator and Chief Financial Officer/Human Resources Officer have deemed it necessary to fill this position; and

WHEREAS, Judith O'Connell has applied for and is qualified to fill said position; and

WHEREAS, the Township Administrator and Chief Financial Officer/Human Resources Officer recommend appointment of Judith O'Connell to the position of full time Supervisor of Treasury Services.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bernards, that Judith O'Connell be appointed full time Supervisor of Treasury Services with a hire date of Monday, September 3, 2018 at a rate of \$69,000.00 for a 40 hour work week.

[Resolution #2018-0378](#) - *Personnel Appointment, Ann Marie Rivera – Administrative Coordinator, Finance Department*

WHEREAS, the full time position of Administrative Coordinator become vacant due to a staffing move within the finance department; and

WHEREAS, the Township Administrator and Chief Financial Officer/Human Resources Officer have deemed it necessary to fill this position; and

WHEREAS, Ann Marie Rivera has applied for and is qualified to fill said position; and

WHEREAS, the Township Administrator and Chief Financial Officer/Human Resources Officer recommend appointment of Ann Marie Rivera to the position of full time Administrative Coordinator.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bernards, that Ann Marie Rivera be appointed full time Administrative Coordinator with a hire date of Monday, September 3, 2018 at an hourly rate of \$28.00 for a 40 hour work week.

[Resolution #2018-0379](#) - *Approval of Street Closing Permit for a Block Party on Blackburn Drive, 09/16/2018 (Rain date 09/30/2018)*

WHEREAS, Lisa McNey hereinafter “the applicant,” has applied for a street closing permit for a block party on Blackburn Drive on September 16, 2018 (rain date September 30, 2018) from 2:00 PM to 6:00 PM; and

WHEREAS, the applicant has 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 recommend approval.

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 #2018-0381](#) - *Personnel Appointment, Susan Long – Administrative Coordinator, Engineering Department*

WHEREAS, the full time position of Administrative Coordinator become vacant due to a retirement within the engineering department, and

WHEREAS, the Township Engineer, Township Administrator and Chief Financial Officer/Human Resources Officer have deemed it necessary to fill this position; and

WHEREAS, Susan Long has applied for and is qualified to fill said position; and

WHEREAS, the Township Engineer, Township Administrator and Chief Financial Officer/Human Resources Officer recommend appointment of Susan Long to the position of full time Administrative Coordinator.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bernards, that Susan Long be appointed full time Administrative Coordinator with a hire date of Monday, October 1, 2018 at an hourly rate of \$29.00 for a 40 hour work week.

[Resolution #2018-0382](#) - *Approval of Street Closing Permit for Block Party on Cameron Court 09/9/2018, Rain date 09/16/2018*

WHEREAS, Elizabeth Mannino, 17 Cedar Creek Court, Basking Ridge, hereinafter “the applicant,” has requested permission to temporarily close Cameron Court on 09/09/2018, with a rain date of 09/16/2018, from 2 PM to 8 PM for the purpose of holding a block party; and

WHEREAS, the applicant has satisfied the requirements of the Revised General Ordinances of the Township of Bernards § 7-16.1. et. seq.

WHEREAS, the Municipal Clerk and Police Chief have reviewed the application and recommend approval.

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 #2018-0383](#) - *Personnel Appointment, Gail Dillin – Administrative Coordinator, Department of Public Works*

WHEREAS, the full time position of the Administrative Coordinator became available as a key component to the succession planning of the Department of Public Works; and

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

WHEREAS, Gail Dillin has applied for and is qualified to fill said position; and

WHEREAS, the Superintendent of Public Works, Township Administrator and Chief Financial Officer/Human Resources Officer recommend appointment of Gail Dillin to the position of full time Administrative Coordinator.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bernards, that Gail Dillin be appointed full time Administrative Coordinator with a hire date of Monday, September 3, 2018 at an hourly rate of \$28.74 for a 40 hour work week.

Resolution #2018-0384 - Award of Bid for Lyons Road Pedestrian Bridge Replacement to Tricon Enterprises, Inc., 322 Beers Street, Keyport, NJ 07735, in the Amount of \$145,000.00

WHEREAS, the Township of Bernards received bids on Wednesday, August 8, 2018, at 10:30 AM for Lyons Road Pedestrian Bridge Replacement:

BIDDERS NAME	TOTAL BID AMOUNT
Tricon Enterprises, Inc.	\$145,000.00
Reivax Contracting Corp.	\$174,886.00
Assuncao Brothers, Inc.	\$186,410.42

WHEREAS, it is the combined recommendation of the Township Engineer, Administrator, and Purchasing Agent to award the contract to Tricon Enterprises, Inc., 322 Beers Street, Keyport, NJ 07735, in the amount of \$145,000.00; and

WHEREAS, the Chief Financial Officer has certified that funds are available in the budget; the line item appropriations or Capital Ordinance #2387 line account #C-04-55-387-A05; and

WHEREAS, this contract has been awarded to Tricon Enterprises, Inc., through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4, et seq.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Bernards, County of Somerset, State of New Jersey, that the bid be awarded to Tricon Enterprises, Inc., 322 Beers Street, Keyport, NJ 07735, in the amount of \$145,000.00.

NOW THEREFORE BE IT FURTHER RESOLVED, by the Township Committee of the Township of Bernards that in accordance with the bid specifications, the contract between Bernards Township ("Owner") and Tricon Enterprises, Inc. ("Contractor") shall contain:

1. Provisions of all labor, material, and equipment necessary to perform all work as indicated on the Drawings and Specified for the Lyons Road Pedestrian Bridge Replacement.
2. This contract shall, for all purposes, 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 not to exceed the total bid amount 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 B.
7. The Township may terminate this contract if contractor does not fulfill the services as outlined in the Bid Specification, upon five (5) days written notice via certified mail.
8. The work contemplated under the Contract shall be completed within 100 days of the Notice to Proceed.
9. The Contractor shall commence the work not later than ten (10) calendar days after the owner has given the Notice to Proceed Date to the Contractor in writing.
10. The completion time period shall include, but not be limited to, the time necessary to prepare shop drawings, to order, process, and deliver all equipment and materials, to obtain necessary permits and approvals, to perform the proper installation contemplated under this Contract and all else necessary and incidental in connection with the performance of this Contract.
11. If the Contractor fails to complete the work within the specified time plus extensions, the Contractor shall be responsible to the Township for liquidated damages in the sum of \$500.00 per day for every day thereafter until the completion and acceptance of the work. Such liquidated damages shall not be considered as a penalty. The Township shall deduct and retain out of any money due or to become due herein to Contract the amount of the liquidated damages.
12. In accordance with bid specifications, if the Contractor, upon notification by the Township of Bernards, fails to execute the contract prepared by the Township attorney within ten (10) days of such notification with the

Township of Bernards, the Township may rescind the award of the bid to the Contractor and award the contract to another bidder, and shall have the right to proceed against the guaranty accompanying the bid.

I agree to the terms as stated in this Resolution and by signing this document, as I am committed to follow all terms of this award.

Denise Petrizzo, President

CFO CERTIFICATION

I, Terri Johnson, Chief Financial Officer of the Township of Bernards, hereby certify that adequate funds are available for the above referenced purchase in the not to exceed amount of \$145,000.00. Monies are available in the Capital Ordinance #2387 line item account #C-04-55-387-A05.

Date: 8/16/18

Terri Johnson
FOR TREASURY
CERTIFICATION ONLY

Terri Johnson, Chief Financial Officer

Resolution #2018-0385 - Unused Vacation Accrual Due, James Ferratti, Bernards Township Department of Public Works

WHEREAS, the Township Committee adopted Resolution No. 2018-0066 at their regularly scheduled meeting of January 2, 2018, accepting the Personnel Policies and Procedures that outline guidelines for pay-outs when employees leave the Township's payroll; and

WHEREAS, James Ferratti's employment terminated on August 17, 2018; and

WHEREAS, per the requirements of the Township's Personnel Policy, James Ferratti is entitled to a Vacation Time Accrual payment for vacation time as calculated below based on an hourly rate of \$43.25. If the employee uses vacation time prior to his resignation date, the calculation below could be less but not more.

	Total Hours Available	Amount Due
2018 Vacation Accrual	24.75	\$1,070.44

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Bernards that the unused accrued vacation payment be approved and distributed in the next available pay cycle.

CFO CERTIFICATION

I, Terri Johnson, Chief Financial Officer of the Township of Bernards, do hereby certify that there are adequate funds for this expenditure. Funds are available in the Streets and Roads S&W, Line Account #8-01-26-290-101 for an amount not to exceed \$1,070.44.

Date: 08/17/2018

Terri Johnson
FOR TREASURY
CERTIFICATION ONLY

Terri Johnson, CFO

Resolution #2018-0386 - Appointment to the Green Team Advisory Committee, Jorge Casacuberta

BE IT RESOLVED, by the Township Committee of the Township of Bernards that the following appointment is made to the Green Team Advisory Committee: Jorge Casacuberta, Regular Member, 1 year term expiring 12/31/18

Resolution #2018-0387 - Expressing Opposition to the Proposed Solid Waste Transfer Station/Material Recovery Facility on Old Quarry Road in Bernardsville Borough

WHEREAS, the Township of Bernards received a letter from the NJDEP notifying the Township of an application for a Solid Waste Facility Permit for a proposed solid waste transfer station located at 33 Old Quarry Road, in Bernardsville Borough; and

WHEREAS, the proposed facility will accept 100 tons of solid waste per day and hours of operation will be 6:00am to 6:00pm for waste acceptance and 6:00pm to 10:00pm for processing, loading and trucking, seven days per week; and

WHEREAS, the Township Committee and the residents of the Township of Bernards have serious concerns this Solid Waste Transfer Station/Material Recovery Facility will have on traffic, pollution, air quality, possible groundwater contamination, hours of operation and noise.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bernards, that we do hereby strongly express our current opposition to the proposed Solid Waste Transfer Station/Material Recovery Facility on Old Quarry Road in Bernardsville Borough due to the negative impact on the environment and quality of life.

NOW THEREFORE BE IT FURTHER RESOLVED, by the Township Committee of the Township of Bernards that a copy of this resolution be sent to the NJ DEP c/o Anthony Fontana, Chief Bureau of Solid Waste Permitting and the Borough of Bernardsville.

[Resolution #2018-0388](#) - *Authorizing and Approving Purchase of Computer Equipment from New Jersey State Co-Operative Contract #M7000, and Educational Services Commission of New Jersey Contract # 18/19-03 to CDW Government LLC., 230 N Milwaukee Ave., Vernon Hills, IL 60061-9740, in the Amount Not to Exceed \$ 70,000.00*

WHEREAS, the Township of Bernards wishes to purchase computer equipment from N. J. State Co-Operative Contract (WSCA) #M7000 and Educational Services Commission of New Jersey Co-Operative Contract 18/19-03; and

WHEREAS, the N.J. State Division of Purchase and Property and Educational Services Commission of New Jersey Co-Operative awarded a contract to CDW Government LLC., 230 N Milwaukee Ave., Vernon Hills, IL 60061-9740, and

WHEREAS, the Township is authorized to make purchases through cooperative and State contracts pursuant to N.J.S.A. 40A:11-10 and 12; and

WHEREAS, it is the recommendation of the IT Director and the Purchasing Agent to purchase computer equipment from N. J. State Contract #M7000 and Educational Services Commission of New Jersey Co-Operative contract # 18/19-03.

NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bernards that the Purchasing Agent be authorized to issue purchase orders to CDW Government LLC., 230 N Milwaukee Ave., Vernon Hills, IL 60061-9740 through December 31, 2018.

[Resolution #2018-0389](#) - *Authorization for Tax Refund*

WHEREAS, a tax overpayment exists because the property owner or mortgage company erroneously overpaid for the current year taxes; and

WHEREAS, the owner or mortgage company has requested from the tax collector that a refund be issued.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Bernards, that we do hereby approve and authorize the following refunds.

Block & Lot	Quarter & Year	Amount	Issue Refund To
708/25	3Q2018	\$1,989.15	Wali M & Mayra E Amami 35 Southard Pl Basking Ridge NJ 07920

[Resolution #2018-0391](#) - *Authorizing the Termination of a Drainage Easement on Block 1104, Lot 20, 50 Ellis Road, Basking Ridge, NJ*

WHEREAS, a certain 10' drainage easement exists as shown on a Filed Map entitled "Map Showing Subdivision of Tract of Land Belonging to Conkling Lumber Company, Basking Ridge, Bernards Township, Somerset County, New Jersey" dated September 1957 and filed April 30, 1958 as Filed Map No. 545 in the Somerset County Clerk's Office and as shown in Block 1104 Lot 20 on the Tax Map of the Township of Bernards (the "Easement"); and

WHEREAS, Bernards Township acknowledges that the Easement has been abandoned and intends to terminate its usage of the Easement permanently because it was not used as planned when the development was built and a house is located on it.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Bernards that we do here authorize the termination of the drainage easement on Block 1104, Lot 20, 50 Ellis Road, Basking Ridge; and

NOW THEREFORE BE IT FURTHER RESOLVED, by the Township Committee of the Township of Bernards that we authorize the Mayor and Clerk to execute the termination of drainage easement on behalf of the township.

****End Consent Agenda****

Resolution #2018-0380 - Commendation on the Occasion of Your Employment with the Township of Bernards, Service Anniversaries

Motion by Carpenter, second by Malay, and unanimously agreed that the resolution be approved.

Roll Call:

Aye: Baldassare, Bianchi, Malay, Carpenter

Nay:

Abstain:

Motion carried.

Fred Miller – 35 years	Lucy Forgione – 35 years	Pat Monaco – 30 years
Patrick dePoortere - 30 years	Michael Voorhees – 25 years	Bernd Frankle – 25 years
Glen Amerman – 20 years	Jon Burger – 20 years	Eric Geleta – 20 years
Gina Loschiavo – 20 years	Raymond Gizienski – 15 years	Alex McKnight – 15 years
John Neiman – 15 years	Richard Bahlman – 15 years	Tricia Cowell – 15 years
Jennifer Gander – 15 years	Kelly Kellaway – 15 years	John Krug – 15 years
Johnny Rodriguez – 15 years	Thomas Timko – 10 years	Christopher Albanese – 10 years
Marie LaMaire – 10 years	David Martin – 10 years	Robert Yeager – 10 years
Cheryl Komline – 10 years	Michelle Santoro – 10 years	Ellen Ryan – 10 years
Robert Houlihan – 5 years	Anthony England, Jr – 5 years	Philip Jasina – 5 years
Rachel Talbert – 5 years		

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 a member of the Township of Bernards Employee Family; and

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

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bernards that its sincere appreciation is given to acknowledge your worthwhile contribution towards the material development, communal welfare and quality of life in the Township of Bernards.

BE IT FURTHER RESOLVED a heartfelt congratulations is extended to you on the occasion of your anniversary of employment with the Township of Bernards.

Ordinance #2403 - Accepting a Wetlands Conservation Easement on Property Located at 18 Stone Creek Lane; Block 5801, Lot 10, from Arie and Tara Kanofsky to the Township of Bernards – Introduction

The clerk read the ordinance by title. Motion by Malay, second by Bianchi, that Ordinance #2403 be introduced on first reading, advertised as required by law, and schedule for a public hearing on 09/11/2018.

Roll Call:

Aye: Baldassare, Bianchi, Malay, Carpenter

Nay:

Abstain:

Motion carried.

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. Pursuant to the Local Land and Buildings Law, N.J.S.A. 40A:12-1 et seq., Bernards Township hereby accepts from Arie and Tara Kanofsky, 18 Stone Creek Lane, Basking Ridge, NJ, 07920, a Wetlands Conservation Easement on Block 5801, Lot 10, in Bernards Township.
2. The easement is on file with the office of the Township Clerk.
3. This Ordinance shall take effect upon its final passage and publication according to law.

[Ordinance #2404](#) - An Ordinance of the Township of Bernards Deleting from Chapter 3 "Police Regulations" Section 18 "Private Property, Nonconsensual Vehicle Towing Regulations" entirely, and Merging it with Amendments Into Chapter 4 "General Licensing" Section 7 "Municipal Police Rotation Towing Services" – Introduction

The clerk read the ordinance by title. Motion by Bianchi, second by Malay, that Ordinance #2404 be introduced on first reading, advertised as required by law, and schedule for a public hearing on 09/11/2018.

Roll Call:

Aye: Bianchi, Malay, Carpenter

Nay:

Abstain: Baldassare

Motion carried.

BE IT ORDAINED, by the Township Committee of the Township of Bernards in the County of Somerset that Chapter 3 "Police Regulations," Section 18 "Private Property, Nonconsensual Vehicle Towing Regulations," of the Revised General Ordinances of the Township of Bernards is deleted in entirety from Chapter 3, and Merged with Amendments into Chapter 4 "General Licensing."

§ 4-7.1 Definitions.

As used in this section, the following terms shall have the meanings indicated:

BASIC TOWING SERVICE

"Basic tow" means private property towing and other non-consensual towing as defined in this section and other ancillary services that include the following: arriving at the site from which a motor vehicle will be towed; 15 minutes waiting time; hooking a motor vehicle to, or loading a motor vehicle onto, a tow truck; transporting a motor vehicle to a storage facility; unhooking or unloading a motor vehicle from the tow truck; and situating the motor vehicle in the space in which it will be stored. "Basic tow" also includes issuing documents for the release of a motor vehicle to its owner or other person authorized to take the motor vehicle; issuing an itemized bill; three trips to the motor vehicle in storage, which, if applicable, include making a vehicle available to an insurance appraiser or adjuster; issuing documents for the release of a motor vehicle to its owner or other person authorized to take the motor vehicle; and retrieving a motor vehicle from storage during the hours in which the storage facility is open.

BUSINESS OFFICE

The business office of the towing operator where the towing operator shall conduct business associated with the towing and storage of vehicles.

CHIEF OF POLICE

The Chief of the Bernards Township Police Department or his/her designee.

DECOUPLING

Releasing a motor vehicle to its owner or operator when the motor vehicle has been, or is about to be, hooked to or lifted by a tow truck, but prior to the motor vehicle actually having been moved or removed from the property.

MOTOR VEHICLE

Shall include all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles, motorized scooters, motorized wheelchairs and motorized skateboards.

NONCONSENSUAL TOWING

The towing of a motor vehicle without the consent of the owner or operator of the vehicle. "Nonconsensual towing" includes towing a motor vehicle when law enforcement orders the vehicle to be towed whether or not the owner or operator consents.

PERSON

An individual, a sole proprietorship, partnership, corporation, Limited Liability Company or any other business entity.

PRIVATE PROPERTY OWNER

The owner or lessee of private property, or an agent of such owner or lessee, but shall not include a private property towing company acting as an agent of such owner or lessee.

PRIVATE PROPERTY TOWING

The nonconsensual towing by a motor vehicle from private property or from a storage facility of a consumer's motor vehicle that is parked illegally, parked during a time at which such parking is not permitted, or otherwise parked without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. This term shall not include the towing of a motor vehicle that has been abandoned on private property in violation of N.J.S.A. 39:4-56.5, provided that the abandoned vehicle is reported to the appropriate law enforcement agency prior to removal and the vehicle is removed in accordance with N.J.S.A. 39:4-56.6.

RECOVERY

Extraordinary Towing Service – The removal and transportation of a motor vehicle with a registered weight rating over 10,000 pounds from a highway, street or other public or private property. Extraordinary towing service shall also include the recovery of vehicles with a registered weight rating of 10,000 pounds or less that require exceptional methods to retrieve and/or tow the vehicle. “Exceptional methods” are tasks outside the routine scope of vehicle recovery, including but not limited to up-righting an overturned vehicle, and winching a vehicle from a location off the roadway.

SECURE STORAGE FACILITY

A storage facility that is either completely indoors or is surrounded by a fence, wall or other physical barrier that is at least six feet high and is lighted from dusk to dawn.

STORAGE FACILITY

A space at which motor vehicles that have been towed are stored by the towing operator.

TOWING

The moving or removing from public or private property or from a storage facility by a motor vehicle of a consumer's motor vehicle that is damaged as a result of an accident or is otherwise disabled, is recovered after being stolen, or is parked illegally or otherwise without authorization, parked during a time at which such parking is not permitted, or otherwise parked without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. Dues or other charges of clubs or associations which provide towing services to club or association members shall not be considered a service charge for purposes of this definition.

TOWING LIST

The list maintained by the Bernards Township Police Department containing the names of those active towing operators who are licensed with the Township to provide municipal towing services for the Township.

TOWING OPERATOR

Any person in the business of or offering the services of a towing service whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle adapted to and designated for that purpose.

TOWNSHIP

The Township of Bernards, Somerset County, New Jersey.

VEHICLE

Any device in, upon or by which a person or property is or may be transported upon a highway.

YARD FEE

Any fee charges to move a stored vehicle within the tow yard. The vehicle shall be stored in a manner to facilitate access and removal from the tow yard. Yard fees are unauthorized under this section.

§ 4-7.2 Purpose for Rotational Ordinance and Non-Consensual Ordinance.

It is the purpose of this section is to regulate towing operations within the township.

§ 4-7.3 Licenses.

- a. A towing operator desiring to provide towing services within the Township must obtain a license from the Township for such services.
- b. A license shall be issued for a period of three years.
- c. The Township Committee shall have the sole discretion to deny a license to any towing operator failing to file the requisite application or to meet the requirements of this ordinance based upon the recommendation of the Chief of Police

- d. Licenses may be awarded by the Township at any time. The license shall not be exclusive, with the Township being able to award licenses to multiple towing operators at any time.

§ 4-7.4 Fees

- a. The following fees for a towing application shall apply:
- Rotational: \$ 500.00
 - Non-Consensual: \$ 500.00
 - Rotation/Non-Consensual Combination: \$ 750.00

§ 4-7.5 Application

- a. Towing operators must file an application with the municipal clerk to obtain or renew a towing license within the township.
- b. The applicant shall state the complete street address of the location or locations from which the business of towing shall be conducted, indicating which is its principal location and which is its storage facility(s), which shall meet the requirements of Subsection 4-7.13 of this section. The applicant shall provide a copy of a valid certificate of occupancy for the storage facility for automobile-related uses.
- c. The applicant shall identify and provide a description of its towing vehicles, including vehicle registration number, gross vehicle weight, number of wheels and purpose, with which the applicant intends to provide towing services; and which shall meet the requirements of Subsection 4-7.6 of this section. The applicant shall provide copies of the equipment manufacturer's specification for each piece of equipment.
- d. The applicant shall disclose whether he, or if the applicant is an entity, any person with an interest of 10% or more in the entity, or any towing company in which such person has an interest of 10% or more, is subject to any of the disqualification specified in §4-7.7.
- e. The applicant shall provide the name, address and driver's license number of the applicant and all employees of the applicant that are expected to be involved in the operation of the applicant's vehicular equipment for the towing of motor vehicles. All drivers for the applicant shall be at least 18 years of age and possess a valid driver's license for the operation of the towing equipment.
- f. The applicant shall obtain a criminal background check of the applicant and all of its employees and agents, including the obtainment of a driver's abstract. The costs associated with obtaining the criminal background checks shall be the responsibility of the applicant.
- g. The application shall include a valid original certificate of insurance from an insurer authorized to do business in the state, at the minimum amounts set forth in Subsection 4-7.11 of this section.
- h. The applicant shall provide written proof of a minimum of five years' towing experience. The applicant shall provide a minimum of three references of the applicant's towing experience.
- i. The applicant shall provide copies of all certifications for its employees as follows:
1. Each light-duty driver, each heavy-duty driver and each recovery supervisor from a nationally recognized organization.
- The nationally recognized organizations that are acceptable to the Township are:
- j. Towing and Recovery Association of America (800-728-0136), Wreck Master (800-267-2266), Garden State Towman's Association (732-530-4782).The applicant shall furnish any additional information concerning the company, personnel, vehicles, equipment and storage facilities of the applicant as may be required by the Municipal Clerk or Chief of Police during the review of the application.
- k. If any of the information required in the application changes, or if additional information should be added after the filing of the application, the applicant shall provide that information to the Municipal Clerk, in writing, within 30 calendar days of the change or addition. Any application to add an additional driver during the contract term shall be accompanied by a fee of \$25.
- l. The applicant shall provide a certified statement of the willingness of the towing operator to be available on a twenty-four-hour, seven-day-per-week basis, and to abide by the instructions and directions of the Chief of Police, his subordinates, and the provisions of this ordinance. Such towing operators shall further provide the telephone number or numbers available on a twenty-four-hour, seven-day-per-week basis.
- m. The applicant shall provide a certified statement of compliance with the minimum requirements of Subsection 4-7.6 of this section.

§ 4-7.6 Minimum Requirements Rotational Towing; Equipment.

- a. Any towing operator providing municipal rotational towing services shall have a minimum of four vehicles which meet the minimum standards set forth below:
1. At least one light-duty wrecker with a minimum chassis rating of 15,000 pounds gross vehicle weight, equipped with a hydraulic boom rated for 8,000 pounds, equipped with a hydraulic wheel-lift with 3,000 pounds' lift capacity, and equipped with dual hydraulic winches with each having a capacity of 8,000 pounds, with each winch equipped with 100 feet of three-eighths-inch wire rope.

2. At least two flatbed-type wreckers with a minimum chassis rating of 25,500 pounds gross vehicle weight, equipped with a minimum twenty-one-foot bed, and equipped with a hydraulic wheel-lift with 3,000 pounds' lift capacity.
3. At least one of the above vehicles must have four-wheel drive.
4. In addition to foregoing requirements, the towing operator must own a heavy-duty wrecker with a minimum chassis rating of 33,000 pounds gross vehicle weight, as well as have a gross vehicle weight registered of 80,000 pounds, equipped with a hydraulic boom rated for a minimum of 35 tons, equipped with a hydraulic under-reach with a minimum 45,000 pounds' lift capacity, dual hydraulic winches, and have tandem rear axles.
5. All vehicles must be equipped with two-way radios, cab-mounted amber emergency warning lights (conforming to New Jersey Motor Vehicle Law standards and all light permits being obtained), tow sling-type bars with rubber straps and/or wheel-lift capability with safety straps to prevent damage to towed vehicles, and with steering locks for towing vehicles from the rear.

§ 4-7.7 Denials, Suspension or Revocation of License.

- a. The Township may deny, suspend or revoke any license for municipal towing services upon the recommendation of the Chief of Police, or upon other proof that the towing operator, or any of its employees or agents:
 1. Has obtained a registration through fraud, deception or misrepresentation;
 2. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
 3. Has engaged in gross negligence or gross incompetence;
 4. Has engaged in repeated acts of negligence or incompetence;
 5. Has had a towing operation registration or license revoked or suspended by any other state, agency or authority for reasons consistent with this section;
 6. Has violated or failed to comply on more than three occasions with the schedule of tariff or fee regulations herein; or
 7. Upon proof that the applicant or holder of the registration or, if the applicant is an entity, a person with an interest of 10% or more in the applicant or holder of a registration or any towing company in which such person was a person with an interest of 10% or more and was serving in such capacity at the time the conduct or conviction required to be disclosed occurred; or
 8. Has been convicted of:
 - a) A crime under Chapter 11, 12, 13, 14 or 15 of Title 2C of the New Jersey Statutes;
 - b) Motor vehicle theft or any crime involving a motor vehicle under Chapter 20 of Title 2C of the New Jersey Statutes; or
 - c) Any other crime under Title 2C of the New Jersey Statutes relating adversely to the performance of towing services or the storage of motor vehicles as determined by the Chief of Police.
- b. A final refusal to license or the suspension or revocation of a license by the Township shall not be made except upon reasonable notice to the applicant and an opportunity for the applicant to be heard by the Township Committee.

§ 4-7.8 Rotating List for Rotational Towing.

- a. The Chief of Police is authorized to establish a system of rotation for the assignment of licensed towing operators to provide municipal towing services required pursuant to this section. Pursuant to N.J.S.A. 40A:11-5(1)(w), the rotation system shall be established on a nondiscriminatory and non-exclusionary basis. Only licensed towing operators with the Township shall be assigned to the rotation list. A towing operator shall be added to the rotation list at any time upon being licensed with the Township pursuant to this section. All new licensed towing operators shall be assigned to the rotation list at the bottom of such list. The rotation list shall be composed so as to permit a reasonable rotation of licensed towing operators. If the towing operator currently on call under the rotation list cannot respond and provide the required municipal towing service, the Township shall move to the next towing operator on the rotation list. If no towing operator on the rotation list is able to respond and provide the required municipal towing service, the Chief of Police may deviate from the rotation list and arrange for another towing operator to provide such service.
- b. Notwithstanding the above rotation list, in the interests of public safety, the Chief of Police, at his/her discretion, taking into account the emergency, safety and location of the situation, may part from the rotation list and call for the closest available towing operator to respond.

§ 4-7.9 Non Consensual Towing.

- a. No person shall tow any motor vehicle parked for an unauthorized purpose from any privately owned parking lot, from other private property or from any common driveway without the consent of the motor vehicle owner or operator, unless the person is registered with the Township, is authorized to act by the owner of the private property as set forth in Subsection b, and there is posted in a conspicuous place at all vehicular entrances to the

property which can easily be seen by the public, a sign no smaller than 36 inches high and 36 inches wide stating:

1. The purpose or purposes for which parking is authorized and the times during which such parking is permitted;
 2. That unauthorized parking is prohibited and unauthorized motor vehicles will be towed at the owner's expense;
 3. The charges, which shall not exceed the fee specified in ordinance on file with the Municipal Clerk for the towing and storage of towed motor vehicles; and
 4. The street address of the storage facility where the towed vehicles can be redeemed after payment of the posted charges and the times during which the vehicle may be redeemed.
- b. A towing company shall not remove a motor vehicle from private property without the consent of the owner or operator of the vehicle, without first obtaining the written authorization from the property owner or lessee, or its employee or agent, who shall verify the alleged violation with the Police Department by way of notification pursuant to § 4-7.19 herein below, if it occurs during normal business hours of any premises at the location operated by the property owner or lessee authorizing the removal of the vehicle, except that general authorization in writing shall be sufficient for the removal of a motor vehicle parked on private property within 15 feet of a fire hydrant, standpipe or other water source for fighting fires; in a fire lane; in an identified handicap restricted parking area; in a manner that interferes with the entrance to or exit from the property; or if the violation occurs at a time other than during normal business hours of the premises of the property owner or lessee authorizing the removal of the vehicle.
- c. Except as provided in Subsection d of this section, the owner or person in lawful possession of private property may cause the removal of the motor vehicle parked on the property by a towing company registered and in compliance with this § 3-18 if signs are posted on the property as required under Subsection a of this section, or if the vehicle is parked on the property for longer than 48 hours.
- d. The provisions of this subsection shall not apply to a motor vehicle parked on a lot or parcel on which is situated a single-family unit, or an owner-occupied multi-unit structure of not more than six units, or in front of any driveway where the motor vehicle is blocking access to that driveway.
- e. A towing company must release the vehicle to its owner who returns to the vehicle before it is removed from the property. In such instances, the towing company shall only charge the decoupling fee, and not require payment of the full basic tow fee.

§ 4-7.10 Schedule of Services Eligible for Charging Fee; Reasonable Fees.

Rotational Towing:

- a. A rotational towing operator may only charge a fee for those towing and storage services set forth as follows, plus the cost of any materials, parts or fuel, unless otherwise provided for in N.J.A.C. 13:45A-31.4:

	Fees (not to exceed) Day	Fees (not to exceed) Night/Weekend/ Holiday
Basic Tow Fee		
Light-duty rate (less than 10,000 G.V.W.)		
Tow	\$125	\$150
Recovery	\$150	\$200
(Basic tow is a flat rate)		
(Recovery is billed per hour, per truck, with 1 hour minimum and 30-minute increments thereafter)		
Medium-duty rate (10,000 to 32,000 G.V.W.)		
Tow	\$150	\$200
Recovery	\$250	\$350
(Basic tow is a flat rate)		
(Recovery is billed per hour, per truck, with 1 hour minimum and 30-minute increments thereafter)		
Heavy-duty rate (greater than 32,000 G.V.W.)		
Tow	\$400	\$450
Recovery	\$450	\$500
(Basic tow is a flat rate)		
(Recovery is billed per hour, per truck, with 1 hour minimum and 30-minute increments thereafter)		

	Fees (not to exceed)	Fees (not to exceed)
	Outside	Inside
Storage		
Light-duty (per day)	\$35	\$50
Medium-duty (per day)	\$75	\$100
Heavy-duty (per day)	\$100	\$200
Mileage	\$4 per mile from scene or site of tow	
Road service	\$75 per call	
Decoupling fee	\$25 per call	
Clean-up labor charge	\$50 per hour	

- b. A towing operator may not charge a service fee for towing and storage services which are ancillary to and shall be included as part of basic towing services and is not included in the schedule approved by the Township.
- c. A towing operator must accept all forms of payment, such as a debit card, charge card or credit card, for payment in lieu of cash for towing or storage services if the operator ordinarily accepts such payment at his place of business.
- d. A towing operator that engages in private property towing or other nonconsensual towing shall calculate storage fees based upon full twenty-four-hour periods a motor vehicle is in the storage facility. For example, if a motor vehicle is towed to a storage facility at 7:00 p.m. on one day and the owner of the motor vehicle picks up the motor vehicle on or before 7:00 p.m. the next day, the towing operator shall only charge the owner of the motor vehicle for one day of storage. If a motor vehicle is stored for more than 24 hours, but less than 48 hours, the towing operator may only charge for two days of storage.
- e. A bill for private property tow or other nonconsensual tow shall include the time at which a towed motor vehicle was delivered to a towing company's storage facility.
- f. Municipal storage rates. Storage fees to be charged to or on account of the Township for the storage of Township-owned or -operated vehicles shall not exceed those fees permitted by N.J.S.A. 40:48-2.50.
- g. The Township Committee may annually change the fees set forth herein by duly adopted resolution.

Non-Consensual

- a. A towing company may only charge a service fee for the following schedule of towing and storage services, unless otherwise provided for by state law:

Service Provided	Fees (not to exceed)
Full basic tow fee	\$ 100
Administration fee	\$ 30
Storage fee	
Inside storage, per day	\$ 35
Outside storage, per day	\$ 25
Decoupling fee	\$ 25

- b. A towing company may not charge a service fee for towing and storage services which are ancillary to and shall be included as part of basic towing services, and is not included in the schedule approved by the Township.
- c. A towing company must accept all forms of payment, such as a debit card, charge card or credit card, for payment in lieu of cash for towing or storage services if the operator ordinarily accepts such payment at his place of business.
- d. A towing company that engages in private property towing or other nonconsensual towing shall calculate storage fees based upon full twenty-four-hour periods a motor vehicle is in the storage facility. For example, if a motor vehicle is towed to a storage facility at 7:00 p.m. on one day and the owner of the motor vehicle picks up the motor vehicle on or before 7:00 p.m. the next day, the towing company shall only charge the owner of the motor vehicle for one day of storage. If a motor vehicle is stored for more than 24 hours, but less than 48 hours, the towing company may only charge for two days of storage.

§ 4-7.11 Insurance Requirements.

In addition to the insurance requirements set forth in N.J.A.C. 45A-31.3, as may be amended from time to time, all licensed towing operators providing municipal towing services must maintain the following insurance policies, naming the Township as an additional insured:

- a. Motor vehicle liability for a tow truck capable of towing a motor vehicle that is up to 26,000 pounds, for the death of or injury to persons and damage to property for each accident or occurrence in the amount of \$750,000, single limit; and
- b. Motor vehicle liability for a tow truck capable of towing a motor vehicle that is more than 26,000 pounds, for the death of or injury to persons and damage to property for each accident or occurrence in the amount of \$1,000,000, single limit.
- c. Garage keeper's policy: a garage keeper's liability policy in the minimum amount of \$100,000, and on-hook coverage, for each vehicle damaged on a separate claim.
- d. Garage liability policy: a garage liability policy covering the applicant's business, equipment and vehicles in the minimum amount of \$500,000 for any one person injured or killed, and a minimum of \$1,000,000 for more than one person killed or injured in any accident and an additional \$100,000 for any damage arising from injury to or destruction of property, and/or a combined single limit of \$1,000,000. In addition to each policy containing an endorsement showing the Township as an additional insured, such policy shall also provide an endorsement entitling the Township to 30 days' prior written notice to the Chief of Police in the event of any change in coverage under the policy, or in the event of the cancellation of the policy.
- e. Worker's compensation policy: a worker's compensation policy covering all of the applicant's employees and operators, containing statutory coverage, including liability coverage of at least \$100,000 for each accident per person, \$500,000 policy aggregate limit per disease, and \$100,000 for each disease per person.
- f. Umbrella liability insurance policy in the amount of \$5,000,000.

§ 4-7.12 Indemnification.

Any license issued by the Township to a towing operator pursuant to this section shall include a provision whereupon the licensed towing operator assumes all liability and shall indemnify and save the Township, its committees, boards, departments, agents, and employees, harmless from damages or losses sustained by vehicles while being towed, stored or released from the towing operator's possession, and from all personal injuries and property damage occurring to any persons or property as a result of the performance of the towing operator's services, including, but not limited to, towing, storage, or other such activities relating to the municipal towing services. All responsibility for the release of a stored vehicle shall be on the towing operator only.

§ 4-7.13 Storage Facilities.

- a. The towing operator providing towing services must tow all vehicles to a storage facility meeting the following requirements:
 1. Has a business office opened to the public between 8:00 a.m. and 6:00 p.m. at least five days a week, excluding holidays;
 2. Have the ability to provide inside vehicular storage;
 3. Have the ability to store a minimum of six vehicles;
 4. Is safe and secured, such as being completely fenced in;
 5. If it is an outdoor storage facility, lighted from dusk to dawn; and
 6. Is located within 10 driving miles of any Township border.
- b. The towing operator shall provide reasonable accommodations for after-hours release of stored motor vehicles and shall not charge a release fee or other charge for releasing motor vehicles to their owners after normal business hours or on weekends.

§ 4-7.14 Rotational Towing Standards of Towing Operator Performance.

All towing operators who have been licensed with the Township to provide rotational towing services shall be obligated to comply with the following duties and regulations:

- a. Remove and tow to the designated storage facility all vehicles directed by the Chief of Police to be removed and towed because such vehicles are, in the Chief of Police's sole discretion designated as abandoned, illegally parked, disabled, involved in an accident, or to be impounded because of criminal or other investigation. At the sole discretion of the Chief of Police, taking into consideration safety concerns, the owner or operator of a disabled vehicle may be permitted to arrange for the vehicle to be towed by a towing operator of his/her choice.
- b. Store such vehicles and move such vehicles as directed by Chief of Police. When not otherwise directed or required by the Chief of Police, the owner or operator of a disabled vehicle may request that the vehicle be towed to a location other than the designated storage facility. Upon direction of the Chief of Police, the towing operator shall not release a vehicle towed which is subject to a criminal investigation, including, without limitation, compliance with "John's Law," without prior authorization by the Chief of Police.
- c. Provide twenty-four-hour, seven-day-a-week service to the Township during the term of the license.
- d. Not utilize answering machines or answering services when on call under the rotation list.
- e. Respond promptly to all requests for municipal towing services by the Chief of Police. In any event, the towing operator shall respond and be present at the location (all locations within the Township) for municipal towing services within 15 minutes of receipt of notice of same between the hours of 8:00 a.m. and 5:00 p.m. (hereinafter "daytime"), and within 25 minutes of receipt of notice between the hours of 5:01 p.m. and 7:59 a.m.

(hereinafter "nighttime"). In the event a towing operator does not arrive at the tow location within the above time periods, the police officer on the scene shall have the right to have a substitute towing operator called to the location who will have the right to perform the municipal towing services; and the originally called towing operator shall have no right to payment from any party.

- f. Not charge any fee for replacement of equipment or materials provided at the scene of the tow.
- g. Tow any and all disabled Township-owned or -operated vehicles upon request by the Chief of Police to a location within the Township. The towing operator will not charge the Township for the towing of Township-owned passenger vehicles or pick-up trucks within two miles of the Township border to a location within the Township. All other towing of Township-owned or -operated vehicles shall be charged pursuant to Subsection 4-7.10 at a discount of 20%. Nothing herein shall limit the Township from utilizing the towing services provided for in any public bid contract.
- h. Clean up all broken glass and debris at the scene of accidents. (All towing operators must be equipped with a broom and a shovel.)
- i. Ensure that all drivers and operators of the towing operator must wear ANSI Class 3 reflective safety vests at all times when responding to a request by the Township.
- j. Furnish additional towing equipment and services during storm periods, periods of snow emergencies, traffic emergencies, natural or other disasters, any acts of God, and for any other reason when so designated by the Chief of Police. Such standby service shall begin and end when the Chief of Police notifies the towing operator. The Township reserves the right, during any such emergency, to designate temporary areas owned or leased by the Township and/or the towing operator for the storage of disabled vehicles, and to direct the towing operator to remove such disabled vehicles to said areas.
- k. Document Record of all vehicles towed and/or stored as prescribed by the Chief of Police and retain such records for a period consistent with records retention schedules subject to the Open Public Records Act.. In all of the towing operator's dealings with the public, the towing operator shall act in a professional manner, courteous at all times, and respectful to members of the public, as well as representatives of the Township. Reports of discourteous behavior by the towing operator or his/her drivers which may be substantiated and documented shall be considered by the Township as sufficient cause for revocation and termination of the towing operator's license, and be considered as material default under any license entered into with a towing operator pursuant to this section.

§ 4-7.15 Solicitations.

All persons, towing operators, and owners of towing equipment are hereby prohibited from soliciting business at the scenes of accidents and emergencies within the Township

§ 4-7.16 Complaints and Dispute Resolution.

Any person having a dispute or complaint arising from a specific act of towing services or storage of motor vehicles which is regulated by this ordinance shall present that complaint or dispute to the Chief of Police for resolution. The Chief of Police shall render his/her decision as to how the said complaint or dispute is to be resolved within 15 business days of his/her conducting a hearing as to the same. Such hearing can be in person, by telephone or on written presentation at the election of the Chief of Police. In the event of an adverse decision against a licensed towing operator, said license may be revoked. Any appeal of the Chief of Police's decision may be appealed to the governing body of the Township.

§ 4-7.17 Violations; Enforcement and Penalties.

- a. This ordinance shall be enforced by the Bernards Township Police Department.
- b. Any violation of the provisions of this ordinance shall subject such violator, upon issuance of a summons and conviction in municipal court, and at the court's discretion, to the fines and penalties set forth in Township's General Penalty Ordinance for each such violation.
- c. Any violation of the provisions of this section may also subject the violator to a revocation or non-issuance of the license with the Township. If a towing operator's license is revoked pursuant to this provision, such towing operator is barred from reapplying to the Township for a period of three years from the date of the revocation.
- d. In addition to any penalties or other remedies provided herein, the towing operator that has billed a person an amount in excess of the fee specified in this ordinance for the service provided shall reimburse such person for the excess cost.

§ 4-7.18 Unlawful Practices for Non-Consensual Towing.

It shall be an unlawful practice for any towing company:

- a. Provision of schedule of fees.
 - 1. Except as otherwise provided in Paragraph 2 of this subsection, to fail to provide the person whose motor vehicle is to be towed, prior to providing any towing services, a written schedule of fees.

2. To fail to provide the schedule and information required under Paragraph 1 of this subsection immediately upon being contacted by the person whose motor vehicle was towed, if that person was not present at the time the towing services were provided.
- b. To make, give, or cause any undue or unreasonable preference or advantage or undue or unreasonable prejudice or disadvantage to any person in any particular locality, with respect to providing towing services.
 - c. To give any benefit or advantage, including a pecuniary benefit, to any person for providing information about motor vehicles parked for unauthorized purposes on privately owned property or otherwise in connection with towing from privately owned property motor vehicles parked without authorization. Nothing in this section shall preclude a towing company, acting on behalf of a club or association, from charging members of the club or association a fee at a rate established by contract between the towing company and the club or association which is lower than the rate specified in the towing company's schedule on file with the Township, provided that membership in such club or association is generally available to the public.
 - d. To fail, when so requested by the owner or operator of a vehicle subject to nonconsensual towing, to release a vehicle to the owner or operator that has been, or is about to be, hooked or lifted but has not actually been moved or removed from the property when the vehicle owner or operator returns to the vehicle, or to charge the owner or operator requesting release of the vehicle more than the decoupling fee.
 - e. To charge any fee other than those charges established by municipal ordinance, or the rate specified in the towing company's schedule on file with the Township, or to charge a fee in an amount or for a service not listed on the schedule on file with the Township at the time. Nothing in this section shall preclude a towing company, acting on behalf of a club or association, from charging members of the club or association a fee at a rate established by contract between the towing company and the club or association which is lower than the rate specified in the towing company's schedule on file with the Township, provided that membership in such club or association is generally available to the public.
 - f. To refuse to accept for payment in lieu of cash or an insurance company check for towing or storage services, such as a debit card, charge card or credit card, if the operator ordinarily accepts such payment at his place of business.

§ 4-7.19 Notification to Police Department.

The towing of any vehicle without the consent of the owner must be reported to the Bernards Township Police Department prior to the removal of the vehicle from the property. The towing operator must advise the Police Department of the time and place from which the vehicle was towed, the license number, the vehicle identification number, the make, the model and color of the vehicle, and the location to which the vehicle was towed, in order to provide the Police Department the opportunity to verify that the license number matches the vehicle identification number.

Each section of this ordinance and every subsection hereof shall be deemed independent, separate and distinct from all other sections, and the holding of any section or a part hereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any section or part hereof.

All ordinances, codes or parts thereof that are inconsistent with this ordinance are repealed or otherwise modified.

The ordinance is effective upon passage and publication in accordance with the law; except that current holders of both Rotational and Private Property, Non-Consensual Vehicle towing licenses, shall have the term of their Private Property, Non-Consensual Vehicle Towing License extended to expire simultaneously with their current Rotational Towing License.

[Resolution #2018-0392](#) - *Authorizing and Approving a [Township Affordable Housing Agreement](#) with Mountainview Corporate Center, LLC*

Motion by Malay, second by Baldassare, that Resolution #2018-0392 be approved.

Roll Call:

Aye:	Baldassare, Malay, Carpenter
Nay:	Bianchi
Abstain:	
Motion carried.	

WHEREAS, the **TOWNSHIP OF BERNARDS**, a municipal corporation of the State of New Jersey, County of Somerset, having an address at Town Hall, One Collyer Lane, Basking Ridge, NJ 07920 (hereinafter the “Township”); and Mountainview Corporate Center, LLC a New Jersey limited liability company, having an address at c/o SJP Properties, 389 Interpace Parkway, Parsippany, NJ 07054 (hereinafter “Mountainview”); and the Township, referred to as the “Parties,” now desire to enter into a Settlement Agreement; and

WHEREAS, in compliance with the New Jersey Supreme Court’s decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), on or about July 2, 2015, the Township filed an action with the Superior Court of New Jersey (“Court”), entitled In the Matter of the Township of Bernards Compliance with Third Round Mount Laurel Affordable Housing Obligation, Docket No. SOM-L-899-15, seeking a Judgment of Compliance and Repeal approving its Affordable Housing Plan in addition to related reliefs (the “Compliance Action”); and

WHEREAS, Mountainview owns real property, known and designated as Block 11301, Lot 1 (“the Mountainview Property”) according to the Township’s tax and assessment maps; and

WHEREAS, the Affordable Housing Agreement does not purport to resolve all of the issues in the Compliance Plan, and, after a determination as to its affordable housing obligation, the Township intends to prepare a Housing Element and Fair Share Plan (hereinafter “Affordable Housing Plan”), that will be adopted by the Planning Board, endorsed by the Township Committee, and submitted to the Court for review and approval in the Compliance Plan; and

WHEREAS, the Affordable Housing Plan will include the Mountainview Property by including the MH-1 Multifamily Housing Zone to permit a maximum of 280 residential units, including 62 units to be affordable to very low, low, and moderate income households (the “Inclusionary Development”); and

WHEREAS, the Township will, in the future, seek the Court’s approval of the Affordable Housing Plan in connection with the Compliance Action and, regardless of the Court’s approval or disapproval of the Affordable Housing Plan and the ultimate disposition of the Compliance Action, the Parties intend to be bound by the Affordable Housing Agreement; and

WHEREAS, to ensure that the Inclusionary Development generates affordable housing credits to be applied to the Township’s Round 3 affordable housing obligations, the 62 affordable units within the Inclusionary Development shall be developed in accordance with COAH prior round regulations, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. (“UHAC”), and all other applicable laws, including a requirement that 13% of all affordable units are available to very low income households, and shall be deed restricted for a period of at least sixty (60) years pursuant to the Affordable Housing Agreement; and

NOW, THEREFORE, the parties state the purpose of the Affordable Housing Agreement is to create a realistic opportunity for the construction of the Inclusionary Developments, and to generate affordable housing credits for the Township to apply to any Round 3 obligation assigned to it. The concept site plan attached to the Affordable Housing Agreement and made a part and hereof as **Exhibit A** and is on file with the Municipal Clerk has been reviewed and approved by the Township and the Township’s professionals, who have determined that the concept plan is substantially consistent with the ordinance attached to the Affordable Housing Agreement as **Exhibit B** and is on file with the Municipal Clerk.

NOW, THEREFORE, BE IT RESOLVED, that Mountainview, its successors and assigns shall have an obligation to deed-restrict 62 of the residential units on the Property as very low, low, or moderate income affordable units. Any such affordable units shall comply with UHAC, applicable COAH affordable housing regulations, the FHA, any applicable order of the Court, and other applicable laws.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that in addition to the foregoing, the affordable units shall remain affordable family rental units for a period of at least sixty (60) years (“Deed-Restriction Period”) so that the Township may count the units against its obligations to provide family rental housing. This obligation includes, but is not limited to, the required obligation to comply with the bedroom distribution requirements, very low, low and moderate income split requirements, pricing requirements, affirmative marketing requirements, candidate qualification and screening requirements, and deed restriction requirements; and the distribution of the affordable housing units shall be in compliance with COAH’s Round Two substantive regulations, N.J.A.C. 5:93, which the Parties believe will govern the issue, or as approved by the Special Master and the Court; and Mountainview shall further contract with the Township’s administrative agent Central Jersey Housing Resources Center or its successor (“Administrative Agent”) for the administration of the affordable units in accordance with UHAC and other applicable laws for the Deed-Restriction Period. The Administrative Agent shall work with the Township regarding any affordable housing monitoring requirements imposed by COAH or the Court.

NOW, THEREFORE, BE IT FURTHER RESOLVED, within forty-five (45) days of the execution of this Agreement, the Township shall introduce the ordinance (hereinafter the “Rezoning Ordinance”, which is attached to the Affordable Housing Agreement as **Exhibit B**) that will permit the development of the Mountainview Property consistent with the Rezoning Ordinances, and reasonably consistent with the attached concept site plan (**Exhibit A**)

that allows for the development of the Mountainview Property and the construction of the Inclusionary Development. The Rezoning Ordinance will indicate that the 62 affordable units will be constructed in accordance with all applicable UHAC and COAH regulations. Upon introduction of the Rezoning Ordinance, the Township shall refer the Rezoning Ordinance to the Planning Board for review and recommendation at the Planning Board's next regularly scheduled meeting. At the next regularly scheduled Township Committee meeting after a recommendation has been made to the Township by the Planning Board regarding the Rezoning Ordinance, or after the expiration of the thirty-five (35) day referral period, whichever is earlier, the Township will vote on the approval of the Rezoning Ordinance. Notwithstanding the time periods set forth in this Section, the Rezoning Ordinance shall be adopted within the time period set forth in of the Affordable Housing Agreement on file with the Municipal Clerk.

[Resolution #2018-0390](#) - Approving and Authorizing a [Settlement Agreement](#) between the Township of Bernards and Fair Share Housing Center, Regarding the Matter Entitled In The Matter of the Application of the Township of Bernards [Determination of Compliance with Affordable Housing Obligations], Docket No. Som-L-899-15

Motion by Malay second by Baldassare, that Resolution #2018-0390 be approved.

Roll Call:

Aye: Baldassare, Malay, Carpenter
Nay: Bianchi
Abstain:
Motion carried.

WHEREAS, on March 10, 2015, the New Jersey Supreme Court issued its decision in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”). In that decision, the New Jersey Supreme Court transferred primary jurisdiction over affordable housing matters from the New Jersey Council on Affordable Housing (“COAH”) to the New Jersey Superior Court and established a transitional process for municipalities like the Township of Bernards to file declaratory judgment actions seeking to declare their Housing Element and Fair Share Plans to be constitutionally compliant and seeking similar protections to what they would have received if they had continued to proceed before COAH; and

WHEREAS, pursuant to N.J.S.A. 52:27D-313 and Mount Laurel IV, the New Jersey Superior Court has the authority to enter an Order granting protection and repose against exclusionary zoning litigation to a municipality that is in compliance with its affordable housing obligations under the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.; and

WHEREAS, in July 2015, in accordance with Mount Laurel IV, the Township filed a declaratory judgment action captioned In the Matter of the Application of the Township of Bernards, Docket Number SOM-L-899-15, in which it seeks a determination from the court that its proposed fair share plan complies with its Mt. Laurel obligation and a judgment of compliance and repose on the basis thereof; and

WHEREAS, Fair Share Housing Center (“FSHC”) has been deemed an intervener for purposes of the settlement agreement in the Township’s declaratory judgment action as an interested party; and

WHEREAS, the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households; and

WHEREAS, the Township and FSHC have agreed to settle this litigation by entering into the attached Settlement Agreement (the “Agreement”) and requesting that the Superior Court, Somerset County, find that this Agreement, and the approach to meeting the Township’s Prior Round (1987-1999) and Third Round (1999-2025) Mount Laurel obligations, as detailed therein, are fair to the interests of lower-income New Jerseyans and entitle the Township to protection from Mount Laurel litigation until July 6, 2025, from the Order entered by the court approving this Settlement Agreement; and

WHEREAS, all parties recognize that this Agreement must be reviewed by the court in accordance with the requirements of Morris County Fair Housing Council v. Boonton Township, 197 N.J. Super. 369, 364 (Law Div. 1984), aff’d o.b., 209 N.J. Super. 108 (App. Div. 1986) and East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328 (App. Div. 1996), and that, in order to approve the settlement, the court must find that it adequately protects the interests of lower-income persons for whom the affordable units proposed by the settlement are to be built; and

WHEREAS, the Township has, or will, identify specific sites and mechanisms that present a realistic opportunity for the development of housing affordable to lower-income households, including families, people with special needs and very-low-income households including very-low-income families; and

WHEREAS, at this time and at this particular point in the process resulting from the Supreme Court’s Mount Laurel IV decision, when fair share obligations have yet to be definitively determined it is appropriate for the parties to arrive at a settlement of those obligations using a mutually agreed upon process for determining those obligations in the context of a settlement rather than litigating a full resolution of those obligations.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of Bernards, County of Somerset, State of New Jersey, that

1. The Township hereby approves the Settlement Agreement on file with the Municipal Clerk between the Township of Bernards and Fair Share Housing Center in the form attached hereto; and
2. That the Mayor and the Township Clerk are authorized to execute this Agreement on behalf of the Township of Bernards.
3. The Township Attorney is authorized to present the Agreement for review and approval by the Superior Court of New Jersey, upon notice to all interested parties.
4. This Resolution shall take effect immediately.

[Ordinance #2405](#) - *An Ordinance of the Township of Bernards, County of Somerset, State of New Jersey, Amending, Revising and Supplementing the Code of the Township of Bernards, Chapter 21, “Revised Land Use Ordinances”, to Create a New MH-1 Multifamily Housing Zone - Introduction*
Motion by Malay, second by Baldassare, that Ordinance #2405 be introduced on first reading, advertised as required by law, referred to the Planning Board, and schedule for a public hearing on 09/11/2018.

Roll Call:

Aye: Baldassare, Malay, Carpenter
Nay: Bianchi
Abstain:
Motion carried.

BE IT ORDAINED by the Township Committee of the Township of Bernards, County of Somerset and State of New Jersey, that Chapter 21, entitled “Land Development”, of the Code of the Township of Bernards shall be amended, revised and supplemented as follows:

Part I. Existing § 21-10.1, entitled “Classes of Zones”, is amended to add the following development zone:

Zone	Description	Permitted Forms of Development
MH-1	Residential	Multifamily Housing

Part II. The Zoning Map of the Township of Bernards, as referenced in § 21-10.2.a.1, is revised such that the zoning designation of Lot 1 in Block 11301 is changed from E-3 Office to MH-1 Multifamily Housing.

Part III. A new Subsection 21-10.4.2, “MH-1 Multifamily Housing Zone”, is added:

§ 21-10.4.2. MH-1 Multifamily Housing Zone.

- a. Uses.
 1. Permitted Uses.
 - (a) Multifamily dwelling units, including townhouse units.
 - (b) Farming, agriculture and horticulture uses, excluding the raising or keeping of livestock or the operation of commercial greenhouses.
 2. Accessory uses.
 - (a) Accessory uses customarily incidental to the above permitted uses.
 3. Prohibited uses.
 - (a) Any use not designated as a permitted principal use or accessory use is prohibited.
- b. Requirements for multifamily dwelling units, including townhouse units.
 1. Applicability of Other Regulations. Except as otherwise specified in this subsection (21-10.4.2), all development within the MH-1 Zone shall be subject to all other provisions of this chapter. Where a provision set forth in this subsection conflicts with a provision set forth elsewhere in this chapter, this subsection shall supersede.

2. Minimum tract area: 70 acres.
3. Location of units: The tract shall have frontage on Mountain View Boulevard. Frontage on a public street is not required. Vehicular access to the development, other than emergency access, shall be limited to Mountain View Boulevard.
4. Maximum number and specification of multifamily dwelling units: 280, provided that no less than 62 of the units are to be rental units available to the general public set aside as affordable to low and moderate income households (the "Affordable Units"). The development shall include not less than 28 low-income units, of which at least 10 shall be very low-income units; and shall include a maximum of 34 moderate-income units, provided, however, that the average rent across all affordable units are affordable to households earning no more than 52% regional median income. The Affordable Units shall be integrated with market-rate units in one or more buildings. The Affordable Units shall be provided in accordance with the schedule set forth in N.J.A.C. 5:93-5.6(d) and in accordance with all other applicable New Jersey regulations and statutes governing the construction, delivery, marketing, tenant qualification, tenant placement, administration and maintenance of affordable units for inclusionary development.
5. Term of Affordable Units: In accordance with N.J.A.C. 5:80-26.1 et. seq., and in accordance with the voluntary agreement of the owner of the Mountainview property which, in part, induced the Township to re-zone that property to an inclusionary low and moderate income housing site, the period within which the Affordable Units shall be restricted to low and moderate income households shall be an initial 30-year term beginning on the date of issuance of a certificate of occupancy for each set-aside unit (the "initial 30-year term"), followed by a second 30-year term (the "second 30-year term") which, however, the Township shall have the option of cancelling. In the event that the Township does not provide written notice of cancellation of the second 30-year term prior to the conclusion of the initial 30-year term, the second 30-year term shall begin running automatically at the conclusion of the initial 30-year term. The Township shall be entitled to credits for the Affordable Units under the initial 30-year term for the Third Round of Mount Laurel compliance. The Township shall be entitled to credits for the Affordable Units under the second 30-year term for the round of Mount Laurel compliance in which the units expire as may be allowed by then-applicable law but those credits shall be subject to forfeiture in the event that the Township cancels the second 30-year term. After the end of the second 30-year term the Township will retain any rights it has under N.J.A.C. 5:80-26.1 et. seq. to continue to maintain affordability controls on the Mountainview site.
6. Minimum number of townhouse units: 60.
7. Maximum height of buildings, as measured from finished grade based on the grading plan approved by the Board, shall be as follows.
 - (a) Multifamily buildings, excluding townhouse units: four stories and 48 feet. If parking is provided within the building, the height may be increased to five stories. If a building is located at least 150 feet from any residential zone boundary, the height may be increased to 60 feet.
 - (b) Townhouse buildings: two and one-half stories and 40 feet. If all units within a building contain a walk-out or day-light rear basement or cellar wall with a minimum four-foot exposure above finished grade, the height of that building may be increased to 48 feet, provided that the total number of buildings exceeding 40 feet in height shall not exceed 50% of the total number of townhouse buildings.
8. Maximum lot coverage: 20%.
9. Multifamily buildings (excluding accessory structures and buildings), excluding townhouse buildings, shall comply with the following:
 - (a) Minimum building setback from any tract property line: 50 feet.
 - (b) Minimum building setback from any residential zone boundary: 150 feet.
 - (c) Minimum building setback from the curblineline or edge of pavement of any internal street, parking space or other vehicular area except at entrances to under building parking: 10 feet.
 - (d) Minimum distance between buildings: 50 feet.
10. Townhouse buildings shall comply with the following:
 - (a) Minimum building setback from any tract property line: 50 feet.
 - (b) Minimum building setback from any residential zone boundary: 100 feet.
 - (c) Minimum building setback from the curblineline or edge of pavement of any internal street, parking space or other vehicular area: 25 feet.
 - (d) Minimum distance between buildings:
 - (1) Front building wall to any other building wall: 60 feet.
 - (2) Rear building wall to rear building wall: 50 feet.
 - (3) Rear building wall to end building wall: 35 feet.
 - (4) Rear deck or patio to rear deck or patio: 25 feet
 - (5) End building wall to end building wall: 30 feet.
 - (e) Maximum number of dwelling units per building: 5.
11. Parking setbacks shall be as follows.
 - (a) Minimum parking setback from any tract property line: 25 feet.
 - (b) Minimum parking setback from any residential zone boundary: 100 feet.

12. Parking spaces may be provided as surface parking or within a building, and shall comply with the New Jersey Residential Site Improvement Standards (RSIS; N.J.A.C. 5:21).
13. Buffers designed and constructed in accordance with Section 21-28 shall be required where a lot in the MH-1 Zone abuts a residentially zoned lot or lots.
14. The site plan, including the building and parking layout and the location of preserved wooded areas, shall be organized substantially in accordance with Figure Y of this chapter, provided that the building and parking layout shown on Figure Y is meant as a guideline and may be modified by the developer to reflect market conditions, site constraints, applicable development regulations and other relevant factors. The final layout shall be approved by the Board. The site plan application submitted to the Board shall include cross-sections through the site graphically portraying the proposed building heights and sight lines as viewed from the adjoining residential zones.
15. All uses shall be serviced by public water and public sanitary sewer systems.
16. Subdivision. The subdivision of land within the MH-1 Zone for the purpose of financing, property management, conveyance or creation of fee simple lots for townhouse units or for the separation of the apartment units from the townhouse units shall be permitted by the Board, notwithstanding that after subdivision the individual lots and improvements thereon may not comply with all requirements of this chapter, provided that the pre-subdivision lot remains in compliance with the site plan approved by the Board. Any subdivision shall be subject to the Board conditioning final subdivision approval upon submission by the applicant and approval by the Township Attorney, of a declaration of covenants and restrictions or other suitable instrument setting forth the mechanisms by which and providing adequate assurances dealing with items, including but not limited to access, security, outside cleaning and other routine external maintenance, external repainting, maintenance of the common open space, garbage collection, snow removal and other appropriate items that are to be provided for the development.
17. Neighborhood Recreation Amenities. The site plan shall include adequate neighborhood recreation amenities to serve each age group residing in the multifamily dwelling units, excluding townhouse units. On-site recreation amenities shall be subject to approval by the Board and shall provide formal and informal recreation activities that may include, but not be limited to, some of the following: outdoor swimming areas, outdoor seating areas, tot lots, playgrounds, play fields, and similar indoor or outdoor active or passive recreation areas. Recreation amenities may also include paths for bike riding, hiking or walking.

Part IV. Existing § 21-15.1, “Individual Lot Regulations-Residential Zones”, is amended as follows (new text is double underlined; deleted text is ~~stricken~~):

§ 21-15.1 Individual Lot Regulations-Residential Zones.

- a. No lot in a residential zone shall have more than one principal building or principal use, unless the lot is in the MH-1 Zone or development occurs under the PRD or Natural Resource Conservation Development Overlay Zone provisions of this chapter.

Part V. Existing § 21-17.3, “Signs in Residential Zones”, is amended as follows (new text is double underlined; deleted text is ~~stricken~~):

§ 21-17.3 Signs in Residential Zones.

Only the following signs shall be permitted:

- a. Home Offices. One sign not exceeding two square feet in area and six feet in height shall be permitted. The source of any illumination shall be shielded so it is not visible from the street or any adjoining property.
- b. Houses of Worship; Public and Private Schools. One sign not exceeding 30 square feet in area and six feet in height shall be permitted. The sign shall be located not less than 20 feet from all lot lines.
- c. New Developments. For a development for which preliminary approval has been granted by the Township, one temporary freestanding sign not exceeding 24 square feet in area and six feet in height shall be permitted. The sign shall be located not less than 20 feet from all lot lines. If the development fronts on more than one street, one sign shall be permitted along each frontage. Such sign(s) may be displayed for a period of up to six months, and may be displayed for additional six-month periods by renewal of the sign permit. The sign(s) shall be removed within five days after the execution of contract for the initial sale or lease of the last lot in the development to be sold or leased.
- d. Sale/Lease of Buildings or Lots. One temporary sign not exceeding four square feet in area shall be permitted, provided the sign is removed within five days after the execution of contract for sale or lease.
- e. Sale of Personal Vehicles. One temporary sign not exceeding three square feet in area mounted inside the passenger compartment of the vehicle shall be permitted, provided the vehicle is owned by a resident of the property, currently registered and inspected and parked in a driveway, and further provided the sale is an occasional sale and not part of a trade or business. For sale signs on personal property other than vehicles are

prohibited.

- f. Multifamily Housing Developments in the MH-1 Zone. For each neighborhood in the development, one main identification sign not exceeding 30 square feet in area and six feet in height shall be permitted. The sign(s) shall be located not less than 20 feet from all tract property lines. In addition, the Board may approve directional, wayfinding and building identification sign(s) which are not intended to be visible from off site, provided each such sign shall not exceed 24 square feet in area. Notwithstanding that off-premises signs are prohibited as set forth elsewhere in this chapter, not more than two existing off-site signs located along Mountain View Boulevard may be used to identify development in the MH-1 Zone, provided such existing signs are located on property which is either held in common ownership with the MH-1 Zone property, or owned by an association of which the MH-1 Zone property owner is a member.

Part VI. Existing Table 402, “Schedule of Requirements - E and B Zones”, is amended as follows (new text is double underlined; deleted text is ~~stricken~~):

**TABLE 402
SCHEDULE OF REQUIREMENTS - E AND B ZONES**

Zone	Type of Development	Maximum Area Ratio	FloorMaximum Coverage	Lot Minimum Lot Area	Maximum Height (feet)
E-1	Standard nonresidential	15.0% ⁶	40%	15 acres	48
E-2	Standard nonresidential	15.0%	40%	5 acres ¹	48
E-3	Standard nonresidential	15.0%	40%	5 acres ¹	35 ³
E-4	Standard nonresidential	12.0%	35%	5 acres ¹	35 ⁴
E-5	Standard nonresidential	10.0%	25%	5 acres	35
M-1	Quarrying ²	10.0%	25%	5 acres ¹	35
B-1	Standard nonresidential	25.0%	75%	20,000 s.f.	35
B-2	Standard nonresidential	25.0%	75%	20,000 s.f.	35
B-3	Standard nonresidential	15.0%	75%	10,000 s.f.	35
B-4	Standard nonresidential	12.5% or 1,800 s.f. whichever is larger	75%	10,000 s.f.	35
B-5	Standard nonresidential	___5	----	21 acres	40

NOTES:

¹ Measured within 550 feet of the front property line.

² Residential development in accordance with the requirements of the R-3 Zone is also permitted in the M-1 Zone.

³ If the structure(s) is located at least 300 feet from any right-of-way line or zone boundary line, the height may be increased to four stories, but in no case greater than 48 feet. If parking is provided within the principal structure(s), the maximum height of the principal structure(s) may be increased to five stories, but shall not exceed 60 feet, provided that the principal structure(s) is at least 400 feet from any right-of-way line or zone boundary line. For the purpose of this footnote, a “zone boundary line” shall mean a zone boundary line in existence prior to [insert date of adoption of this ordinance].

⁴ If the structure(s) is located at least 200 feet from any right-of-way line or zone boundary line, the height of the structure(s) may be increased to four stories, but shall not exceed 48 feet.

⁵ Maximum 95,000 square feet retail/office and 12,000 square feet child-care center.

⁶ On a lot occupied by a principal structure constructed prior to 1980, the floor area ratio may exceed 15%, provided that the lot contains a minimum of 130 acres within the E-1 Zone, the floor area ratio does not exceed 23.8%, the total floor area on the lot does not exceed 1,400,328 square feet, and the lot coverage does not exceed 30%.

The Township Clerk is directed to give notice at least ten days prior to hearing on the adoption of this ordinance to the Somerset County Planning Board and to all other persons entitled thereto pursuant to N.J.S. 40:55D-15 and N.J.S. 40:55D-63 (if required). Upon the adoption of this ordinance after public hearing thereon, the Township Clerk is further directed to publish notice of the passage thereof and to file a copy of the ordinance as finally adopted with the Somerset County Planning Board as required by N.J.S. 40:55D-16. The Clerk shall also forthwith transmit a copy of this ordinance after final passage to the Township Tax Assessor as required by N.J.S. 40:49-2.1.

EXECUTIVE SESSION (continuation of early session if required)

Not required.

ADJOURNMENT

By unanimous consent, the meeting adjourned at 9:13 PM.

Respectfully submitted,

Denise Szabo
Municipal Clerk/Assistant Administrator

John Carpenter
Mayor