

REGULAR MEETING
LAWRENCE TOWNSHIP COUNCIL
LAWRENCE TOWNSHIP MUNICIPAL BUILDING
COUNCIL MEETING ROOM – UPPER LEVEL

May 5, 2009

The following are the Minutes of a Regular Meeting of the Lawrence Township Council that was held on Tuesday, May 5, 2009, at 7:00 P.M.

The meeting was opened with a Prayer and Pledge of Allegiance, led by Municipal Clerk.

At the commencement of the meeting Mayor Mount read the following statement of proper notice:

“Adequate notice of this meeting of the Lawrence Township Council being held on Tuesday, May 5, 2009, has been provided through the posting of the annual meeting schedule of said Council in accordance with Section 13 of the Open Public Meetings Act”.

The roll was then called as follows:

Present: Councilman Bostock, Miller, Powers, Puliti, Mayor Mount.
Absent: None.

Also, in attendance were Richard S. Krawczun, Municipal Manager, and Kevin Nerwinski, Esq., Municipal Attorney.

Proclamations and Honors

There were no proclamations or honors.

Review and Revisions of Agenda

There were no revisions to the agenda.

Public Participation

Ms. Betty Donahue, 47 Karens Place, Belle Meade, NJ, Coordinator of Lawrence Alcohol and Drug Alliance, addressed the Council with a request for a Resolution of Support to oppose Assembly Bill No. A-3686 which is sponsored by Assemblywomen Shelia Oliver, Connie Wagner and Elease Evans proposing the transfer of the Governor's Council on Alcoholism and Drug Abuse and control of the Drug Enforcement Demand Reduction Fund to the New Jersey Department of Human Services.

Ms. Donahue advised that the Governor's Council was started approximately 20 years ago to enable community members to work and put together substance abuse prevention programs that would benefit their community. She has worked with Lawrence Township for about 8 years and has been the Coordinator for the last 3½ years and over those years they have done great things with the programs.

Ms. Donahue also advised that the Governor's Council falls under the State Department of Treasury and last fall the Controller had the Council audited. They found no signs of foul play with respect to the distribution of monies, but a few problems with the way the programs were being operated. Luckily, none of those programs were in Lawrence Township.

Ms. Donahue indicated when a grant is applied for it is a long procedure, and last year they started working with the Alliance and community members going through various steps to assess the needs of the community that included a meeting with the Police Department; a process they have since completed. Additionally, they have put together grants that have been forwarded to the County Board of Chosen Freeholders and the Governor's Council for review and approval.

Ms. Donahue stated in Lawrence Township everything has to be approved with regards to monies being spent and that the Alliance has always been required to submit purchase orders or receipts prior to any monies being distributed.

Ms. Donahue advised that the main component of the Alliance is that it is directly operated by the community members which is one of the primary reasons they do not want the Governor's Council money to be switched over to the Human Services Department. And, if that were to happen their services could possibly be abolished which would not benefit the community, as people know what is needed and what programs operate well in their own communities.

Ms. Donahue stated she provided the Council with a list of their goals and all the grant programs they currently manage and indicated many of the programs will not be able to operate if the money from the Governor's Council is transferred to the Human Services Department as they operate their programs completely different from the Council's.

Ms. Donahue advised that the Audit started in the fall of 2008 and when they received the new guidelines in January 2008 from the State many of the guidelines were changed for their new cycle of grants to include the use of an Evidence Based Program. She indicated they had started to get very strict with the guideline before the Controller performed the Audit.

Ms. Donahue stated she knows every organization has problems; but, they are hoping with all the townships sending resolutions to the Governor in opposition of the Assembly Bill, it might persuade the Governor to change his mind with regards to transferring the services and proceeded to elaborate in detail on the issue and the various townships that have already forwarded a resolution in support to the Governor.

A short question and answer session followed relative to the proposed changes, programs and funding, transference and possible abolishment of the current services.

Mrs. Linda Dlablik, 1358 Lawrence Road, addressed the Council about a newspaper article publicizing a Special Meeting with the First Aid Squad to discuss the proposed changes to Emergency Medical Services and questioned why the meeting was cancelled at the last minute and not rescheduled?

Mr. Bostock advised that he originally asked the Mayor for a postponement of the meeting because his son was being inducted into the National Honor Society at the High School the same night and he wanted to attend the event. So, after contacting the Mayor and conferring with his colleagues they came to the consensus that it would be better to reschedule the meeting for April 22nd instead of postponing it given the limited time span. Some discussion took place relative to the cancellation of meeting and the Agenda not being posted on the website.

Mrs. Dlabik commented on the bid award of the cell towers that was passed at the last meeting and suggested that the Council adopt an ordinance that would allocate half of the monies to the fire companies and the firemen that serve Lawrence Township.

There being no one else who wished to address Council, Mayor Mount closed Public Participation.

Adoption of Minutes

There were no minutes for adoption.

Introduction of Ordinances

Mayor Mount read by title an ordinance entitled, "AN ORDINANCE AMENDING CHAPTER 4, ARTICLE V, ENTITLED 'CAT LICENSING' OF THE LAWRENCE TOWNSHIP ADMINISTRATIVE CODE."

Mr. Krawczun advised that the Ordinance would increase the fees by \$2.00 for spayed/neutered and non-spayed/neutered cats. Last year 854 cats were registered and the estimated amount of additional revenue is \$1,708 and will be utilized to offset costs related to animal control operations. He further advised that the fee has not been increased since February 1998.

The Ordinance was introduced and approved on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Bostock	X						
Mr. Miller	X						
Mr. Powers	X					X	
Mr. Puliti	X						X
Mayor Mount	X						

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Mayor Mount read by title an ordinance entitled, "AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 6A AND ADDING A NEW SECTION TO THE ADMINISTRATIVE CODE OF THE TOWNSHIP OF LAWRENCE ESTABLISHING AND IMPLEMENTING FEES FOR EMERGENCY MEDICAL SERVICES."

Mr. Krawczun advised that the Ordinance would amend the fees for ambulance services to provide for billing co-payments and insurance deductibles to non-residents that is not provided for in the current ordinance, and the fees for emergency medical services would not increase for residents or non-residents.

The Ordinance was introduced and approved on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Bostock	X						
Mr. Miller	X						X
Mr. Powers	X					X	
Mr. Puliti	X						
Mayor Mount	X						

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Mayor Mount read by title an ordinance entitled, "AN ORDINANCE ESTABLISHING THE TITLE AND SALARY FOR THE POSITION OF SUPERVISING EMERGENCY MEDICAL TECHNICIAN"

Mr. Krawczun stated the Ordinance authorizes a new position and salary for a Supervising Emergency Medical Technician that was anticipated with the analysis for the conversion of the current emergency medical services to a full-time municipal service.

Mayor Mount questioned if it would be a new employee hired for the Supervisor's position?

Mr. Krawczun advised it would be an existing employee promoted into the Supervisory position.

The Ordinance was introduced and approved on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Bostock	X						
Mr. Miller	X						
Mr. Powers	X					X	
Mr. Puliti	X						X
Mayor Mount	X						

Resolutions

Resolution Nos. 189-09 thru –201-09 (8A-8L) with the exception of Resolution 200-09 (Award of Bid) were approved by the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Bostock	X					X	
Mr. Miller	X						
Mr. Powers	X						
Mr. Puliti	X						X
Mayor Mount	X						

Cited Resolutions are spread in their entirety in Resolution Book Volume No. 2 of the Township of Lawrence.

Mr. Miller questioned Resolution (8H) Amending Contract with Special Counsel in the Matter of Cingular Wireless (Cellco) vs. Zoning Board of Adjustments with respect to the additional funds being paid for services.

Mr. Krawczun advised although the Judge's sessions were closed there was still additional work that needed to be done between the parties with respect to the judge's final opinion and some language that needed to be changed. Therefore, the billing and payments were for services performed after the final decision or not yet received.

Awarding or Rejecting of Bids

Mayor Mount asked for comments from the public. There being none. Mayor Mount asked for comments from the Council. There being none, public participation was closed. On motion by Mr. Powers, seconded by Mr. Puliti the following resolution was presented for adoption:

Resolution No. 200-09

WHEREAS, on Tuesday, April 28, 2009 bids were received and publicly opened for the project known as **Lawrence Hopewell Trail Brearley House (Gatterdam Trail)**; and

WHEREAS, five (5) bids were received and reviewed by the appropriate Township Officials; and

WHEREAS, the lowest responsible bidder was Whistle Stop who submitted a bid in the amount of \$13,130.00; and

WHEREAS, in accordance with N.J.A.C. 5:50-14, a Certificate of Availability of Funds has been provided and the account to be charged is G-02-40-878-299; and

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Lawrence, County of Mercer, State of New Jersey, that pursuant to the recommendations of the Municipal Engineer, the Mayor and Municipal Clerk are hereby authorized to execute a contract with Whistle Stop, 69 John Ringo Road, Ringoes NJ 08551 in the amount of \$13,130.00; and

BE IT FURTHER RESOLVED that the Municipal Manager is hereby authorized to draft the necessary agreement, subject to the approval of the Municipal Attorney as to form and content thereof.

Same was carried on the following roll call vote:

Ayes: Councilman Bostock, Miller, Powers, Puliti, Mayor Mount.
Nays: None.

Adoption of Ordinances

Mayor Mount read by title an ordinance entitled, "AN ORDINANCE AMENDING CHAPTER 10 OF THE ADMINISTRATIVE CODE OF THE TOWNSHIP OF LAWRENCE, COUNTY OF MERCER, STATE OF NEW JERSEY ENTITLED 'ACT OF LITTER PROHIBITED'"

Mayor Mount asked for comments from the public. There being none, Mayor Mount asked for comments from Council. There being none, public participation was closed.

Ordinance No. 2009-09

AN ORDINANCE AMENDING CHAPTER 10 OF THE
ADMINISTRATIVE CODE OF THE TOWNSHIP OF LAWRENCE
COUNTY OF MERCER, STATE OF NEW JERSEY
ENTITLED "ACTS OF LITTER PROHIBITED"

BE IT ORDAINED by the Township Council of the Township of Lawrence, County of Mercer, State of New Jersey that Chapter 10, Section 10-31 entitled "Acts of Litter Prohibited" is hereby amended as follows:

Section 1 Add the following new sub-section.

10-31f Refuse Containers/Dumpsters

Dumpsters and other refuse containers that are outdoors or exposed to stormwater shall be covered at all times. Spilling, dumping, leaking or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system operated by the Township and/or waters of the State is hereby prohibited.

1. Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that

such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.

2. Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the Municipal separate storm sewer system(s) operated by the Township of Lawrence.
3. The following are exceptions:
 - a. Permitted temporary demolition containers
 - b. Litter receptacles (other than dumpsters or other bulk containers)
 - c. Individual homeowner trash and recycling containers
 - d. Refuse containers at facilities authorized to discharge stormwater associated with industrial activity under a valid NJPDES permit
 - e. Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup)
4. This ordinance shall be enforced by the Police Department, Health Department and/or Engineering Department of Lawrence Township.
5. Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed \$500.00.

Section 2 Repealer

All other ordinances or parts of ordinances adopted prior to the date of this ordinance that are inconsistent with the provisions of this ordinance are hereby repealed insofar as they relate or concern the provisions contained herein.

Section 3 Severability

If any section, paragraph, sentence, clause or phrase in this ordinance shall be declared invalid for any reason, the remaining portions of said ordinance shall not be affected thereby and shall remain in full force and effect.

Section 4 Effective Date

This ordinance shall take effect twenty (20) days after final adoption thereof.

New Material Underlined _____

The Ordinance 2009-09 was adopted on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Bostock	X						X
Mr. Miller	X						
Mr. Powers	X						
Mr. Puliti	X					X	
Mayor Mount	X						

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Mayor Mount read by title an ordinance entitled, "AN ORDINANCE AMENDING CHAPTER 10 OF THE ADMINISTRATIVE CODE OF THE TOWNSHIP OF LAWRENCE, COUNTY OF MERCER, STATE OF NEW JERSEY ENTITLED 'PRIVATE STORM DRAIN RETROFITTING'"

Mayor Mount asked for comments from the public. There being none, Mayor Mount asked for comments from Council. There being none, public participation was closed.

Ordinance No. 2010-09

AN ORDINANCE AMENDING CHAPTER 10 OF THE ADMINISTRATIVE CODE OF THE TOWNSHIP OF LAWRENCE COUNTY OF MERCER, STATE OF NEW JERSEY ENTITLED "PRIVATE STORM DRAIN RETROFITTING"

BE IT ORDAINED by the Township Council of the Township of Lawrence, County of Mercer, State of New Jersey that Chapter 10, Section 10-31 entitled "Private Storm Drain Retrofitting" is hereby amended as follows:

Section 1. Add the following new sub-section.

10-31g Private Storm Drain Retrofitting

Existing storm drain inlets, which are in direct, contact with repaving, repairing, reconstruction or resurfacing or alterations of facilities on private property must be retrofitted to prevent the discharge of solids and floatables to the Municipal separate storm sewer system operated by the Township.

1. No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes) resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:
 - a. Already meets the design standard below to control passage of solid and floatable materials; or
 - b. Is retrofitted or replaced to meet the standard in the Municipal Stormwater Permit prior to the completion of the project.
2. This ordinance shall be enforced by the Police Department, and/or Engineering Department of Lawrence Township.
3. Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed \$500.00 for each storm drain inlet that is not retrofitted to meet the design standard.

Section 2. Repealer

All other ordinances or parts of ordinances adopted prior to the date of this ordinance that are inconsistent with the provisions of this ordinance are hereby repealed insofar as they relate or concern the provisions contained herein.

Section 3. Severability

If any section, paragraph, sentence, clause or phrase in this ordinance shall be declared invalid for any reason, the remaining portions of said ordinance shall not be affected thereby and shall remain in full force and effect.

Section 4. Effective Date

This ordinance shall take effect twenty (20) days after final adoption thereof.

New Material Underlined _____

The Ordinance 2010-09 was adopted on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Bostock	X						
Mr. Miller	X						X
Mr. Powers	X						
Mr. Puliti	X					X	
Mayor Mount	X						

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Mayor Mount read by title an ordinance entitled, "ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK FOR THE TOWNSHIP OF LAWRENCE, COUNTY OF MERCER"

Mayor Mount asked for comments from the public. There being none, Mayor Mount asked for comments from Council. There being none, public participation was closed.

Ordinance No. 2011-09

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK FOR THE TOWNSHIP OF LAWRENCE, COUNTY OF MERCER

WHEREAS, the Local Government Cap Law, N.J.S. 40A:4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and

WHEREAS, N.J.S.A. 40A:4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the Township Council of the Township of Lawrence, County of Mercer, State of New Jersey finds it advisable and necessary to increase its

CY 2009 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, the Township Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$272,787.06 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

WHEREAS, the Township Council hereby determines that any amount authorized hereinabove that is not appropriated, as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Lawrence, County of Mercer, State of New Jersey by a majority of the full authorized membership of this governing body affirmatively concurring that, in the CY 2009 budget year, the final appropriations of the Township of Lawrence shall, in accordance with this ordinance and N.J.S.A. 40A:4-45.14, be increased by 3.5%, amounting to \$272,787.06 and that the CY 2009 municipal budget for the Township of Lawrence be approved and adopted in accordance with this ordinance; and

BE IT FURTHER ORDAINED that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and

BE IT FURTHER ORDAINED that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within five days of introduction; and

BE IT FURTHER ORDAINED that a certified copy of this ordinance upon adoption, with the recorded vote included thereon; be filed with said Director within five days after such adoption.

The Ordinance 2011-09 was adopted on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Bostock	X						X
Mr. Miller	X						
Mr. Powers	X						
Mr. Puliti	X					X	
Mayor Mount	X						

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Mayor Mount read by title an ordinance entitled, "AN ORDINANCE OF LAWRENCE TOWNSHIP AMENDING THE LAND USE ORDINANCE OF LAWRENCE TOWNSHIP-COAH FEES."

Mayor Mount asked for comments from the public. There being none, Mayor Mount asked for comments from Council. There being none, public participation was closed.

Ordinance No. 2012-09

LAWRENCE TOWNSHIP
AN ORDINANCE OF LAWRENCE TOWNSHIP
AMENDING THE LAND USE ORDINANCE OF LAWRENCE TOWNSHIP

WHEREAS, the Township finds that regulations pertaining to affordable housing development fees are in need of revisions in order to maintain compliance with the substantive rules of the Council on Affordable Housing.

BE IT ORDAINED by the Mayor and Town Council of the Township of Lawrence, in the County of Mercer, State of New Jersey, that the Land Use Code of the Township of Lawrence Section 901., entitled "Affordable Housing Contribution" of Article IX entitled, "Fees Guarantees, Inspections and Off-tract Improvements" of the Land Use Ordinance of Lawrence Township, as heretofore supplemented and amended, is hereby replaced with the following:

1. Purpose

- a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

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

2. Basic requirements

- a) This ordinance shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
- b) Lawrence Township shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

3. Definitions

- a) The following terms, as used in this ordinance, shall have the following meanings:
 - i. **"Affordable housing development"** means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
 - . **"COAH"** or the **"Council"** means the New Jersey Council on Affordable Housing established under the Act, which has primary jurisdiction for the administration of housing obligations in accordance with sound regional, planning consideration in the State.
 - . **"Development fee"** means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.
 - . **"Developer"** means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
 - . **"Equalized assessed value"** means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

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

4. Residential Development fees

- a) Imposed fees
 - i. Within the all district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted.
 - ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of six percent (6%) of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.
- a) Eligible exactions, ineligible exactions and exemptions for residential development
 - i. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 - ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
 - iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced if the expansion

is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

5. Non-residential Development fees

a) Imposed fees

- i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

) Eligible exactions, ineligible exactions and exemptions for non-residential development

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

- iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
- iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by Lawrence Township as a lien against the real property of the owner.

6. Collection procedures

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

first building permit for a development which is subject to a development fee.

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

- ii. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by Lawrence Township. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing trust fund

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - iii. payments in lieu of on-site construction of affordable units;
 - iv. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - v. rental income from municipally operated units;
 - vi. repayments from affordable housing program loans;
 - vii. recapture funds;
 - viii. proceeds from the sale of affordable units; and
 - ix. any other funds collected in connection with Lawrence Township's affordable housing program.
- c) Within seven days from the opening of the trust fund account, Lawrence Township shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank and COAH to permit COAH to

direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).

- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8. Use of funds

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

Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

- b) Funds shall not be expended to reimburse Lawrence Township for past housing activities.
- c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
- x. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or

condominium fees and special assessments, and assistance with emergency repairs.

- xi. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner may entitle Lawrence Township to bonus credits pursuant to N.J.A.C. 5:97-3.7.
 - xii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) Lawrence Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
 - e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

- a) Lawrence Township shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Lawrence Township's housing

program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing collection of fees

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

The Ordinance 2012-09 was adopted on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Bostock	X						X
Mr. Miller	X						
Mr. Powers	X						
Mr. Puliti	X					X	
Mayor Mount					X		

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Mayor Mount read by title an ordinance entitled, "THIRD ROUND FAIR SHARE ORDINANCE OF THE TOWNSHIP OF LAWRENCE, COUNTY OF MERCER."

Mayor Mount asked for comments from the public. There being none, Mayor Mount asked for comments from Council. There being none, public participation was closed.

Ordinance No. 2013-09

THIRD ROUND FAIR SHARE ORDINANCE
Lawrence Township, Mercer County

Once approved by COAH as part of the Township's Third Round Plan, to be adopted within 45 days of the municipality's receipt of Substantive Certification from COAH.

_____. *Intent*

This section of the Township Code sets forth regulations regarding the low and moderate income housing units in the Township consistent with the provisions of the Substantive Rules of the New Jersey Council on Affordable Housing, N.J.A.C. 5:97 et seq., the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. and the Township's constitutional obligation to provide a fair share of affordable housing for low and moderate income households. These regulations are also intended to provide assurances that low and moderate income units (the "affordable units") are created with controls on affordability over time and that low and moderate-income people occupy these units. These regulations shall apply except where inconsistent with applicable law.

_____. Proportion of Low and Moderate Income Units by Sale, Rental and by Number of Bedrooms

Except for affordable housing developments constructed pursuant to low income tax credit regulations:

- (1) At least half of the "for sale" affordable units within each affordable housing development shall be affordable to low income households.
- (2) At least half of the "rental" affordable units within each affordable housing development shall be affordable to low income households.
- (3) At least half of the affordable units in each bedroom distribution within each affordable housing development shall be affordable to low income households.

_____. *Bedroom Distribution of Affordable Units*

- (1) Affordable housing developments which are not limited to age-restricted households shall be structured in conjunction with realistic market demands so that:
 - (a) The combination of efficiency and one-bedroom units is no greater than 20 percent of the total number of affordable units;

- (b) At least 30 percent of all affordable units shall be two-bedroom units.
 - (c) At least 20 percent of all affordable units shall be three-bedroom units.
- (2) *Affordable housing developments that are limited to age-restricted households shall at a minimum have a total number of bedrooms equal to the number of age-restricted affordable units within the affordable housing development. The standard may be met by creating all one-bedroom units or by creating a two-bedroom unit for each efficiency unit.*

_____. Establishment of Rents and Prices of Units as Related to Household Size and Number of Units

- (1) In conjunction with realistic market information the following shall be used to determine maximum rents and sales prices of the affordable units:
- (a) Efficiency units shall be affordable to one-person households.
 - (b) A one-bedroom unit shall be affordable to a one- and one-half person household.
 - (c) A two-bedroom unit shall be affordable to a three-person household.
 - (d) A three-bedroom unit shall be affordable to a four- and one-half person household.
 - (e) A four-bedroom unit shall be affordable to a six-person household.
- (2) For assisted living facilities the following standards shall be used:
- (a) A studio shall be affordable to a one-person household.
 - (b) A one-bedroom unit shall be affordable to a one- and one-half person household.
 - (c) *A two-bedroom unit shall be affordable to a two-person household or to two, one-person households.*

- (3) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the administrative agent shall strive to:
 - (a) provide an occupant for each unit bedroom;
 - (b) provide children of different sex with separate bedrooms; and
 - (c) *prevent more than two persons from occupying a single bedroom.*

_____. *Establishing Median Income by Household Size*

- (1) Median income by household size shall be established using a regional weighted average of the uncapped Section 8 income limits published by HUD computed as set forth in N.J.A.C. 5:97.

_____. *Establishing Average Rents of Affordable Units*

- (1) The maximum rent of affordable units within each affordable housing development shall be affordable to households earning no more than 60 percent of median income. The average rent for low and moderate-income units shall be affordable to households earning no more than 52 percent of median income. Restricted rental units shall establish at least one rent for each bedroom type for all low and moderate income units provided at least 10 percent of all low and moderate income units are affordable to households earning no more than 35 percent of median income.
- (2) Low and moderate-income units shall utilize the same heating source as market units within an inclusionary development.
- (3) Gross rents including an allowance for utilities shall be established for the various size affordable units at a rate not to exceed 30 percent of the gross monthly income of the appropriate household size as set forth in subsection _____ above. The allowance for utilities shall be consistent with the utility allowance approved by NJDCA for use in its Section 8 Program.
- (4) No affordable rental units included in the COAH requirement shall be subject to a rent control ordinance which may be adopted or in place in the Township of Lawrence during the time period in which affordable housing COAH controls are effective.

_____. *Establishing Average Sales Prices of Affordable Units*

- (1) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income. Each affordable development must achieve an affordability average of 55 percent for restricted ownership units. Moderate-income ownership units must be available for at least three different prices for each bedroom type and low income ownership units must be available for at least two different prices for each bedroom type.
- (2) Low and moderate-income units shall utilize the same heating source as market units within an inclusionary development.
- (3) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying costs of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of an appropriate household size as determined under N.J.A.C. 5:80-26.4; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3.

_____. Affordable Housing Units: Condominium or Homeowners Association Fees.

- (1) If an affordable housing unit is part of a condominium association or homeowner's association, the Master Deed shall reflect that the assessed affordable homeowner's fee be established at one hundred percent of the market rate fee. This percentage assessment shall be recorded in the Master Deed.

_____. *Reservation of Units*

- (1) Very low income housing units shall be reserved for households with a gross income equal to or less than 30 percent of the median income approved by COAH.
- (2) Low income housing units shall be reserved for households with a gross household income equal to or less than 50percent of the median income approved by COAH.
- (3) Moderate income housing units shall be reserved for households with a gross household income in excess of 50percent but less than 80percent of the median income approved by COAH.

____. *Reoccupancy Certificates*

- (1) *Upon resale of an affordable unit, a certificate of reoccupancy shall be required in accordance with N.J.A.C. 5:80-26.10*

____. *Phasing Of Construction*

- (1) Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in one stage or in two or more stages

<u>Minimum Percentage of Low & Moderate Income Units Completed</u>	<u>Percentage of Market Housing Units Completed</u>
0	25
10	25 + 1 unit
50	50
75	75
100	90

____. *Control Period for Affordable Housing*

- (1) *Any conveyance of a newly constructed low or moderate income sales unit shall contain the restrictive covenants and liens that are set forth in N.J.A.C. 5:80-26 et seq.*

____. *Administration of Affordable Housing Program*

- (1) *Lawrence Township is ultimately responsible for administering the affordable housing program, including affordability controls and the Affirmative Marketing Plan in accordance with the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:97 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq.*
- (2) *Lawrence Township has delegated to the Housing Officer, this responsibility for administering the affordable housing program, including administering and enforcing the affordability controls and the Affirmative Marketing Plan of Lawrence Township in accordance with the provisions of this sub-chapter, the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:97 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq.*

- (3) *Subject to COAH approval, Lawrence Township may contract with one or more administrative agents to administer some or all of the affordability controls and/or the Affirmative Marketing Plan in accordance with this sub-chapter, the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:97 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq. If Lawrence Township enters into such a contract, the Housing Officer shall supervise the contracting administrative agent(s) and shall serve as liaison to the contracting administrative agent(s).*
- (4) The Township of Lawrence intends for the Housing Officer to administer the sale and rental of all new affordable housing. The Housing Officer will also oversee and administer income qualification of low and moderate income households; place income eligible households in low and moderate income units upon initial occupancy; place income eligible households in low and moderate income units as they become available during the period of affordability controls and enforce the terms of the required deed restrictions and mortgage loans. The Housing Officer will specifically administer and implement:
- (a) An administrative plan and program, and related monitoring and reporting requirements as outlined in N.J.A.C. 5:80-26.15 et seq. and Chapter ____ of the Land Development Ordinances of the Township of Lawrence.
 - (b) A plan for certifying and verifying the income of low and moderate income households as per N.J.A.C. 5:80-26.16
 - (c) Procedures to assure that low and moderate income units are initially sold or rented to eligible households and are thereafter similarly re-sold and re-rented during the period while there are affordability controls as per N.J.A.C. 5:80-26 et seq.
 - (d) The requirement that all newly constructed low and moderate income sales or rental units contain deed restrictions with appropriate mortgage liens as set forth in Appendices in N.J.A.C. 5:80-26 et seq.
 - (e) The several sales/purchase options authorized under N.J.A.C. 5.80-26 et seq. except that the Township retains the right to determine by resolution whether or not to prohibit, as authorized under N.J.A.C.5:80-26 et seq., the exercise of the repayment option.
 - (f) The regulations determining 1) whether installed capital improvements will authorize an increase in the maximum sales

price; and 2) which items of property may be included in the sales price as per N.J.A.C.5:80-26.9.

- (5) The developers/owners of any inclusionary site shall be responsible for the administrative fee, affirmative marketing and advertising and such shall be a condition of Planning or Zoning Board approval.
- (6) *Lawrence Township reserves the right to replace Housing Officer with another municipal authority or other agency authorized by COAH to carry out the administrative processes outlined above.*

_____. *Time Period For Controls*

- (1) Newly constructed low and moderate income "rental" units shall remain affordable to low and moderate income households for a period of at least 30 years.
- (2) Newly constructed low and moderate income "for sale" units shall remain affordable to low and moderate income households for a period of at least 30 years.
- (3) Rehabilitated owner-occupied single family housing units that are improved to code standard shall be subject to affordability controls for 10 years.
- (4) Rehabilitated renter-occupied housing units that are improved to code standard shall be subject to affordability controls for at least 10 years.
- (5) Housing units created through conversion of a non-residential structure shall be considered a new housing unit and shall be subject to affordability controls for new housing units as designated in items 1 and 2 above.
- (6) Affordability controls for units in alternative living arrangements shall be for a period of 30 years.
- (7) Market to affordable units shall remain affordable to low and moderate income households for a period of at least 30 years.
- (8) Extension of control units shall remain affordable to low and moderate income households for a period of at least 30 years.

___ Selection of Occupants of Affordable Units

- (1) *The administrative agent shall use a random selection process to select occupants of low- and moderate-income housing.*
- (2) *A waiting list of all eligible candidates will be maintained in accordance with the provisions contained in N.J.A.C. 5:80-26 et seq.*

____. Affirmative Marketing Plan

- (1) *Lawrence Township shall adopt by resolution an Affirmative Marketing Plan, subject to approval of COAH, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.*
- (2) *The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region [insert number] and covers the period of deed restriction.*
- (3) *The Administrative Agent designated by the Lawrence Township shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.*
- (4) *In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.*
- (5) *The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.*
- (6) *The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by Lawrence Township.*

___ Adaptable and Accessible Units

- (1) The first floor of all townhouse dwelling units and of all other multistory dwelling units which are affordable to low or moderate households shall be subject to the technical design standards of the Barrier Free Subcode (N.J.A.C. 5:23-7).

- (1) Each affordable townhouse unit or other affordable multistory dwelling unit that is attached to at least one other dwelling unit shall have the following features:
 - i. An adaptable toilet and bathing facility on the first floor;
 - ii. An adaptable kitchen on the first floor;
 - ii. An accessible route of travel;
 - (a) An interior accessible route of travel shall not be required between stories.
 - iv. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - v. Accessible entranceways.
 - (a) The developer shall provide an accessible entranceway as set forth at P.L.2005, c. 350(C.52:27D-311a et seq.) and the Barrier Free Subcode (N.J.A.C. 5:23-7) for each affordable townhouse unit or other affordable multistory dwelling unit and is attached to at least one other dwelling unit; or
 - (b) The developer shall provide funds sufficient to make 10% of the adaptable entrances in the development accessible as set forth at P.L.2005, c. 350(C.52:27D-311a et seq.) and the Barrier Free Subcode (N.J.A.C. 5:23-7).
 - i. The developer of the project shall submit a conversion plan indicating the steps necessary to convert the unit from being adaptable to accessible. Said plan shall be submitted at the time of issuance of a building permit.
 - vii. Where the developer will provide funds sufficient to make 10% of the adaptable entrances in the development accessible, the developer of the project shall submit the following to the

Township, at the time of issuance of the building permit, in order to determine the required funds:

- (a) Funds sufficient to make 10% of the adaptable entrances in the development accessible; and
 - (b) A cost estimate for conversion of 10% of the adaptable entrances in the development to accessible.
- viii. In the case of an affordable unit or units which are constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed by the Township.

The Ordinance 2013-09 was adopted on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Bostock	X						X
Mr. Miller	X						
Mr. Powers	X						
Mr. Puliti	X					X	
Mayor Mount	X						

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Mayor Mount read by title an ordinance entitled, "AN ORDINANCE AMENDING ORDINANCE NO. 1441-95 ENTITLED 'AN ORDINANCE AMENDING CHAPTER 6A OF THE LAWRENCE TOWNSHIP ADMINISTRATIVE CODE ENTITLED FEES: THE CONSOLIDATED LICENSE, PERMIT AND FEE CHAPTER"

Mayor Mount asked for comments from the public. There being none, Mayor Mount asked for comments from Council. There being none, public participation was closed.

Ordinance No. 2014-09

AN ORDINANCE AMENDING ORDINANCE NO. 1441-95 ENTITLED "AN ORDINANCE AMENDING 6A OF THE LAWRENCE TOWNSHIP ADMINISTRATIVE CODE ENTITLED FEES: THE CONSOLIDATED LICENSE, PERMIT AND FEE CHAPTER"

BE IT ORDAINED by the Township Council of the Township of Lawrence, County of Mercer, State of New Jersey, that Chapter 6A of the Lawrence Township Administrative Code entitled, "Fees: The Consolidated License, Permit and Fee Chapter: be and is hereby amended as follows:

SECTION I. Sec. 6A-18 Construction Code is hereby deleted in its entirety.

SECTION II. In accordance with the provision of N.J.A.C. 5:23-4.17 "Municipal Enforcing Agency Fees," the Township of Lawrence hereby adopts as its fee schedule the following:

(A) General:

- 0. The fee for plan review, computed as a percentage of the fee for a construction permit, shall be paid at the time of applications for a permit. The amount of this fee shall then be deducted from the amount of the fee due for a construction permit, when the permit is issued. Plan review fees are not refundable.
- 0. The fee to be charged for a construction permit will be the sum of the basic construction fee plus all applicable special fees, such as elevator or sign fees. This fee shall be paid before a permit is issued.
- 0. The fee to be charged for a certificate of occupancy shall be paid before a certificate is issued. This fee shall be in addition to the construction permit fees.
- 0. Lawrence Township is designated as the plan review agency and as the local enforcing agency pursuant to N.J.A.C. 5:23-4.3.

(B) Where Lawrence Township performs plan review only, the plan review fee shall be in the amount of twenty-five percent (25%) of the new construction permit fee which would be charged by Lawrence Township pursuant to these rules.

(C) Lawrence Township (enforcing agency) fees shall be as follows:

- 0. Plan review fee: The fee for plan review shall be twenty percent (20%) of the amount to be charged for a new construction permit, except that elevator device plan review shall be as in (c iii) 6 and 7 below.
- 0. The basic construction fee shall be the sum of the parts computed on the basis of the volume or cost of construction, the number of plumbing fixtures and pieces of equipment, the number of electrical fixtures and devices and the number of sprinklers, standpipes, and detectors (smoke and heat) at the unit rates provided herein plus any special fees. The minimum fee for a basic construction permit covering any or all of the building, plumbing, electrical, or fire protection work shall be forty-six dollars (\$46.00).

0. Fee to review revisions to an approved plan, \$50.00 per hour, maximum fee \$150.00.
- i. Building volume or cost: The fees for new construction or alteration are as follows:
 - (0) Fees for new construction shall be based upon the volume of the structure. Volume shall be computed in accordance with N.J.A.C. 5:23-2.28. the new construction fee shall be in the amount of \$0.030 per cubic foot of volume for buildings and structures of all use groups and types of construction as classified and defined in articles 3 and 4 or the building subcode. The fee shall be \$0.010 per cubic foot for structures on farms, including commercial farm buildings under N.J.A.C. 5:23-3(d).
 - (0) Fees for renovations, alterations, repairs, * and new or existing HVAC and mechanical systems * shall be based upon the estimated cost of work. The fee shall be in the amount of \$28.00 per \$1,000.00. From \$50,001.00 to and including \$100,000.00, the additional fee shall be in the amount of \$22.00 per \$1,000.00 of estimated cost above \$50,000.00. Above \$100,000.00, the additional fee shall be in the amount of \$18.00 per \$1,000.00 of estimated cost above \$100,000.00. for the purpose of determining estimated cost, the applicant shall submit to Lawrence Township such cost data as may be available produced by the architect or engineer of record, or by a recognized estimating firm, or by the contractor. A bona fide contractor's bid, if available, shall be submitted. Lawrence Township shall make the final decision regarding estimated cost.
 - (0) Fees for additions shall be computed on the same basis as for new construction for the added portion.
 - (0) Fees for combination renovations and additions shall be computed as the sum of the fees computed separately in accordance with items (2) and (3) above.
- ii. PLUMBING FIXTURES AND EQUIPMENT fees shall be as follows:
 - (0) The fee shall be in the amount of per \$15.00 fixture connected to the plumbing system for all fixtures and applications except as listed in (c) 2ii(2) below.
 - (0) The fee shall be \$85.00 per special device for the following: grease traps, oil separators, water-cooled air conditioning units, refrigeration units, utility service

connections, back flow preventers, steam boilers, hot water boilers (excluding those for domestic water heating), gas piping, active solar systems, sewer pumps, interceptors and fuel oil piping. There shall be no inspection fee charged for gas service entrances.

iii. ELECTRICAL FIXTURES AND DEVICES fees shall be as follows:

- (0) For from one to fifty receptacles or fixtures, the fee shall be in the amount of \$46.00 for each twenty-five receptacles or fixtures in addition to this, the fee shall be in the amount of \$10.00. For the purpose of computing this fee, receptacles or fixtures shall include lighting outlets, wall switches, fluorescent fixtures, convenience receptacle or similar fixtures, and motors or devices of less than one horsepower or one kilowatt or less.

*** THIS PORTION IS PER ORDINANCE NO. 1530-98 ADOPTED 5/5/98, EFFECTIVE 5/5/98; SAID ORDINANCE IS MADE A PART OF THIS ORDINANCE AS ADDENDUM A.**

- (0) For each motor or electrical device greater than one horsepower and less than or equal to 10 horsepower, and for transformers and generators greater than one kilowatt and less than or equal to 10 kilowatts, the fee shall be \$15.00.
- (0) For each motor or electrical device greater than 1-horsepower and less than or equal to 50 horsepower; for each service panel, service entrance, or sub-panel less than or equal to 200 amperes; for each transformer and generator greater than 10 kilowatts and less than or equal to 45 kilowatts; and for each utility load management device, the fee shall be \$55.00.
- (0) For each motor or electrical device greater than 50 horsepower and less than or equal to 100 horsepower; for each service panel, service entrance or sub-panel greater than 200 amperes and less than or equal 1,000 amperes; and for transformers and generators greater than 45 kilowatts and less than or equal to 112.5 kilowatts, the fee shall be \$110.00.
- (0) For each motor or electrical device greater than 100 horsepower; for each service panel, service entrance or sub-panel greater than 1,000 amperes; and for each

transformer or generator greater than 112.5 kilowatts, the fee shall be \$548.00.

- (0) For the purpose of computing these fees, all motors except those in plug-in appliances shall be counted, including control equipment, generators, transformers and all heating, cooking or other devices consuming or generating electrical current.
- (0) * Annual electrical certificate of compliance verifying all wiring in or around the pool pump and associated electrical equipment is safe and meets the requirements of the applicable electrical subcode shall be issued annually and the amount of the fee shall be \$46.00.

*** THIS PORTION IS PER ORDINANCE NO. 1575-99 ADOPTED 5/4/99, EFFECTIVE 5/24/99; SUCH ORDINANCE IS MADE A PART OF THIS ORDINANCE AS ADDENDUM B.**

iv. FIRE PROTECTION AND OTHER HAZARDOUS EQUIPMENT: i.e., sprinklers, standpipes, detectors (smoke and heat), pre-engineered suppression systems, gas and oil fired appliance not connected to the plumbing system, kitchen exhaust systems, incinerators and crematoriums: The fees are as follows:

- (0) The fee for 20 or fewer heads or detectors shall be \$80.00; for 21 to and including 100 heads or detectors, the fee shall be \$150.00; for 101 to and including 200 heads or detectors, the fee shall be \$275.00; for 201 to and including 400 heads or detectors, the fee shall be \$710.00; for 401 to and including 1,000 heads or detectors, the fee shall be \$985.00; for over 1,000 heads or detectors, the fee shall be \$1,260.00. In computing fees for heads and detectors, the number of each shall be counted separately and two fees, one for heads, and one for detectors shall be charged.
- (0) The fee for each standpipe shall be \$275.00.
- (0) The fee for each independent pre-engineered system shall be \$110.00.
- (0) The fee for each gas or oil fired appliance that is not connected to the plumbing system shall be \$56.00.
- (0) The fee for each kitchen exhaust system shall be \$56.00.
- (0) The fee for each incinerator shall be \$440.00.
- (0) The fee for each crematorium shall be \$440.00.

v. CERTIFICATES AND OTHER PERMITS ARE AS FOLLOWS:

- (1) The fee for a demolitions or removal permit shall be \$80.00 for a structure of less than 5,000 square feet in area and less than 30 feet in height, for one- or two-family residences (use group R-3 of the building code), and structures on farms, including commercial farm buildings under N.J.A.C. 5:23-3. (d), and \$150.00 for all other use groups.
- (2) The fee for a permit to construct a sign shall be in the amount of \$1.50 per square foot surface area of the sign, computed on one side only for double-faced signs. The minimum fee shall be \$50.00.
- (3) The fee for a certificate of occupancy shall be in the amount of ten percent (10%) of the new construction permit fee that would be charged by Lawrence Township pursuant to these regulations. The minimum fee shall be \$150.00, except for one- or two-family residences (use group R-3 to R-5 of the building code) of less than 5,000 square feet in area and less than 30 feet in height, and structures on farms, including commercial farm buildings subject to N.J.A.C. 5:23-3.2(d), for which the minimum fee shall be \$80.00.
- (4) The fee for a certificate of occupancy graded pursuant to a change of use group shall be \$180.00.
- (5) The fee for certificate or continued occupancy shall be \$150.00, and a flat fee of \$46.00 as noted in N.J.A.C. 5:23-4.18(g)4 for cross connections and backflow preventers that are subject to testing and require reinspections, and for other final approvals not listed in (c)3. i,ii,iii,iv,vi,viii.
- (6) There shall be no fee for a continued temporary certificate of occupancy.
- (7) The fee for a certificate of approval or certificate of compliance certifying the work done under a construction permit has been satisfactorily completed shall be no charge.
- (8) The fee for plan review of a building for compliance under the alternate systems and non-depletable energy source provisions of the energy subcode shall be \$240.00 for one- and two-family residences (use Group R-3 to R-5 of the building subcode), and for all other structures as per Ordinance No. 1893-06 For GeoThermal Heating/Cooling Systems.
- (9) The fee for an application for a variation in accordance with N.J.A.C. 5:23-2:10 shall be \$600.00 for Class I structures and \$150.00 for Class II and Class III structures. The fee for resubmission of an application for a variation shall be

\$275.00 for Class I structures and \$85.00 for Class II and Class III structures.

- (10) A flat fee of fifty-six dollars (\$56.00 per subcode) shall be charged on changes of contractors after the permit has already been issued.

vi. ANNUAL PERMIT REQUIREMENTS ARE AS FOLLOWS:

- (0) The fee to be charged for an annual construction permit shall be charged annually. This fee shall be a flat fee based upon the number of maintenance workers who are employed by the facility, and who are primarily engaged in work that is governed by a subcode. Managers, engineers and clericals shall not be considered maintenance workers for the purpose of establishing the annual construction permit fee. Annual permits may be issued for building/fire protection, electrical and plumbing.

- (0) Fees for annual permits shall be as follows:

- () One to 25 workers (including foremen): \$667.00 per worker; each additional worker over 25: \$232.00 per worker.
- () Prior to the issuance of the annual permit, a training registration fee of \$176.00 per subcode shall be submitted by the applicant to the Department of Community Affairs, Bureau of Technical Assistance, Training Section, along with a copy of the construction permit (Form F-170C). Checks shall be made payable to "Treasurer, State of New Jersey."

- (0) The State Department of Community Affairs is The Elevator Subcode for Lawrence Township and State fees will comply.
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- (0) The fee for a mechanical inspection in a Use Group R-3 to R-5 structure by a mechanical inspector shall be \$50.00 for the first device and \$15.00 for each additional device. No separate fee shall be charged for gas, fuel oil, or water

pipng connections associated with the mechanical equipment inspected.

SECTION III. REPEALER.

All ordinances and resolution and all sections provisions thereof pertaining to fees or charges for special services, which are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent of such conflict or inconsistencies, otherwise to remain in full force and effect.

SECTION IV. SEVERABILITY.

In the event any section or provision of this ordinance is adjudicated invalid, such determination shall not affect the remaining provisions hereof, which shall remain in full force and effect to the extent severable from such determination.

SECTION V. EFFECTIVE DATE.

This ordinance shall take effect immediately upon adoption.

Deletions are in brackets []

The Ordinance 2014-09 was adopted on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Bostock	X						X
Mr. Miller	X						
Mr. Powers	X						
Mr. Puliti	X					X	
Mayor Mount	X						

Manager's Report –

Mr. Krawczun submitted an invoice listing for the month of April 2009 in the amount of \$991,291.73.

Mr. Krawczun advised of a memorandum that was previously sent out on the policy regarding the use of the Public Access Channel with the Verizon and Comcast networks.

Mr. Krawczun stated the concept is to regulate what will be placed onto the channel and who will have the authority to approve or disapprove the information televised on the channel in addition to the priorities concerning emergency and non-emergency programming, exclusion of political programming, policies set on the type of contents that will be edited or not edited, promotions and announcements for Special and Township events, as well as, copyright and appropriate material restrictions.

Mr. Krawczun proceeded to ask the wishes of the Council with respect to discussing the policy at the present time or holding off for a future discussion.

Mr. Bostock inquired as to whether or not the information was provided to the Cable Telecommunications Advisory Committee for review.

Mayor Mount advised that the information was just recently sent out to the Committee, so they have not had an opportunity to review the information as yet. Therefore, they probably would not be prepared to discuss the matter until sometime in June.

Mr. Bostock commented on the Public Access Channel with respect to what may or may not constitute political programming and advised that representation from both political parties should be aired on the channel, to not only protect the Committee from any perception of acting in a partisan way, but to also add some fairness and balance to the contents being broadcast on the channel.

An at length discussion followed relative to the policy, contents, disclaimers and the legalities with respect to information that will be televised on the channel, as well as, some of the differences between the Public Access Channel and the Government Access Channel.

Mr. Krawczun reported that the Administration is still working on the construction documents for the fire safety improvements to the parking lot at the Lawrence Road Fire House and advised that the documents are approximately 80% complete. They have also applied for the Permit from NJDOT for the right-a-way work and that will take approximately 45 to 60 days for them to respond.

Mr. Krawczun advised that the anticipated start date is sometime in the summer and the work is expected to be completed by the fall. They are also working with the Command of the Lawrence Road Fire Company on the plans before they are incorporated into the construction documents. Some discussion took place relative to the project and having a Town Meeting at the firehouse.

Mr. Krawczun also advised that there has been another submission to NJDOT for the lighted crosswalk based on another series of questions from the staff and indicated that both Mr. Parvesse, Township Engineer, and Jim Kochenour, Lawrence Township Traffic Consultant, have met with a supplier of crosswalk installations to make sure what is being designed is up to current standards.

Mr. Krawczun stated Mr. Parvesse advised him that the meeting went very well and at this juncture is still within the projected budget; so, hopefully, the light crosswalk work and the firehouse work will happen simultaneously as one large project to avoid multiple traffic problems.

Mr. Krawczun reported that Andy Link, Township Planner, sent out a letter to residents of Marlboro Road and Lawrence Avenue to inquire about their interest in having trees planted in front of their properties between the curb and sidewalk and advised that they have received (9) nine 'yes' responses so far.

Mr. Krawczun stated they are now hoping to piggyback off the price with respect to integrating the work of the planting into the actual landscape plantings that's scheduled to take place at the Lawrence Road Fire House. They have additionally contacted St. Ann's Church with regards to the planting, but have not yet received a response and indicated they may not be interested as they already have a number of trees around their property.

Mr. Krawczun advised that he received a memorandum from Jim Parvesse, Township Engineer, concerning a conversation he had with the County Engineering Office and Bob Kiser, Princeton Township Engineer, regarding Lawrence Township's interest in participating with the cost of materials for the rebuilding of Province Line Road and indicated right now the project is not scheduled to begin as it is under County jurisdiction. However, they just wanted to get the consensus of Council.

Mr. Krawczun further advised that the bridge on Rosedale Road would be closed during the reconstruction period for approximately four months and there will be a number of detours. So, Princeton is wondering whether or not Lawrence would have any interest in helping to supply some of the materials if the County were to start the work.

Mr. Krawczun stated the only reason he is bringing the matter to the Council's attention is because right now the Township's 2009 Capital Budget is already in place and they are not in a position to amend the budget. So, he would have to go back and review some of the old Ordinances to seek funding and he does not want to proceed with that exercise unless there is an interest in participating and proceeded to elaborate in the detail on the matter. After a brief discussion amongst the Council there was no desire to participate.

Mr. Krawczun updated the Council on the following ongoing projects:

- 1) Mr. Krawczun reported that the Trolley Line Bridge over Five Mile Run permitting has been filed for, as well as, the geotechnical sewer testing which all has to be approved by DEP. Maps created for the project then the submission of plans to DEP for preliminary approval to build the bridge. Once that is approved they can start the design of the bridge and advised that the entire process will take several months.
- 2) Mr. Krawczun advised that a footbridge was proposed over the wetland areas in the 2008 Capital Budget at the end of Marlboro Road and they are presently doing the wetland geotechnical work. There are no plans at this juncture, but they figure they could present the projects as one to DEP and perhaps obtain some grant money.
- 3) Mr. Krawczun stated they are working with NJDOT to have a Public Information Center on Wednesday, May 27th at Slackwood Fjre House to discuss the proposed plans for Business Route 1 and they are awaiting confirmation relative to conducting the meeting. The purpose is to inform the public on the scope of the project and share some of the preliminary design work concerning the round-about and other improvements along Business Route 1.

Mayor Mount asked Mr. Krawczun if he had heard anything concerning the Energy Audit.

Mr. Krawczun advised that he has no new information concerning the Audit with the exception of a bill.

Mr. Powers inquired about the correspondence that the Council received dated April 30th regarding the Tobacco Leaf Store and their original plans to operate as a retail ice-cream establishment and questioned the reason for them not being required to go back to the Zoning Board for approval, as they are presently operating as a tobacco establishment?

Mr. Krawczun advised that the application did not have to go back to the Zoning Board because at the time when the stores were being occupied they had to calculate seating based on the last store to occupy space, as restaurant seating is based on available parking. So, Mr. Budzinski, former Township Engineer, kept track of the seating as tenants occupied space based on the square footage of the complex. And, that is where the confusion begin because Mr. Bansal was originally approved for "seating for 10 people" when his original plans were to operate as an ice-cream establishment not as a tobacco establishment.

Mayor Mount asked Mr. Krawczun if he had received a response to the letter

Mr. Krawczun stated that he has not received any response as of yet. But, Mr. Bostock responded that he had spoken with Mr. Bansal just today who advised that he is in the process of reviewing the letter and is a bit discouraged by it.

Attorney's Report –

There was no Attorney's report.

Clerk's Report –

Mrs. Norcia advised that she received one qualified bidder for the Distribution License, Lawrence Investments, LLC, and that she and Mr. Krawczun will be opening the sealed bid on May 12th 11:00 a.m.

Mrs. Norcia proceeded to ask the Council's wishes with respect to the summer schedule?

After some discussion, it was the consensus of the Council to cancel the July 7th, August 4th and August 18th and conduct all regularly-scheduled business on July 21, 2009 and August 11, 2009.

Written Communications –

There was no written communication.

Old Business –

There was no old business.

New Business –

There was no new business

There being no further business to come before this Council, the meeting adjourned.

8:20 P.M.

Respectfully submitted by,

Kathleen S. Norcia, Municipal Clerk

Attest:

Pamela H. Mount, Mayor