

TOWNSHIP OF LOPATCONG
COUNCIL MEETING
6:30 pm

April 4, 2018

The Council Meeting of the Lopatcong Township Council was called to order by Mayor Mengucci. The meeting was held in the Municipal Building located at 232 S. Third St., Phillipsburg, New Jersey 08865.

Motion to come out of Executive Session by Council President Pryor, seconded by Councilman Belcaro. All in favor.

Mayor Mengucci stated “adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Gazette and The Express-Times and by posting a copy on the bulletin board in the Municipal Building.”

A moment of silence was offered followed by the Oath of Allegiance.

Present – Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci. Also present were Attorney Campbell and Engineer Sterbenz.

Public Comment:

John Betz – Brakeley Gardens Apartments – Ordinance 18-05 asked for further explanation. Attorney Campbell addressed him that it was being introduced tonight.

Swearing In – Clerk Dilts swore in Tyler Plesnarski as a Police Officer.

Special Presentation – Lopatcong Board of Education – Presented on the cost of tuition for students attending Phillipsburg High School.

Old Business:

Minutes – Approve minutes for Executive and Regular Session for February 7, March 1 and March 22, 2018. Motion by Councilman Belcaro, seconded by Councilman Wright. All in favor.

Tax/Sewer Collector Rachel Mosher – Attorney Wenner stated this discussion is being held in public session at the request of, through counsel of Ms. Mosher. Ordinarily, we would default to having this in Executive Session. So the format doesn’t change, this is a discussion amongst the Council. It is not open for back and forth with the public or with the employee. It is an opportunity for the employee and the public to hear what’s going on. We are here tonight because on February 7th, 2018, we suspended Ms. Mosher with pay pending an investigation that was being conducted internally regarding matters related to the tax collector’s office as well as the sewer collector’s aspect, a proponent of that office. On March 19th, 2018, a complaint was

filed on behalf of the Township with the Department of Community Affairs done in Trenton seeking removal of Ms. Mosher from the position of tax collector. That was the maximum that we're going for. The DCA likes to see what relief the Township is seeking so that was what was presented. In light of the fact that the Township and professionals including the auditing firm felt there was enough information there to warrant the filing of the complaint and in fact warrant seeking the removal of Ms. Mosher from the position of tax collector at this point, we are recommending that the suspension with pay be converted to a suspension without pay pending the outcome of the DCA's investigation and if a hearing is going to be had pending the outcome of that hearing as well. Additionally we recommend the authorization to file a request for an emergent application with the DCA to determine the status of the suspension without pay. In other words, if the DCA comes back and says no you need to keep her suspended with pay then obviously, we would convert that back to suspension with pay and do whatever the DCA recommends. So, if the Council is inclined to pursue that route, a motion authorizing those actions to occur and we would proceed accordingly.

Mayor Mengucci – We have any questions. Based on the attorney's recommendation, I believe we need a motion.

Councilman Wright – I'll make that motion.

Mayor Mengucci – Have a second?

Councilman Belcaro – Second it.

Mayor Mengucci – Roll call.

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Attorney Wenner – And there is just one other housekeeping item. There was a request that was forwarded to our office on behalf of Ms. Mosher requesting that Lopatcong Township at least in part, fund a CLE, essentially, a course is a tax seminar which would include three nights of lodging, registration fees and mileage. That request has been made so we're reporting that on to the Council now for your consideration. I'm not going to tell you what to do on that. That's up to you guys to decide whether you want to authorize that payment.

Mayor Mengucci- I think that would be a good idea. We need a motion for that obviously.

Attorney Campbell – Yeah, I think that's probably best.

Council President Pryor – Wait are you asking for a motion to approve that? If there's no action, it's not approved right?

Attorney Wenner – Correct.

New Business:

Pool Membership Applications – Clerk Dilts provided an increase in the various rates for memberships this year. Rates have not been raised since 2011. Motion by Council President Pryor to authorize increases, seconded by Councilman Wright. Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Buckeley Hill Drive Intersection – Engineer Sterbenz met with Brian to discuss trimming trees to make the stop bar and stop sign more visible. He thought that would help out in the interim but long-term there would be improvements that would have to be made within the right of way to enhance the visibility of the crosswalk for motorists on Belvidere Road so it is a safer crossing for pedestrians. That will be addressed as part of the Safe Routes to School Project. That grant was in the amount of \$380,000.00.

Feral Cat Situation – Mayor Mengucci said there was a complaint in Brakeley Park. Clerk Dilts will alert the Animal Control Officer.

Construction Dept. – Mr. Rossi was present to explain his request to increase fees for certain permits as the Dept. of Community Affairs changed fees to zero on certain permits. He will lose approximately 30% of his budget. He would like to change the fee of \$58 to \$75 on certain other permits to collect approximately the same revenue. He also requested a resolution that in the absence of inspectors and technical assistance he can call for assistance; inspectors at \$30.00 per hour and technical assistance at \$20.00 per hour. He also asked to red sticker basketball poles and hoops out of the roadway due to snow removal and also street sweeping. Council agreed to the hazards this presents. Motion by Councilman Belcaro, seconded by Councilman Palitto.

Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Elizabethtown Gas Co. Road Permit Waiver – Engineer Sterbenz reported that there were two issues. The gas company is looking to replace approximately 5,500 linear feet of gas main in the Morris Park portion of the Township. The roads are Guy Road, Brakeley Avenue, Enmore Road, Edward Street, a portion of First and Third Street and most of Fourth Street and also portions of Dana and Cromwell. Most of the streets are not subject to any moratorium right now but there is one street that is subject to a moratorium which is Third Street. The ordinance does not allow for openings for five years. There will be a road opening permit for the whole project for all the streets. There will be conditions they will be subject to also. All new pavement curb to curb will be done on Third Street about 200 feet. Council President Pryor made the motion

based on Engineer Sterbenz recommendations including a waiver with the condition that they replace the disturbed section with mill and overlay of the entire section, seconded by Councilman Belcaro. Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Trout Unlimited – Stream restoration work. Council President Pryor said Cole Baldino of Trout Unlimited sent an email to Juniper Leifer and that was referred to Engineer Sterbenz and then sent to Council President Pryor. Council President Pryor worked with Trout Unlimited while on the Clean Water Council. Mr. Baldino said he wished to do two projects in Lopatcong; one on Strykers Road where Lopatcong Creek crosses at the bridge and the other is on the eastern side of the Ingersoll Rand site. Council President Pryor suggested that a meeting we set up to include Mayor Mengucci and Gary VanVliet of the Planning Board.

Troop 54 Michael Coppola – request to install batting cages for Eagle Scout Project at the Lopatcong Park. Michael spoke to the Council regarding his project. Mayor Mengucci noted that an area in the park has been established for the project. A shed will have to be moved. Mr. Lutz and the LAA have approved the project also. Michael will be fundraising for the project. The Department of Public Works will cooperate as necessary. Clerk Dilts informed Michael that insurance certificates will be necessary before the project begins. Motion by Councilman Wright, seconded by Council President Pryor to approve the project. Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Mr. Lutz addressed the matter of the Jr. Baseball field behind the pool. Years ago there was a pitching mound put in place; made out of dirt. After some time the mound was taken away and this field was then used as an all-purpose field. The LAA now wants to put this mound back and the reason is softball does not use that field any more. This is the Township's baseball field and they would like to have it as a feature field. Brian Weeks noted that the LAA is asking the Road Department to build this. Council has no problem with this.

Resolution No. 18-65 – Authorize adjustment of credit on Sewer Account on Block 72, Lot 6.

R 18-65

RESOLUTION OF TOWNSHIP OF LOPATCONG, COUNTY OF WARREN,
STATE OF NEW JERSEY AUTHORIZING THE ADJUSTMENT OF THE
CREDIT ON THE SEWER ACCOUNT FOR BLOCK 72, LOT 6

WHEREAS, the Township has determined that a credit of \$839.13 was incorrectly placed on the sewer account for Block 72, Lot 6 related to a deduct water meter in the 4th quarter of 2017; and,

WHEREAS, the 4th quarter sewer account for Block 72, Lot 6 should have been granted a \$35 pool filling credit pursuant to §183-10.2(B); and

NOW, THEREFORE, BE IT RESOLVED on this 4th day of April 2018 that the Tax Collector's Office staff is hereby authorized to change the 2017 4th quarter credit amount from \$839.13 to \$35.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Wednesday, April 4, 2018.

Margaret B. Dilts, CMC

Motion to adopt by Councilman Belcaro, seconded by Council President Pryor. Roll call vote:
AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Resolution No. 18-66 – Approve self-examination of 2018 budget.

R 18-66

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING SELF-EXAMINATION OF THE 2018 BUDGET

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt the rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the Township of Lopatcong has been declared eligible to participate in the program by the Division of Local Government Services and the Chief Financial officer has determined that the local government meets the necessary conditions to participate in the program for the 2016 budget year.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Township of Lopatcong that in accordance with N.J.A.C. 5:3—7.6a & 7.6-b and based upon the Chief Financial Officer's certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items
 - f. Any inclusions of amounts required for school purposes.
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).
3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and J.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
 - a. All estimates of revenue are reasonable, accurate and correctly stated,
 - b. Items of appropriation are properly set forth
 - c. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality
5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.
6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Wednesday, April 4, 2018.

Margaret B. Dilts, CMC

Motion by Council President Pryor, seconded by Councilman Belcaro. Roll call vote:
AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor,
Mayor Mengucci.
NAYS: None

Ordinance No. 18-04 – Establish CAP Bank.

ORDINANCE NO. 18-04

CALENDAR YEAR 2018

ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS

AND TO ESTABLISH A CAP BANK

(N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S.A. 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 Lopatcong in the County of Warren finds it advisable and necessary to increase its CY 2018 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 \$206,389.14 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 Lopatcong, in the County of Warren, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2018 budget year, the final appropriations of the Township of Lopatcong shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$206,389.14 and that the CY

2018 municipal budget for the Township of Lopatcong be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any 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 5 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 5 days after such adoption.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Lopatcong held on April 4, 2018, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on May 2, 2018 at 7:30 pm or as soon thereafter as the Township Council may hear this Ordinance in the Municipal Building, 232 S. Third Street, Phillipsburg, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Margaret B. Dilts, CMC

Motion by Council President Pryor, seconded by Councilman Wright. Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Ordinance No. 18-05 – Affordable Housing required to update according to the settlement.

2018-05

AN ORDINANCE OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY TO ADDRESS THE REQUIREMENTS OF THE COUNCIL ON AFFORDABLE HOUSING (COAH) REGARDING COMPLIANCE WITH THE MUNICIPALITY'S PRIOR ROUND AND THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS

Section 1. Affordable Housing Obligation

(a) This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.

- (b) The Lopatcong Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways Lopatcong Township shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element.
- (c) This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- (d) Lopatcong Township shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by COAH in accordance with N.J.A.C. 5:96 shall be available to the public at the Lopatcong Township Municipal Building, Municipal Clerk's Office, 232 South Third Street, Phillipsburg, New Jersey, or from COAH at 101 South Broad Street, Trenton, New Jersey and on COAH's website, www.nj.gov/dca/affiliates/coah.

Section 2. Definitions

The following terms when used in this Ordinance shall have the meanings given in this Section:

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

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

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

"Administrative agent" means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

"Affirmative marketing" means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

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

"Affordable" means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

"Affordable development" means a housing development all or a portion of which consists of restricted units.

"Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

"Affordable housing program(s)" means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80 percent of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“Assisted living residence” means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

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

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the median household income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization,

roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable county, as adopted annually by COAH.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by COAH’s adopted Regional Income Limits published annually by COAH.

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

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the median household income.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

Section 3. Affordable Housing Programs

Lopatcong Township has determined that it will use the following mechanisms to satisfy its affordable housing obligations: Rehabilitation Program, Inclusionary Zoning, Accessory Apartment Program, Supportive and Special Needs Housing and Development Fee Ordinance.

(a) A Rehabilitation program.

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

(b) An Accessory Apartment program.

1. All accessory apartments shall meet the following conditions:
 - i. Accessory apartments are permitted by the Zoning Ordinance for various zoning districts, provided the units are affordable to low- and moderate-income households. Accessory apartments may be developed as low-income or moderate-income units (accessory apartments may be limited to only low- or only moderate-income units as determined in the Fair Share Plan).

- ii. Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all building codes.
 - iii. At the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to a household which is either a low- or moderate-income household.
 - iv. Rents of accessory apartments shall be affordable to low- or moderate-income households as per COAH and UHAC regulations.
 - v. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale of the unit and the accessory apartment.
 - vi. The appropriate utility authority must certify that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartment. Where the proposed location is served by an individual well and/or septic system, the additional capacity necessitated by the new unit must meet the appropriate NJDEP standards.
 - vii. The Lopatcong Township accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
 - viii. No accessory apartment created as a result of this article or these regulations shall exceed the gross floor area of the existing principal dwelling on the lot.
2. The maximum number of creditable accessory apartments shall be equal to no more than 10 or an amount equal to 10 percent of Lopatcong Township's fair share obligation, whichever is greater (additional units may be approved by COAH if the municipality has demonstrated successful completion of its accessory apartment program.).
 3. Lopatcong Township shall designate an administrative entity to administer the accessory apartment program that shall have the following responsibilities:
 - i. The Administrative Agent shall administer the accessory apartment program, including advertising, income qualifying prospective renters, setting rents and annual rent increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the affordable accessory apartment program in accordance with the UHAC.
 - ii. The administrative entity shall only deny an application for an accessory apartment if the project is not in conformance with COAH's requirements and/or the provisions of this section/article. All denials shall be in writing with the reasons clearly stated.
 - iii. In accordance with COAH requirements, Lopatcong Township shall provide at least \$25,000 per unit to subsidize the creation of each low-income accessory apartment or \$20,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.
 4. Property owners wishing to apply to create an accessory apartment shall submit to the administrative entity:
 - i. A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;

- ii. Rough elevations showing the modifications of any exterior building façade to which changes are proposed; and
- iii. A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition, if any, along with the minimum building setback lines; the required parking spaces for both dwelling units; and any man-made conditions which might affect construction.

Section 4. Reserved

Section 5. Reserved

Section 6. Reserved

Section 7. Inclusionary Zoning

(a) **Presumptive densities and set-asides.** To ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, inclusionary zoning permits minimum presumptive densities and presumptive maximum affordable housing set-asides as follows:

1. For Sale Developments

- i. Inclusionary zoning in Planning Area 2 and permits residential development at a presumptive minimum gross density of six units per acre and a presumptive maximum affordable housing set-aside of 25 percent of the total number of units in the development;

The zoning of the MFI Multi Family Inclusionary zone provides for a 25 percent set-aside for restricted units and a density of 6 units per acre.

2. Rental Developments

- i. Inclusionary zoning permits a presumptive minimum density of 12 units per acre and a presumptive maximum affordable housing set-aside of 20 percent of the total number of units in the development and the zoning provides for at least 10 percent of the affordable units to be affordable to households earning 30 percent or less of the area median income for the COAH region.

The zoning of the MFI Multi Family Inclusionary zone provides for a 20 percent set-aside for restricted units and a density of 12 units per acre.

- 3. Additional incentives to subsidize the creation of affordable housing available to very-low income households may be included in the zoning section of this ordinance or specified in a developer's or redeveloper's agreement.

(b) **Phasing.** In inclusionary developments the following schedule shall be followed:

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

(c) **Design.** In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

(d) **Payments-in-lieu and off-site construction.** The standards for the collection of Payments-in-Lieu of constructing affordable units or standards for constructing affordable units off-site shall be in accordance with N.J.A.C. 5:97-6.4.

(e) **Utilities.** Affordable units shall utilize the same type of heating source as market units within the affordable development.

Section 8. New Construction

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

(a) **Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:**

1. The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
2. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - ii. At least 30 percent of all low- and moderate-income units shall be two bedroom units;
 - iii. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
 - iv. The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

(b) Accessibility Requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.
2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - i. An adaptable toilet and bathing facility on the first floor;
 - ii. An adaptable kitchen on the first floor;
 - iii. An interior accessible route of travel on the first floor;
 - iv. An interior accessible route of travel shall not be required between stories within an individual unit;
 - v. 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
 - vi. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, or evidence that Lopatcong Township has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - A Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - B To this end, the builder of restricted units shall deposit funds within Lopatcong Township's affordable housing trust fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
 - C The funds deposited under paragraph B. above shall be used by Lopatcong Township for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - D The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of Lopatcong Township.
 - E Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township of Lopatcong's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
 - F Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

(c) Maximum Rents and Sales Prices

1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and in COAH, utilizing the regional income limits established by COAH.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
 - i. At least 10 percent of all low- and moderate-income rental units shall be affordable to households earning no more than 30 percent of median income.

**NOTE: N.J.S.A. 52:27D-329.1 (P.L. 2008, C. 46) includes the requirement that all municipal fair share plans provide for the reservation of at least 13% of the affordable units for very low income households, i.e. households earning 30% or less of the median income. The new statute states that the requirement is not project-specific. Each municipality's version of this ordinance must reflect the determinations made in the Fair Share Plan as to the percentage of units necessary for very low income units in rental projects. Additional incentives to subsidize the creation of affordable housing available to very-low income households may be included in the zoning section of this ordinance or specified in a developer's or redeveloper's agreement.
4. 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, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household;
 - iii. A two-bedroom unit shall be affordable to a three-person household;
 - iv. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - v. A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - iii. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 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 the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
10. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
11. Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

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

Section 9. Affirmative Marketing Requirements

- (a) Lopatcong 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.
- (b) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 2 and covers the period of deed restriction.
- (c) The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 2 comprised of Warren, Essex, Union and Warren counties.
- (d) The Administrative Agent designated by Lopatcong Township shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.

- (e) In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (f) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (g) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by Lopatcong Township.

Section 10. Occupancy Standards

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

Section 11. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- (a) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until Lopatcong Township elects to release the unit from such requirements however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (b) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (c) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- (d) At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (e) The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- (f) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

Section 12. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- (a) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (b) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- (c) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- (d) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

Section 13. Buyer Income Eligibility

- (a) Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

Section 14. Limitations on indebtedness secured by ownership unit; subordination

- (a) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- (b) With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).

Section 15. Control Periods for Restricted Rental Units

- (a) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until Lopatcong Township elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.

- (b) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Warren. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (c) A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. Sale or other voluntary transfer of the ownership of the unit; or
 - 3. The entry and enforcement of any judgment of foreclosure.

Section 16. Price Restrictions for Rental Units; Leases

- (a) A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- (b) No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- (c) Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

Section 17. Tenant Income Eligibility

- (a) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
 - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - 1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 3. The household is currently in substandard or overcrowded living conditions;
 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (c) The applicant shall file documentation sufficient to establish the existence of the circumstances in (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

Section 18. Administration

- (a) The position of Municipal Housing Liaison (MHL) for Lopatcong Township is established by this ordinance. The Township Council shall make the actual appointment of the MHL by means of a resolution [or a letter in the case of a chief executive].
1. The MHL must be either a full-time or part-time employee of Lopatcong Township.
 2. The person appointed as the MHL must be reported to COAH for approval.
 3. The MHL must meet all COAH requirements for qualifications, including initial and periodic training.

**NOTE: if the MHL position is one that will always be included in the job description for a particular position in the local staff, e.g. Township Clerk, that position can be named in this ordinance.
 4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Lopatcong Township, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - ii. The implementation of the Affirmative Marketing Plan and affordability controls.
 - iii. When applicable, supervising any contracting Administrative Agent.
 - iv. Monitoring the status of all restricted units in Lopatcong Township's Fair Share Plan;
 - v. Compiling, verifying and submitting annual reports as required by COAH;
 - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.
- (b) Lopatcong Township shall designate by resolution of the Township Council, subject to the approval of COAH, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.
- (c) An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of COAH. The Operating Manuals shall

be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

- (d) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
 2. Affirmative Marketing;
 3. Household Certification;
 4. Affordability Controls;
 5. Records retention;
 6. Resale and re-rental;
 7. Processing requests from unit owners; and
 8. Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
 9. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

Section 19. Enforcement of Affordable Housing Regulations

- (a) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- (b) After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - i. A fine of not more than [insert amount] or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - ii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Lopatcong Township Affordable Housing Trust Fund of the gross amount of rent illegally collected;

- iii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
 2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.
- (c) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- (d) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
- (e) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (f) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

- (g) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (h) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

Section 20. Appeals

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

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This ordinance shall take effect upon passage and publication as provided by law.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Lopatcong held on Wednesday, April 4, 2018 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on May 2, 2018 at 7:30 pm or as soon thereafter as the Township Council may hear this Ordinance at the Municipal Building, 232 S. Third Street, Phillipsburg, NJ at which time all persons interested may appear for or against the passage of said Ordinance.

Margaret B. Dilts, CMC

Motion to adopt by Council President Pryor, seconded by Councilman Belcaro. Roll call vote:
AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.
NAYS: None

Ordinance No. 18-06 – Authorizing Sale of Real Property to the County of Warren – Block 2, Lot 44.03.

ORDINANCE NO. 2018-06

ORDINANCE OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN, STATE OF NEW JERSEY, AUTHORIZING THE SALE OF REAL PROPERTY BY THE TOWNSHIP OF LOPATCONG TO THE COUNTY OF WARREN PURSUANT TO N.J.S.A. 40A:12-13.4

WHEREAS, the Township of Lopatcong owns certain real property located on Belvidere Road, and known as portion of Block 2, Lot 44.03, on the Tax Map of the Township of Lopatcong; and

WHEREAS, said property is not needed or required for municipal use; and

WHEREAS, the Township of Lopatcong is authorized, pursuant to N.J.S.A. 40A:12-13-4, to make a private sale and conveyance of land for consideration, which may be nominal, for such purposes; and

WHEREAS, the County of Warren plans to continue to utilize the property as a right-of-way for Belvidere Road;

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Lopatcong, County of Warren, State of New Jersey, as follows:

SECTION I

1. The Township Committee of the Township of Lopatcong does hereby find and declare that a portion of Block 2, Lot 44.03, as shown on the Tax Map of the Township of Lopatcong, is determined not to be needed or required for municipal use.
2. Pursuant to N.J.S.A. 40A:12-13.4, the Township is desirous of conveying said property to Warren County Board of Chosen Freeholders for County use.
3. The Mayor and Clerk are hereby authorized to execute a Deed and any other appropriate documents to convey title to the Warren County Board of Chosen Freeholders.

SECTION II

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

SECTION III

If any article, section, subsection, paragraphs, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

SECTION IV

This Ordinance shall take effect immediately upon final publication as provided by law.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Lopatcong held on Wednesday, April 4, 2018 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on May 2, 2018 at 7:30 pm or as soon thereafter as the Township Council may hear this Ordinance at the Municipal Building, 232 S. Third Street, Phillipsburg, NJ at which time all persons interested may appear for or against the passage of said Ordinance.

Margaret B. Dilts, CMC

Motion to adopt by Council President Pryor, seconded by Councilman Palitto. Roll call vote:
AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.
NAYS: None

Deiter Bros. Quote – Approve quote submitted by Deiter Bros. for Standard Preventative Maintenance at \$3,200.00 for the heating and cooling system. This is a one year contract.
Motion to approve by Council President Pryor, seconded by Councilman Belcaro. Roll call vote:
AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.
NAYS: None

Brochure Lopatcong Park – A Brochure could possibly generate more revenue if the pool and pavilion, are advertised with what is available for rental and so on. Clerk Dilts received two quotes for about the same amount of money and would like to award the job to Carly Vieman a

local girl in Lopatcong. Motion by Council President Pryor, seconded by Councilman Belcaro for an amount up to \$600.00. Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Consent Agenda:

Motion to approve the Consent Agenda by Councilman Wright, seconded by Councilman Palitto. Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Resolution No. 18-67 – Authorize redemption of Tax Sale Certificate No. 138, Lot 31 with Premium in the amount of \$2002.28.

R 18-67

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING REFUND OF REDEMPTION MONIES TO OUTSIDE LIENHOLDER ON BLOCK 138, LOT 31

WHEREAS, at the Lopatcong Township Municipal Tax Sale held on October 12, 2016, a lien was sold on Block 138, Lot 31 also known as 62 Buckley Hill Drive for 2015 delinquent sewer; and

WHEREAS, this lien, known as Tax Sale Certificate No. 2016-046 was sold to US Bank Cust PC4 Trst & Crdtrs for 18% interest; and

WHEREAS, mortgage company for property owner has satisfied the redemption amount on Certificate No. 2016-046 in the amount of \$1002.28.

NOW, THEREFORE, BE IT RESOLVED on this 4th day of April, 2018 that the Chief Financial Officer be authorized to issue a check in the amount of \$1002.28 for the redemption of Tax Sale Certificate No. 2016-046:

US Bank Cust PC4 Trst & Crdtrs
50 S. 16th St., Suite 2050
Philadelphia, PA 19102-2513

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Wednesday, April 4, 2018.

Margaret B. Dilts, CMC

Delaware Park Chemical Engine Co. No. 1 – Approve application for Bailey Wyatt as recommended by Chief Stires.

Resolution No. 18-68 - Join Statewide Insurance Fund and authorize signature on Indemnity and Trust Agreement with Statewide.

R 18-68

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF
NEW JERSEY TO JOIN STATEWIDE INSURANCE FUND

WHEREAS, a number of local units have joined together to form the Statewide Insurance Fund (“Fund”), a joint insurance fund, as permitted by N.J.S.A. 40A:10-36, et seq.; and

WHEREAS, Township of Lopatcong (“local Unit”) has complied with relevant law with regard to the acquisition of insurance; and

WHEREAS, the statutes and regulations governing the creation and operation of joint insurance funds contain elaborate restrictions and safeguards concerning the safe and efficient administration of such funds; and

WHEREAS, the Local Unit has determined that membership in the Fund is in the best interest of the Local Unit.

WHEREAS, the Local Unit agrees to be a member of the Fund for a period of three (3) years, effective from January 1, 2018 terminating on January 1, 2021 at 12:01 a.m. standard time; and

WHEREAS, the Local Unit has never defaulted on claims, if self-insured and has not been cancelled for non-payment of insurance premiums for two (2) years prior to the date of this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the Local Unit does hereby agree to join the Statewide Insurance Fund; and

BE IT FURTHER RESOLVED that to the extent required by law, the Local Unit shall provide notice of the Indemnity and Trust Agreement to the Office of the State Comptroller; and

BE IT FURTHER RESOLVED that the Local Unit will be afforded the following coverage (s):

Workers’ Compensation & Employer’s Liability, Comprehensive General Liability, Automobile Liability and Physical Damage, Physical Damage, Public Officials and Employment Practices Liability, Pollution

Liability, Property, Inland Marine Boiler and Machinery, Crime-Faithful Performance and Fidelity, Cyber Liability, Non-Owned Aircraft

BE IT FURTHER RESOLVED that James Palitto is hereby appointed as the Local Unit's Fund Commissioner and is authorized to execute the application for membership and the accompanying certification on behalf of the Local Unit; and Margaret Dilts is hereby appointed as the Local Unit's Alternate Fund Commissioner.

BE IT FURTHER RESOLVED that the Local Units Fund Commissioner is authorized and directed to execute the Indemnity and Trust Agreement and such other documents signifying the membership in the Fund as required by the Fund's Bylaws and to deliver same to the Administrator of the Fund with express reservation that said documents shall become effective only upon the Local Unit's admissions to the Fund following approval of the Fund by the New Jersey Department of Banking and Insurance.

Name of Member Entity:
Township of Lopatcong
By James Mengucci, Mayor

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Wednesday, April 4, 2018.

Margaret B. Dilts, CMC

Thomas Seiple – Plant Trees – Approve request by Tomas Seiple to plant two trees in honor of parents at the Lopatcong Park.

Lopatcong PTA Raffle License – Approve Findings and Determination for Raffle License.

LAA Fundraiser – Donation of Family Pool Pass.

Veteran's Rally Point – Approve Indemnification and Save Harmless Agreement with Hayford's Landscaping at the Park.

Council Reports:

Councilman Palitto – Reported the LAA would be having a baseball clinic on June 3rd and a golf outing on June 8th. The EDAC Committee held a meeting in late February in which a presentation was provided by a potential buyer of the Phillipsburg Mall.

Councilman Belcaro – Reported that a new sweeper is scheduled to arrive soon so the Lopatcong roadways will begin to be swept again. A medium dump truck has also been purchased.

Councilman Wright – Reported a large influx of skunks in and around the area. Neighbors have contacted him about what can be done about this. Clerk Dilts offered to contact the Animal Control Officer.

Council President Pryor – Recreation Committee would like to develop a Park Master Plan. A request to Engineer Sterbenz for aerial shots of the park would be helpful. Easter Egg Hunt was held on Saturday, March 31st. It had been delayed from an earlier date due to a snow storm. Community Day is scheduled for Saturday, August 25th. Lori Ciesla said Ms. New Jersey is scheduled to make an appearance. Electronics Recycling Day is scheduled for Sunday, April 15th at the County and April 29th is for Household Hazardous Waste Day. He suggested that anyone interested should go to their website for more information as to the times and what the details are including restrictions.

Mayor Mengucci – Reported that one of his decisions is the work on the infrastructure in the Township. Red School Lane, Briarstone, Greystone, Grandview, Anna Place, etc. Engineer Sterbenz provided a rough estimate on the cost of Red School Lane at \$450,000 to mill and pave that road. This matter will be addressed probably through the issuance of a bond. The park pavilion, service road and parking lots need to also be addressed.

Engineer Sterbenz – South Second Street recently completed had DOT local aid money – this project was closed out and the paperwork was submitted so the Township can receive the final grant money in the amount of \$25,000. On the Phillipsburg High School Roadway Improvement Project closeout, the County indicated they had administrative issues that need to be addressed before closeout and turnover of the traffic signal. The traffic signal had to be retimed, the County was concerned about some for the wires crossing over Belvidere Road, and the ordinance to convey various parcels to the County that were obtained as part of the construction process. Engineer Sterbenz is preparing the annual Stormwater Report for the DEP and will be in next week. The two federal aid projects involving the sidewalk construction on Belvidere Road, the Township has \$702,000 in grant money to construct sidewalks and in order to move forward on the surveying work, the Township Council said the administrative work had to be sent into the State. Clerk Dilts informed the Council that the manuals were mailed out today. Council President Pryor made a motion to authorize Engineer Sterbenz to move forward on the surveying work now that the administrative documents were submitted to the DOT. This motion was seconded by Councilman Belcaro. Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Department Reports – Approved on motion by Councilman Palitto, seconded by Councilman Wright. All in favor.

Payment of Bills – Council President Pryor recused himself from bills payable to JMT. Motion to approve payment of bills by Councilman Wright, seconded by Councilman Palitto. Roll call vote:

AYES: Councilman Belcaro, Councilman Palitto, Councilman Wright, Council President Pryor, Mayor Mengucci.

NAYS: None

Audience Participation:

John Betz – Spoke to Council regarding issues that would affect the aging population and maternity, psych units in hospitals and drug units. Council should be aware of the needs for transportation. He spoke about fracking up north of the Delaware River. Lastly he spoke of 401k's, retirement incomes of people, etc. the value.

Raine Roncoroni – Request volunteers to participate with the Warren County Health Dept.; they are holding a point of distribution exercise. This is being held on April 21st from 8:00 am to 1:00 pm. She passed out a volunteer form for the Council and the Municipal Building will also provide them to anyone interested.

Lori Ciesla – Spoke about the equipment she would like the Township to purchase for “Movies at the Pool” and other situations as well. Lori also noted that she spoke to the school regarding an effort by both to get more information out on the website to keep people informed.

Gary VanVliet – Asked about Item No. 8 adjusting a credit on a sewer account. He is the Chairman of the Sewer Appeal Panel and stated he was not aware of an \$800 credit that the Board provided to anyone. Attorney Campbell said it is from a deduct meter allegedly. Council President Pryor said this was more of an audit issue than an appeal and was handled as part of quality control as view of any record here. The credit was in error entered onto the system and never implemented.

Motion to go back into Executive Session by Councilman Belcaro, seconded by Councilman Palitto. All in favor.

R 18-69

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND THE STATE OF NEW JERSEY AUTHORIZING AN EXECUTIVE SESSION

WHEREAS, there are presently pending matters to be considered in Executive Session concerning possible matters listed:

Litigation – Phillipsburg Sewer update

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Lopatcong, County of Warren and the State of New Jersey that the Council is authorized to hold an Executive Session.

BE IT FURTHER RESOLVED that the Council of the Township of Lopatcong will make said matters public within approximately 30 days of said meeting or until such a time as confidentiality of the matters is no longer required.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Wednesday, April 4, 2018.

Margaret B. Dilts, CMC

Motion to resume Regular Session by Councilman Palitto, seconded by Councilman Wright. All in favor.

Motion to adjourn the meeting by Council President Pryor, seconded by Councilman Palitto. All in favor.

Respectfully submitted,

Margaret B. Dilts, CMC
Clerk/Administrator

James E. Mengucci
Mayor