

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

The Tewksbury Township Committee met in a regular/work session on the above date at the Municipal Building, Mountainville, NJ.

The meeting was called to order at 7:30 PM, roll call held and a quorum established.

Mayor Robert Hoffman Jr. presided.

Other officials in attendance were Township Committee members Dana Desiderio, Peter Melick, Shaun Van Doren and William Voyce.

Jesse Landon, Township Administrator, Roberta Brassard, Municipal Clerk and Michael Selvaggi, Township Attorney were in attendance.

There were approximately fifteen members of the public in attendance.

1. Open Public Meetings Statement

The Open Public Meetings Statement was read by Mayor Hoffman.

2. Flag Salute

Those present stood and pledged allegiance to the American flag.

3. Citizen of the Year

Mayor Hoffman read the following Proclamation into the minutes of the meeting. Mary Elizabeth Young received a standing ovation accepted the plaque with great appreciation.

**PROCLAMATION TO RECOGNIZE THE
2010 CITIZEN OF THE YEAR FOR THE TOWNSHIP OF TEWKSBURY**

WHEREAS, it is the annual custom for the Mayor of the Township of Tewksbury to proclaim the virtues of an outstanding citizen and to award the title Citizen of the Year through Proclamation; and

WHEREAS, this award is in recognition of the many contributions made by individuals and groups over the years which benefit all Township residents; and

WHEREAS, this individual has served on the Township Historic Preservation Commission and the 2005 Committee; and

WHEREAS, this individual is a lifelong Hunterdon County resident whose family roots date back to 1750 in the Township of Tewksbury; and

WHEREAS, this individual has been an active member of the Fairmount Presbyterian Church and the Tewksbury Township Public Library Board for over fifteen years and is currently an active member of the Tewksbury Historical Society; and

WHEREAS, this individual is an active member of the Daughters of the American Revolution and the Hunterdon County Republican Committee; and

WHEREAS, this individual currently works for the Morristown and Morris Township Library as a Degreed Librarian and previously worked for the Bernardsville High School for over forty years as a Librarian and a History teacher; and

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

WHEREAS, this individual is a gifted musician who teaches and performs on the Concert Harp for civic, private, public and church events.

NOW, THEREFORE, BE IT RESOLVED that as Mayor of the Township of Tewksbury, County of Hunterdon, State of New Jersey, I do hereby proclaim the 2010 Tewksbury Citizen of the Year to be Mary Elizabeth Young; and

BE IT FURTHER RESOLVED that this Proclamation shall be presented in its entirety in the minutes of the Tewksbury Township Committee so that all may recognize the contributions that Mary Elizabeth Young has made to the quality of life in the Township of Tewksbury and so that we may honor her contribution now and in the future.

Robert M. Hoffman, Jr.
Mayor

3. Presentation

Deputy Mayor Voyce presented Mayor Hoffman with a framed print of the Oldwick General Store in recognition of his service to the Township.

Mayor Hoffman accepted the gift with appreciation and added that the past three years have been his pleasure to serve the Township. He noted that the interest of the residents is what keeps Tewksbury the community that it is.

4. Public Participation

David Curcio thanked the Committee for action taken with regard to parties on 23 Guinea Hollow Road. Information related to the event was handed to the Clerk.

Frank Sanchez of Somerset Hills Towing noted that an application was given to the Township Clerk and forwarded to the Chief of Police and he requested that his firm be added to the list of towing companies utilized in the Township.

With regard to a statement by Michael Bessasparis owner of Somerset Hills Towing, Mr. Selvaggi stated that the Towing Ordinance could not be introduced tonight and adopted in a different calendar year. Mr. Bessasparis stated that he has been very patient with regard to hearing from the Police Chief regarding the request to be placed on the list of towing companies. Discussion followed regarding the need to introduce the proposed Towing Ordinance at the first meeting of 2011. Additional comments were made regarding the list of towers in the Township.

5. Actions to be taken

➤ **Ordinance Adoption**

Mr. Van Doren moved to open the Public Hearing on Ordinance #08-2010, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

Ms. Brassard provided proof of publication from the 11/18/10 Hunterdon County Democrat and a letter from the Land Use Board noting their review of the Ordinance and finding it not inconsistent with the Master Plan.

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

There being no comments from the public, Mr. Van Doren moved to close the Public Hearing on Ordinance #08-2010, seconded by Mr. Melick. The motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

Mr. Van Doren move adoption of Ordinance #08-2010, seconded by Ms. Desiderio. A roll call vote was taken and the motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

ORDINANCE NO. 08-2010

**AN ORDINANCE OF THE TOWNSHIP OF TEWKSBURY, COUNTY OF
HUNTERDON, STATE OF NEW JERSEY,
TO AMEND, REVISE AND SUPPLEMENT ARTICLE VII, SECTION 726A.10 OF
THE TEWKSBURY TOWNSHIP DEVELOPMENT REGULATIONS
ORDINANCE(2000) PERTAINING TO ADDITIONAL ACCESSORY USES
WITHIN A RESIDENTIAL ZONE**

WHEREAS, the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, has determined that Article VII, Section 726A.10 of the Tewksbury Township Development Regulations Ordinance is ambiguous in its present form as it relates to minimum side and rear setback requirements for accessory uses and structures; and

WHEREAS, the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, desires to amend, revise and supplement Article VII, Section 726A.10 of the Tewksbury Township Development Regulations Ordinance in its present form in order to clarify any ambiguity currently existing relative to minimum side and rear setback requirements for accessory uses and structures.

Section 1

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, that the Tewksbury Township Development Regulations Ordinance is hereby amended to delete the prior §726A.10 and to replace that section with new §726A.10 below:

Article VII § 726 ADDITIONAL ACCESSORY USE PROVISIONS

§ 726.10 No such accessory use or structure shall be permitted in any front yard. Such use or structure may be located in the side or rear yard of the lot provided it satisfies the applicable side and rear yard setback requirements.

Section 2:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 3. Repealer.

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

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

Section 4. Effective Date.

This Ordinance shall take effect upon final passage and publication.

Robert M. Hoffman, Jr.
Mayor

Mr. Van Doren moved to open the Public Hearing on Ordinance #09-2010, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

Ms. Brassard provided proof of publication from the 11/18/10 Hunterdon County Democrat and a letter from the Land Use Board noting their review of the Ordinance and finding it not inconsistent with the Master Plan.

George Cassa questioned if there was overlap in the definitions related to equestrian facilities, lighting and impervious coverage. Further comments were made regarding agricultural uses and definitions.

There being no further comments from the public, Mr. Melick moved to close the Public Hearing on Ordinance #09-2010, seconded by Mr. Van Doren. The motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

Mr. Van Doren move adoption of Ordinance #09-2010, seconded by Ms. Desiderio. A roll call vote was taken and the motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

ORDINANCE NO. 09-2010

AN ORDINANCE OF THE TOWNSHIP OF TEWKSKBURY, COUNTY OF
HUNTERDON, STATE OF NEW JERSEY,
TO AMEND, REVISE AND SUPPLEMENT ARTICLE III, SECTION 301 OF THE
TEWKSBURY TOWNSHIP DEVELOPMENT REGULATIONS ORDINANCE (2000)
PERTAINING TO DEFINITION OF "ACCESSORY BUILDING, STRUCTURE OR
USE" AND "PERSONAL PRIVATE RECREATIONAL FACILITY OR ATHLETIC
FACILITY OR ACTIVITY"

WHEREAS, the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, has determined that Article III, Section 301 of the Tewksbury Township Development Regulations Ordinance presently defines "Accessory Building, Structure or Use" as "A building, structure or use which:

- A. Is subordinate to and serves a principal building or a principal use;
- B. Is subordinate in area, extent and purpose to the principal building or principal use;

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

- C. Is ordinarily and customarily associated within the principal use and contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal building or principal use served;
- D. Is located on the same lot as the building or principal use served, except as otherwise expressly authorized by the provisions of this Ordinance.”; and

WHEREAS, the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, wishes to clarify the types of structures considered to be examples of an accessory building, structure or use; and

WHEREAS, the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, has determined that Article III, Section 301 of the Tewksbury Township Development Regulations Ordinance presently defines “Personal Private Recreational Facility or Athletic Facility or Activity” as “A recreational or athletic facility or activity conducted as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests. This definition is not intended to include an agricultural accessory use. Nor is it intended to include the keeping and boarding of horses on single family residential lot as an accessory use in the A-5 Agricultural District or the R-3 Rural District; see, however, Section 709 C.11. and Section 710 C.10., which regulate such accessory uses.”; and

WHEREAS, A-5 Agricultural and R-3 Rural Districts are no longer recognized Districts within the Township of Tewksbury; and

WHEREAS, the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, desires to amend, revise and supplement Article III, Section 301 of the Tewksbury Township Development Regulations Ordinance relating to “Accessory Building, Structure or Use” in its present form in order to provide a new definition of “Accessory Building, Structure or Use” and to delete in its entirety the present definition of “Accessory Building, Structure or Use” and further desires to amend, revise and supplement Article III, Section 301 of the Tewksbury Township Development Regulations Ordinance relating to “Personal Private Recreational Facility or Athletic Facility or Activity” in its present form in order to provide a new definition of “Personal Private Recreational Facility or Athletic Facility or Activity” and to delete in its entirety the present definition of “Personal Private Recreational Facility or Athletic Facility or Activity”.

Section 1

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, that the Tewksbury Township Development Regulations Ordinance is hereby amended, revised, and modified to eliminate the current definition of “Accessory Building, Structure or Use” as set forth in §301 by eliminating same and replace it with the following:

Article III § 301

Accessory Building, Structure or Use

Accessory building, structure or use shall mean a building, structure or use which is customarily with, and is subordinate and incidental to, the principal building, structure or

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

use and which is located on the same lot therewith, including, but not limited to, garages, carports, barns, kennels, sheds, non-portable swimming pools, guest houses and all roofed structures. Any accessory building attached to the principal building shall be considered part of the principal building.

Section 2

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, that the Tewksbury Township Development Regulations Ordinance is hereby amended, revised, and modified to eliminate the definition of "Personal Private Recreational Facility or Athletic Facility or Activity" as set forth in §301 and replace it with the following:

Article III § 301

Personal Private Recreational Facility or Athletic Facility or Activity

A recreational or athletic facility or activity conducted as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests. This definition is not intended to include an agricultural accessory use. Nor is it intended to include the keeping and boarding of horses on single family residential lot as an accessory use in the Highlands District (HL), Lamington District (LT), Farmland Preservation (FP) and Piedmont District (PM); see, however, Section 709 C.11. and Section 710 C.10., which regulate such accessory uses.

Section 3:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 4. Repealer.

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

Section 5. Effective Date.

This Ordinance shall take effect upon final passage and publication.

Robert M. Hoffman, Jr.
Mayor

Mr. Van Doren moved to open the Public Hearing on Ordinance #10-2010, seconded by Ms. Desiderio Voyce. The motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

Ms. Brassard provided proof of publication from the 11/18/10 Hunterdon County Democrat and a letter from the Land Use Board noting their review of the Ordinance and finding it not inconsistent with the Master Plan.

There being no comments from the public, Mr. Van Doren moved to close the Public Hearing on Ordinance #10-2010, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

Mr. Van Doren move adoption of Ordinance #10-2010, seconded by Ms. Desiderio. A roll call vote was taken and the motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

ORDINANCE NO. 10-2010

AN ORDINANCE OF THE TOWNSHIP OF TEWKSBURY, COUNTY OF HUNTERDON, STATE OF NEW JERSEY, TO AMEND, REVISE AND SUPPLEMENT ARTICLE IV, SECTION 411.C.2 AND ARTICLE IV, SECTION 411.C.3 OF THE TEWKSBURY TOWNSHIP DEVELOPMENT REGULATIONS ORDINANCE (2000) PERTAINING TO "PUBLIC NOTICE OF A HEARING" IN ORDER TO ESTABLISH ADDITIONAL NOTICE REQUIREMENTS WHEN NOTICE IS SERVED BY PERSONAL SERVICE

WHEREAS, the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, has determined that Article IV, Section 411.C.2 and Article IV, Section 411.C.3 of the Tewksbury Township Development Regulations Ordinance does not currently require an applicant who chooses to serve personal notice of a public hearing for a pending land use application before the Township's Land Use Board or Zoning Board to obtain a signature from the affected property owner or his agent acknowledging receipt of service; and

WHEREAS, the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, desires to amend, revise and supplement Article IV, Section 411.C.2 and Article IV, Section 411.C.3 of the Tewksbury Township Development Regulations Ordinance to clarify that personal service made pursuant to Article IV, Section 411.C.2 and Article IV, Section 411.C.3 of the Tewksbury Township Development Regulations Ordinance shall be effective only upon the obtaining of a signature from the affected property owner or its agent acknowledging and evidencing receipt of service.

Section 1

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, that the Tewksbury Township Development Regulations Ordinance is hereby amended, revised, and modified to delete the prior §411.C.2 and to replace that section with new §411.C.2 below:

Article IV § 411.C.2

To all owners of real property as shown on the current tax duplicate located in the State and within 200 feet in all directions of the property which is the subject of the hearing; provided that this requirement shall be deemed satisfied by notice to a condominium

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

association, in the case of any unit owner whose unit has a unit above or below it, or horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given in one of the following two ways:

- a. By serving a copy on the property owner, as shown on the current tax duplicate, or his or her agent in charge of the property. Any applicant providing notice of a public hearing via personal service on the property owner or his/her/its agent shall obtain a signature from the affected property owner or his/her/its agent acknowledging receipt of service; or
- b. By mailing a copy thereof by certified mail to the property owner at his or her address as shown on the current tax duplicate. It does not require that a return receipt be attained. Notice shall be deemed complete upon mailing.

Section 2

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, that the Tewksbury Township Development Regulations Ordinance and is hereby amended, revised, and modified to delete the prior §411.C.3 and to replace that section with new §411.C.3, below:

Article IV § 411.C.3

Notice to a partnership owner may be made by service on any partner; notice to a corporate owner may be made by service upon its President, Vice President, Secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Any applicant serving notice of a public hearing upon a partnership owner or a corporate owner shall obtain a signature from the duly authorized representative of the partnership owner or the corporate owner acknowledging receipt of service. Notice to a condominium association, horizontal property regime, community trust or homeowners association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

Section 3. Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 4. Repealer.

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

Section 5. Effective Date.

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

This Ordinance shall take effect upon final passage and publication.

Robert M. Hoffman, Jr.
Mayor

Mr. Van Doren moved to open the Public Hearing on Ordinance #11-2010, seconded by Mr. Melick. The motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

Ms. Brassard provided proof of publication from the 11/18/10 Hunterdon County Democrat and a letter from the Land Use Board noting their review of the Ordinance and finding it not inconsistent with the Master Plan.

Don Harjes questioned the language of the Ordinance with regard to accessory use structures.

There being no further comments from the public, Mr. Melick moved to close the Public Hearing on Ordinance #11-2010, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

Dr. Voyce move adoption of Ordinance #11-2010, seconded by Ms. Desiderio. A roll call vote was taken and the motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

ORDINANCE NO. 11-2010

**AN ORDINANCE OF THE TOWNSHIP OF TEWKSBURY, COUNTY OF
HUNTERDON, STATE OF NEW JERSEY,
TO AMEND REVISE AND SUPPLEMENT ARTICLE VII OF THE TEWKSBURY
TOWNSHIP DEVELOPMENT REGULATIONS ORDINANCE (2000) TO
ESTABLISH SETBACK REQUIREMENTS FOR CERTAIN ACCESSORY USES**

WHEREAS, the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, has determined that it is necessary to amend, revise and supplement the Development Regulations Ordinance to clarify that setback requirements for all accessory uses are to be the same as setback requirements for principal structures; and

WHEREAS, the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, desires to amend, revise and supplement Article VII of the Tewksbury Township Development Regulations Ordinance in order to create a new section which establishes that setback requirements for all accessory uses are to be the same as setback requirements for principal structures, unless otherwise indicated.

Section 1

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, that the Tewksbury Township Development Regulations Ordinance is hereby amended to include §702.1 titled "Accessory Use" in the form below:

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

Article VII § 702.1

Accessory Use

Area and yard requirements: Area and yard requirements specified throughout Article VII shall apply to principal and accessory structures and buildings, unless otherwise specified for a given use, structure or building. The area and yard requirements shall apply to all structures with the exception of access sidewalks, driveways, barns, fences unrelated to tennis courts and accessory structures converted for use as Lower Income Housing.

Section 2:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 3. Repealer.

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

Section 4. Effective Date.

This Ordinance shall take effect upon final passage and publication.

Robert M. Hoffman, Jr.
Mayor

Mr. Van Doren moved to open the Public Hearing on Ordinance #12-2010, seconded by Ms. Desiderio. The motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

Ms. Brassard provided proof of publication from the 11/18/10 Hunterdon County Democrat and a letter from the Land Use Board noting their review of the Ordinance and finding it not inconsistent with the Master Plan.

It was noted that this Ordinance is bringing the Township into compliance with COAH rules as they currently are written.

There being no comments from the public, Mr. Van Doren moved to close the Public Hearing on Ordinance #12-2010, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

Mr. Van Doren move adoption of Ordinance #12-2010, seconded by Ms. Desiderio. A roll call vote was taken and the motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

ORDINANCE NO. 12-2010

AN ORDINANCE ENACTING ARTICLE XII AFFORDABLE HOUSING CONCERNING THE ASSESSMENT AND COLLECTION OF AFFORDABLE HOUSING DEVELOPMENT FEES PURSUANT TO NEW JERSEY COUNCIL ON AFFORDABLE HOUSING (COAH) REGULATIONS CONCERNING THE COLLECTION OF DEVELOPMENT FEES

WHEREAS, the Township of Tewksbury desires to comply with new regulations adopted by the Council on Affordable Housing (COAH) in June of 2008 regarding changes required to be made to municipal Development Fee Ordinances by creating a Developing Fee Ordinance, once the same has been approved by COAH,

NOW, THEREFORE, BE IT ORDAINED as follows:

Section 1:

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.

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

- b) Township of Tewksbury 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.
 - ii. **"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.
 - iii. **"Development fee"** means money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:97-8.3*.
 - iv. **"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.
 - v. **"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).
 - vi. **"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 all zoning 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 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 percent of the equalized assessed value

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

- b) Eligible exactions, ineligible exactions and exemptions for residential development
 - i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, 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. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

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.

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

- 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.

- b) 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 [*insert municipality*] 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

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

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 Township of Tewksbury 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
 - 1) 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 Township of Tewksbury. 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.

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

- 2) 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 Township of Tewksbury. 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:
1. payments in lieu of on-site construction of affordable units;
 2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 3. repayments from affordable housing program loans;
 4. recapture funds;
 5. proceeds from the sale of affordable units; and
 6. any other funds collected in connection with Tewksbury Township's affordable housing program.
- c) Within seven days from the opening of the trust fund account, Township of Tewksbury shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, TD 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 Township of Tewksbury's fair share obligation

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

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 Township of Tewksbury 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.
 - i. 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.
 - ii. 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.
 - iii. 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) Township of Tewksbury 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

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

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) Township of Tewksbury 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 Township of Tewksbury'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 Township of Tewksbury to impose, collect and expend development fees shall expire with its substantive unless Tewksbury 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 Township of Tewksbury 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). Township of Tewksbury 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 Township of Tewksbury retroactively impose a development fee on such a development. Township of Tewksbury shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

Section 2:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 3. Repealer.

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

Section 4. Effective Date.

This Ordinance shall take effect upon final passage and publication.

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

Robert M. Hoffman, Jr.
Mayor

Mayor Hoffman requested that Resolution #100-2010 be removed from the Consent Agenda. Mr. Van Doren and Mr. Melick requested that Resolution #101-2010 be removed from the Consent Agenda.

Ms. Desiderio requested that the regular and Executive Session minutes of 11/23/10 be removed from the Consent Agenda.

Mr. Melick requested that the authorization to have the Mayor sign the Findings & Determinations for the 12/31/10 OFC raffle be removed from the Consent Agenda.

Dr. Voyce moved adoption of the Consent Agenda as amended, seconded by Ms. Desiderio. A roll call vote was taken and the motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

**RESOLUTION #102-2010
TO CANCEL BALANCES**

BE IT RESOLVED, by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey that the Chief Financial Officer is hereby authorized to make the following cancellations to the Capital Fund Balance.

FROM		
	Ord# 14-2006	\$382, 271.00
TO		
	Capital Fund Balance	\$382, 271.00
FROM		
	Ord# 06-2007	\$240, 007.00
TO		
	Capital Fund Balance	\$240, 007.00

Robert M. Hoffman, Jr.
Mayor

**RESOLUTION #103-2010
AWARDING A CONTRACT FOR ROCK SALT THROUGH THE COUNTY OF HUNTERDON**

WHEREAS, the Board of Chosen Freeholders awarded a master contract to International Salt Company, LLC to provide rock salt for the County and members of the Cooperative Pricing System for snow and ice control materials, Bid #2010-27, for the 2010/2011 season; and

WHEREAS, in order to begin a contractual relationship with International Salt Company, LLC, the Township of Tewksbury, in accordance with NJAC 5:34-7.11, hereby authorizes the following agreement, Identification Code #51-HCCPS.

COMPANY	ITEM	PRICE/FOB
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**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

International Salt Company, LLC. ISCO Corporate Center 655 Northern Blvd. Clarks Summit, PA 18411	Rock Salt	51.40/ton
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NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey that the following contract be awarded.

Robert M. Hoffman, Jr.
Mayor

**RESOLUTION #104-2010
TRANSFERS**

BE IT RESOLVED, by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey that the Chief Financial Officer is hereby authorized to make the following transfers.

2010 Current Fund Appropriations

Transfers

12/10/2010

<i>From:</i>		<i>To:</i>	
A&E S&W	8,050.00	Engineering Services	12,000.00
A&E OE	7,000.00	Workers Comp Insurance	3,400.00
Township Committee S&W	740.00	Public Works OE	80,000.00
Township Committee OE	4,000.00	Telephone	1,000.00
Christy Bartles S&W	2,500.00	Municipal Court S&W	5,500.00
Tax Collector S&W	1,700.00	Park Maint-OTS	90.00
Tax Assessor OE	1,000.00		
Emergency Management	1,100.00		
Bd of Health S&W	700.00		
Public Works S&W	52,000.00		
Garbage & Trash Removal	9,800.00		
Park Maint-Creekside	400.00		
Park Maint-Pottersville	400.00		
Park Maint-Pascale	600.00		
Park Maint-Hoffman	3,000.00		

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

Computerized Data Processing	6,000.00		
Electricity	3,000.00		
TOTAL	101,990.00	TOTAL	101,990.00

2010 Current Fund Appropriations Cancellations

<i>From:</i>		<i>To:</i>	
Financial Administration S&W	4,700.00	Fund Balance	1,324,844.33
Financial Administration OE	2,500.00		
Tax Assessor S&W	2,200.00		
Tax Collector OE	500.00		
Legal Services	250,000.00		
Wastewater Management	3,500.00		
Land Use S&W	4,300.00		
Land Use Special Projects	8,000.00		
Group Insurance Plan	8,000.00		
Other Insurances	7,400.00		
Police OE	20,000.00		
Aid to Munic. Fire Co in Adjoining	3,746.97		
Water & Hydrants	1,900.00		
Code Enforcement S&W	7,000.00		
Code Enforcement OE	7,500.00		
Lease of Equipment	5,000.00		
Affordable Housing S&W	1,400.00		
Affordable Housing OE	12,000.00		
ER PERS & PFRS	107.28		
ER Share of Deferred Comp	10,138.54		

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

Statutory Exp-SS & Medicare	3,500.00		
Payment of BAN & Capt Notes	953,330.00		
Interest on Bonds	7,507.24		
Interest on Notes	587.46		
Green Trust Loan Program	2.63		
Wastewater Trust Loan			
Principle	24.21		
TOTAL	1,324,844.33	TOTAL	1,324,844.33

2010 Current Fund Appropriations Transfers

<i>From:</i>		<i>To:</i>	
Police S&W	120,000.00	Accumulated Leave Time	130,000.00
Police PBA Contract Benefits	10,000.00		
TOTAL	130,000.00	TOTAL	130,000.00

2010 Oldwick Utility Fund Appropriations Transfers

<i>From:</i>		<i>To:</i>	
Oldwick Sewer OE	3,640.00	Oldwick S&W	3,000.00
		Stat. Exp-ER SS & Medicare	640.00
TOTAL	3,640.00	TOTAL	3,640.00

Robert M. Hoffman, Jr.
Mayor

**RESOLUTION NO. 105-2010
INTERLOCAL AGREEMENT BETWEEN THE TOWNSHIP OF TEWKSBURY AND THE
CALIFON BOROUGH BOARD OF EDUCATION FOR VARIOUS SHARED SERVICES**

WHEREAS, the Township of Tewksbury and the Califon Board of Education wish to enter an inter-local agreement for shared services for the three year period through 12/31/13; and

WHEREAS, such arrangement between the Township of Tewksbury and the Califon Board of Education is permitted by the Interlocal Services Act, N.J.S.A. 40:8A-1 et seq., and a form of

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

agreement between the Township of Tewksbury and the Califon Board of Education under such Act, entitled "Interlocal Agreement", has been presented to this Township Committee.

WHEREAS, a list of agreed upon shared services is attached dated December 2010, and whereas this list may be modified or changed by the mutual agreement of both parties, or the agreement terminated by either or both parties on 60 days notice to the other

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Tewksbury, in the County of Hunterdon, New Jersey, that pursuant to the Interlocal Services Act this Township is authorized to enter the Interlocal Agreement between the Township of Tewksbury and the Califon Board of Education for the period through 12/31/13.

Robert M. Hoffman, Jr.
Mayor

**RESOLUTION #106-2010
REDEMPTION OF A TAX SALE CERTIFICATE**

BE IT RESOLVED, by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey that the Chief Financial Officer is hereby authorized to make the following payments for the redemption of a tax sale certificate.

Block	Lot	Name	CERT #	Amount
13	4.02	Tad J. Dabrowski 123 McKinley St. South Plainfield, NJ 07080	09-01	9,159.94

Robert M. Hoffman, Jr.
Mayor

**RESOLUTION #107-2010
CANCELLATION OF TAXES RECEIVABLE**

BE IT RESOLVED, by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey that the Chief Financial Officer is hereby authorized to make the following cancellation of taxes receivable.

Block	Lot	Year	Amount
15	24.01	2010	16.50
23.04	5.01	2010	18.91
28	24	2010	26.76
37	3.18	2010	23.26

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

37	3.47	2010	10.37
48	3	2010	13.49

Robert M. Hoffman, Jr.
Mayor

MISCELLANEOUS

- Claims as submitted by the CFO
- Correspondence List

ITEMS REMOVED FROM THE CONSENT AGENDA

Dr. Voyce moved adoption of Resolution #100-2010, seconded by Ms. Desiderio. The motion was approved. Ayes: Desiderio, Melick, Van Doren, Voyce. Nays: None. Abstain: Hoffman.

**TOWNSHIP OF TEWKSBURY
INTERLOCAL AGREEMENT BETWEEN THE TOWNSHIP OF TEWKSBURY AND THE
TEWKSBURY TOWNSHIP BOARD OF EDUCATION FOR VARIOUS SHARED SERVICES**

RESOLUTION NO. 100-2010

WHEREAS, the Township of Tewksbury and the Tewksbury Board of Education wish to enter an inter-local agreement for shared services for the three year period through 12/31/13; and

WHEREAS, such arrangement between the Township of Tewksbury and the Tewksbury Board of Education is permitted by the Interlocal Services Act, N.J.S.A. 40:8A-1 et seq., and a form of agreement between the Township of Tewksbury and the Tewksbury Board of Education under such Act, entitled "Interlocal Agreement", has been presented to this Township Committee.

WHEREAS, a list of agreed upon shared services is attached dated January 2011, and whereas this list may be modified or changed by the mutual agreement of both parties, or the agreement terminated by either or both parties on 60 days notice to the other

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Tewksbury, in the County of Hunterdon, New Jersey, that pursuant to the Interlocal Services Act this Township is authorized to enter the Interlocal Agreement between the Township of Tewksbury and the Tewksbury Board of Education for the period through 12/31/13.

William Voyce
Deputy Mayor

Dr. Voyce moved adoption of Resolution #101-2010, seconded by Ms. Desiderio. The motion was approved. Ayes: Desiderio, Voyce. Nays: None. Abstain: Melick. Recused: Van Doren.

**TOWNSHIP OF TEWKSBURY
HUNTERDON COUNTY, NEW JERSEY**

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

RESOLUTION #101-2010

**RESOLUTION GRANTING QUARRY LICENSE FOR THE YEAR 2011
SUBJECT TO CERTAIN CONDITIONS**

WHEREAS, on June 27, 2000, the Township of Tewksbury ("Township") adopted an ordinance ("Ordinance") regulating quarrying and requiring a license to conduct that activity which Ordinance was amended in 2007 and again in 2009; and

WHEREAS, Stavola Quarries, LLC, 175 Drift Road, Tinton Falls, New Jersey ("Stavola") is the owner of a quarry known as the Oldwick Materials Quarry, Oldwick, New Jersey ("Quarry"); and

WHEREAS, Stavola has submitted a Quarry License Application for the year 2011 which has been reviewed by the Township Engineer who has found it to be generally consistent with the requirements of the Ordinance, subject to Stavola addressing certain conditions set forth in the Township Engineer's letter dated December 10, 2010; and

WHEREAS, the Quarry License Application includes, but is not limited to, all documents filed with the Township by Stavola as part of its 2011 Quarry License Application, the documents reviewed and/or referenced by the Township Engineer as identified in a letter dated December 10, 2010, and any correspondence on file with the Township from the Township Engineer commenting on the 2011 Quarry License Application (all such documents hereinafter collectively referred to as the "Quarry License Application"); and

WHEREAS, Stavola must fully comply with all requirements of the Township Engineer in accordance with any deadlines established, or the Township shall revoke Stavola's Plenary License as set forth in this Resolution because of concerns by the Township that failure to comply will endanger the health and welfare of the residents of the Township and others.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Tewksbury, Hunterdon County, New Jersey, that a Quarry License is hereby granted to Stavola Quarries, LLC, for the year 2011, subject to the following terms and conditions:

1. All operations of the Quarry shall be conducted, and permitted only in accordance with the Ordinance, the Quarry License Application and the terms and conditions set forth in a letter from Robert C. Bogart, P.E. to Jesse Landon, Township Administrator, dated June 7, 2001 ("Bogart Letter"), and the terms of this License. The Quarry License Application, prior Quarry License applications, the Bogart Letter and the documents listed therein are incorporated herein by reference.

2. Stavola may use up to three portable crushers on site in order to carry out the processing of the already shot rock. The type of crusher(s) to be used shall be approved in writing in advance by the Township Engineer. Stavola agrees to use portable crushers that incorporate the best available technology to reduce dust and noise from their operations. The crushers may only be used in such locations as are approved by the Township Engineer in accordance with the Bogart Letter.

3. Except for local deliveries within one mile of this exit, Stavola shall prohibit all dump trucks and vehicles having a gross weight, in excess of four tons from making a right-

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

hand turn onto Rockaway Road when exiting the Quarry. Stavola will post adequate signage at the exit of the Quarry to notify truck drivers of this restriction.

4. The submission of a quarterly report from the Township Engineer finding that (1) the operation of the Quarry has been in conformance with the Quarry's NJPDES permit; (2) the operation of the Quarry has not measurably impacted, in any aspect, the Rockaway Creek; (3) storm water runoff emanating from Block 44, Lot 24, and Block 46, Lot 18 on the Tax Maps of the Township of Tewksbury ("Property") has been adequately handled before discharge to Rockaway Creek such that no measurable impact, in any aspect to the Creek, has occurred as a result of such discharge; (4) ground water levels have not been adversely impacted by the operation of the Quarry and (5) Stavola has complied with all environmental reports and correspondence prior to the date hereof. The Quarry shall timely submit to the Township Engineer such reports and information from reputable professionals, in the form established by the Township Engineer, as reasonably necessary for him to prepare the reports to the Township required by this paragraph. In the event that the Township Engineer's report does not provide an affirmative finding for any of the above, the Quarry will take reasonable and prompt steps to rectify the conditions responsible for the lack of such affirmative finding(s). In the event that the Quarry is unsuccessful in doing so, the Township reserves the right, upon five (5) days notice to the Quarry, to revoke the license granted herein. The Quarry may challenge any such action in accordance with the law.

5. Stavola shall continue to submit water quantity and quality monitoring reports from a local ground and surface water testing agency identified by Stavola and agreed to by the Township, which reports shall be consistent with the requirements of the Township Engineer's letter dated December 10, 2010. Stavola shall pay directly the costs and fees charged the water testing agency.

6. The granting of this Quarry License does not eliminate or replace the need for Stavola to comply with all requirements of all other applicable ordinances of the Township.

7. In the event that the Township Engineer determines that there is a discernable impact upon a resident's person or property from blasting, Stavola shall take steps to respond to the resident's concern, including, but not limited to, considering whether the sequence, timing, size or location of future blasts can be altered to diminish the impact upon the resident. In the event that Stavola either refuses to or cannot come up with a viable solution to the resident's problem, then the municipality, at its option and upon recommendation of its Township Engineer, may hire a blasting expert, to be paid pursuant to the escrow agreement, to determine what additional steps may be available to deal with this situation and to make such recommendations as the expert sees fit. In the event that Stavola is not willing to carry out the recommendations of the municipal blasting expert, then the Township may pursue such options as are available to it at law.

8. Stavola shall comply with the terms and conditions of letters, dated January 5, March 9, June 11, 2007 and March 24, 2008 from Andrew Holt, P.E., P.P., C.M.E., Township Engineer, incorporated herein by reference .

9. Stavola shall continue to comply with the comments of the Tewksbury Township Planning Board, dated February 21, 2002, attached to prior Licenses.

10. If not already provided, this Quarry License shall not become effective until Stavola submits, in a form and amount acceptable to the Township Engineer, a Performance Bond as

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

required by the Ordinance.

11. If not already provided, Stavola shall comply with and supply to the Township within ten (10) days of the date hereof copies of all county, state and federal approvals necessary or incidental to quarrying operations at the Quarry for the year 2011. Throughout the term of this license, Stavola shall provide Township with a copy of all correspondence to and from any regulatory agencies which regulate quarry activities in the Township.

12. The granting of this license does not endorse the design, lot or road layout, drainage or any other matter contained in the Reclamation Plan Narrative, Reclamation Alternatives or Mining Plan, and prior to commencing reclamation activities at the Quarry, Stavola shall obtain any necessary development approvals from the appropriate Township board or agency.

13. The granting of this license applies only to quarrying activities as defined by the Ordinance and does not approve any other operations on site.

14. The granting of this license is without prejudice and does not grant to Stavola any "grandfather rights" to operate or carry on any quarry operations of any type for any years subsequent to the year 2011.

15. Stavola shall, if it has not already done so, pay any outstanding taxes due on the Property.

16. Stavola will maintain sufficient balance in its escrow account to reimburse all township professionals for their services in connection with review of quarry operations, licensing and applications. If Stavola wishes to challenge the escrow billing of any professional engaged by the Township it may do so in accordance with the procedure established pursuant to *N.J.S.A. 40:55D-53.1*.

17. The grant of the license of the year 2011 is without prejudice to any claims made by the Township that Stavola is in violation of any ordinances of the Township or any state or federal regulations or other law.

18. The grant of the license of the year 2011 is without prejudice to any claims made by the Township that Stavola is in violation of any wetland lands regulations of the State of New Jersey.

19. The Mayor and Committee specifically reserve the right to revoke this Plenary License at any time on 5 days written notice to the Quarry if it fails to fulfill the requirements of Paragraphs 4 and 5 of this Resolution or any other term of this Plenary License, if that violation presents an immediate threat to health and safety of the residents of the Township or others.

Robert M. Hoffman, Jr.
Mayor

Dr. Voyce moved adoption of the Regular and Executive Session minutes of 11/23/10 with a correction as noted by Mr. Van Doren, seconded by Mr. Van Doren. The motion was approved. Ayes: Hoffman, Melick, Van Doren, Voyce. Nays: None. Abstain: Desiderio.

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

- Regular and Executive Session minutes of 11/23/10

Dr. Voyce moved the authorization to have the Mayor sign the Findings & Determinations for the 12/31/10 raffle for OFC, seconded by Ms. Desiderio. The motion was approved. Ayes: Desiderio, Hoffman, Van Doren, Voyce. Nays: None. Abstain: Melick.

- Authorization to have Mayor sign F & D for 12/31/10 raffle for OFC

5. Reports

➤ **Township Committee Sub Committees & Township Committee Comments**

Ms. Desiderio noted the following items.

- The Land Use Board recently reviewed the AM Best application
- The Land Use Board completed their reexamination of the Master Plan.
- The HC Planning Board is holding a talk on solar power issues.
- The HC Planning Board has extended the deadline to 1/14/11 for submission of applications for planning awards for 2010.

Mr. Van Doren thanked Mayor Hoffman for his service to the Township, adding that it has been his pleasure working with him for the past three years. He surmised that Mayor Hoffman will remain involved in Township issues.

Mr. Van Doren thanked the staff for their diligent work done with regard to the budget and keeping costs to a minimum. He noted that the staff exceeded the 2010 plan with regard to saving the Township monies. He added that any resident who has a question with regard to Township financial matters is welcome to speak with the CFO as all information is open and transparent.

Mr. Melick noted that there is a BOE meeting on 12/15/10.

He commended the Friends of the Library for raising funds for work to be done at the Oldwick Library.

He stated his thanks to Mayor Hoffman for serving the Township for the past three years and agreed with Mr. van Doren that his days of public service were not over.

Dr. Voyce echoed his thanks to Mayor Hoffman and wished him well in the future. He noted that the DPW is prepared for snow fall. In closing he wished everyone a Merry Christmas and happy holidays.

Ms. Desiderio stated her enjoyment with working with Mayor Hoffman.

Mayor Hoffman stated that it was his privilege serving as a Committeeman for the past three years. He expressed his thanks to the staff and professionals. He added that the input from the residents of the Township and their interest in Township matters make Tewksbury the wonderful place to live and work.

➤ **Township Attorney**

Mr. Selvaggi noted that he enjoyed working with Mayor Hoffman and referred to him as “a good guy”, adding that the Committee’s loss is another group’s gain!

Mr. Selvaggi reported on the following items:

- The Friends of Fairmount and JCP&L are scheduled for a 01-11-11 hearing.
- The Saloman matter has been settled and the Township will be receiving \$11,250.00 from Mr. Saloman for issues related to the pool fence.

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

- The Wood matter was discussed and Mr. Selvaggi surmised that the matter should be resolved by January of next year.

➤ The matter of the bridge on the Steinberg property in Mountainville was discussed. Mr. Selvaggi stated that he spoke with the attorney for the Steinbergs and the Weyrauchs (residents on Rocky Glen Way) regarding the matter of access onto the Steinberg property. Additional input was received from the County Director of Roads, Bridges and Engineering regarding the existing bridge off of Main Street.

The matter will be further discussed at an upcoming meeting and may have to come before the Land Use Board for a decision.

In response to a question from Ms. Desiderio, Mr. Selvaggi stated that Ms. Desiderio did not have to recuse herself from the Steinberg discussion if it only pertained to general information. If a final decision was called for regarding a monetary amount, she should not participate in the discussion.

Discussion followed regarding the JCP&L/Friends of Fairmount matter.

Mr. Van Doren reported on the recent site walk of the proposed substation site. The Legislators met with property owners and two Committee members on site and then moved to the Municipal meeting hall to further discuss the issue. It was noted that no final decision has been reached at this time.

➤ **Township Administrator**

Mr. Landon stated that he would miss working with Mayor Hoffman and wished him well. Regarding complaints about power outages in Pottersville, Mr. Landon noted that the problem has been resolved by replacing transformers.

The power outage issue on Hell Mountain is being reviewed.

Approximately \$50,000.00 in grant funding will be forthcoming as a result of the energy audit. Work will be done on the HVAC system at the PAB and light saving devices will be installed. A grant for 2011 will be applied for in order to perform work in Mountainville and the DPW complex.

The party for 12/17/10 was noted.

Mr. Van Doren made a motion to include a purchase order on the bill list for the framed print that was presented to Mayor Hoffman, seconded by Ms. Desiderio. The motion was approved. Ayes: Desiderio, Melick, Van Doren, Voyce. Nays: None. Abstain: Hoffman.

Mayor Hoffman noted that he would be doing the annual review for the Township Administrator.

Discussion followed regarding the matter of installing snow fencing in certain areas of the Township.

Ms. Desiderio questioned the correct traffic pattern coming off of Rockaway Road onto Water Street into the village of Mountainville.

Ms. Desiderio questioned the need to install a caution sign on Hill and Dale Road. It was the consensus of the Committee that no sign was necessary.

6. Executive Session

At 8:35 PM Mr. Van Doren moved adoption of the following Resolution, seconded by Dr. Voyce. The motion was approved. Ayes: Desiderio, Hoffman, Melick, Van Doren, Voyce. Nays: None.

**TOWNSHIP COMMITTEE
DECEMBER 14, 2010 MINUTES**

**RESOLUTION #108-2010
A RESOLUTION AUTHORIZING AN EXECUTIVE SESSION OF THE TEWKSBURY
TOWNSHIP COMMITTEE**

BE IT RESOLVED, pursuant to N.J.S.A. 10:4-13 and 10:4-12 that the Tewksbury Township Committee hold a closed session to discuss Contract Negotiations.

It is expected that the discussion undertaken in closed session can be made public at the time official action is taken.

Robert M. Hoffman, Jr.
Mayor

7. Reconvened

The meeting reconvened at 8:40 PM.

8. Adjournment

There being no further business, the meeting was adjourned at 8:40 PM.

Roberta A. Brassard
Municipal Clerk