

MINUTES
Council Meeting
Monday, January 25, 2010
8:00pm

CALL THE MEETING TO ORDER

Council President Jasionowski called the meeting to order at 8:00pm in the Council Chambers located at 406 Rivervale Road, River Vale, New Jersey 07675.

SALUTE TO FLAG

Council President Jasionowski asked all in attendance to rise and join him in a Salute to the Flag.

SUNSHINE LAW STATEMENT

Council President Jasionowski read the Sunshine Statement into the record, as follows:

“In accordance with the provisions set forth in the Open Public Meetings Law, notification of this meeting has been sent to all officially appointed Township newspapers and notice is posted at the Municipal Office.”

ROLL CALL

Councilman de Stefan, Councilman Bromberg, Councilwoman Sieg and Council President Jasionowski were present.

Also present: Mayor Joseph Blundo, Robert Gallione, Business Administrator, Holly Schepisi, Township Attorney, Christopher Statile, Township Engineer, and Karen Padva, Township Clerk.

*******Councilman Matos arrived at 8:05pm*******

Mayor Blundo administered the Oath of Office to Athletic Co-Directors Kathy Blazina and Paul Criscuolo.

TOWNSHIP COMMUNICATION

1. Mayor’s Comments

The Mayor reported that the first budget meeting was held this past Saturday and there are tough times ahead. The uncontrollable expenses will be \$300,000 to \$400,000 and include increases in health insurance and union contracts. Overall, the Mayor proposes the tax increase to be less than \$100 per house; even with the virtual elimination of state aide. The one component of \$12,500.00 will be set aside for potential litigation regarding fighting the breaking up of the Regional High School District.

Mayor Blundo stated that three of the Township’s long standing issues have been resolved. The first being the purchase of I6-A on Poplar Road is closed and complete; it was purchased with both County and State grants. The Mayor added that it joined an effort that has spanned decades and ultimately has reduced the amount of building in that area from 500 units down to 120.

Secondly, the purchase of the Kirk property is also complete. The Mayor explained that the other piece of good news is that the Township received a letter from COAH indicating that they have our application and we are being recommended for certification. The Mayor explained that this takes away the threat of litigation that would force us to build in Town were we don’t want to such as a golf course. Mayor Blundo is very proud of this accomplishment and he thanked all those involved in helping make this happen.

The Mayor added that the new Governor and some of the Senators are talking about doing away with COAH and creating other options for towns to come up with certification for affordable housing. The Mayor stated that we will monitor what happens in Trenton and not build something unless we need it. We will be very prudent and careful.

Mayor Blundo continued that tonight the Council is being asked to authorize him to sign an agreement to end the litigation concerning Dr. Jeffrey Maftus.

The Mayor asked the Attorney to read a statement:

Tonight the members of this Council are going to be asked to vote for a resolution authorizing the Mayor to execute a settlement agreement for litigation which has gone on for over two (2) years involving Jeffrey Maftus. I understand that this will not be an easy decision for the any person sitting up here to make. As members of this Council are aware; our outside counsel has been vigorously defending this matter since December of 2007. While we are confident that we would ultimately prevail if we filed a motion for summary judgment to have the case dismissed; the Court unfortunately indicated that it would not permit us to file such a motion until all discovery was completed.

This case has dragged on for several years already and the legal expenses would continue to accrue. It is the position of the Joint Insurance Fund and our outside legal counsel that it is in the best interests of the Township of River Vale to settle this matter for what is viewed to be a nuisance value payment. A nuisance value payment is generally regarded as payment made to end a frivolous litigation. The JIF alone will be paying the full amount of this nuisance payment; the Township is not responsible for any portion of this payment or any of our outside counsel's remaining legal fees.

Under the terms of the settlement agreement, the River Vale parties including the Township deny any and all liability. We specifically state in the agreement that we believe that any actions taken by or on behalf of the River Vale parties pertaining to Maftus were necessary, reasonable and lawful. Further recognizing that this Governing Body would probably not agree to settle even for nuisance value unless there were some protections for the Governing Body; Jeffrey Maftus has agreed to a permanent restraining order with respect to each of the River Vale parties and each of their families. He has also agreed to refrain from engaging in any conduct that would be considered to be threatening in nature; he has agreed to a non disparagement clause and there is a provision in the agreement which would allow us to enforce the terms of the settlement through injunctions and or monetary damages.

It is also important to note that the nuisance value payment being made; not one dollar is going to Mr. Maftus. But instead the full amount is going as payment towards a portion of his legal fees.

Even in the event that we had won the motion for summary judgment or if we had gone to trial and won the matter; we would have never been afforded any of the protections that we have managed negotiated in the settlement agreement. There are confidentially clauses and non disparagement clauses as well contained in the agreement that we have to abide by. If the Council would like I could guide you in a short closed session at the end of the meeting as to what you are permitted to say pursuant as to the terms of the agreement and what you should refrain from discussing; or if you are comfortable we can just move forward.

2. Council Comments

Councilman de Stefan offered his congratulations to both Paul and Kathy on their appointment; he added that they are both great public servants. Councilman de Stefan also stated how pleased he is regarding the purchase of I6-A; this is a tremendous accomplishment. Councilman de Stefan continued with comments on the budget hearings. This is a very tight, well presented budget which makes our job easier.

Councilman de Stefan thanked Mike Sartori and he does support the ordinance and appreciates all the support material he provided.

Councilman Matos felt that Dwight covered everything thoroughly. The budget process started this Saturday, and he thanked the Mayor and administration for preparing a great budget.

Councilwoman Sieg concurred with the comments of the other Council members.

Councilman Bromberg commented on the Fire Department Dinner; it was a very nice evening with a great group of volunteers. Councilman Bromberg also brought up a Board of Health issue regarding grease traps in town. He would like to see an increase compliance to reduce the problems for the town. He added that our BOH inspector Chloette Lilly will be looking at ordinances from other towns to help with our compliance.

Councilman Bromberg congratulated the new Athletic Directors on their appointments and the Township on the completion of the purchase of I6-A.

He continued with comments on the budget process. Councilman Bromberg explained that in light of the ever increasing uncontrollable expense; he was very enthusiastic regarding the cooperation between the CFO, the administration and department heads to present a budget with a 10% reduction across the board and keep the tax increase to the absolute bare minimum.

Council President Jasionowski congratulated Bob Fortsch on his appointment as the new Zoning Board Chairman. He was out in the storm today; and wanted to thank the Police, Administrator and DPW for doing a great job. Thankfully, there were no injuries or accidents.

Business Administrator’s Report

Mr. Gallione reported that February 5th is wear red day in recognition of Breast Cancer Awareness. He added that the Library is getting new furniture and we are recycling the old to both the Clerk’s office and Accounts Payable department.

Township Engineer’s Report

Mr. Statile reported that he is working with the Superintendent on preparing the road conditions survey for the 2010 Road Program. He is reviewing the Brookside Avenue plans to ensure we get the most from our DOT grant money. The EMS Park has had its electric hook up completed and there will be some tree trimming done as well.

The Engineer continued that the bids were received for the Bernita Headwall project; they are still working on access issues and will pursue FEMA for more funds for the project. They will also be advertising shortly for the Bike Path which work will commence in the Spring.

The DPW remediation project is also scheduled to commence. Mr. Statile concluded with updates on the Recreation field improvements of both Ranges and Roberge and the possible enlargement of the Roberge field.

Councilman de Stefan commented on the status of the bank stabilization project. The Administrator answered that he has been speaking to the County and it does not look good that we will be getting any work done. He will continue to work with the Engineer and look at other options.

HEARING OF THE PUBLIC

Motion by Councilman Matos; seconded by Councilwoman Sieg to open the meeting to the public.

Council President Jasionowski read the following statement into the record.

“Each person wishing to address the Council shall step up to the microphone, shall give his or her name in an audible tone for the record. All member of the public are expected to conduct themselves in a proper manner. Any derogatory, abusive or threatening statements will not be permitted. The Chair will immediately rule such conduct out of order and terminate any further comments.”

Patricia Kieck—511 Bernita Drive—Mrs. Kieck expressed that she is very dissatisfied with the

Bernita Drive Headwall Project and she was very surprised to discover that access to the project was delineated on her property. She continued that these plans were submitted to the DEP and she had been assured by the Engineer that this would not happen. Mrs. Kieck asked that the plans be resubmitted to the DEP and the contractors notified that they do not have permission to be on her property.

Mayor Blundo questioned the Administrator as to how the plans could be prepared submitted without the homeowner's approval. The Mayor gave his commitment that they will take every action and not allow anyone on Mrs. Kieck's property.

Mr. Gallione noted that there is an easement through another property.

The Mayor requested that the plans be rejected and resubmitted.

Holly Schepisi announced that they will be rejecting all the bids and assured Mrs. Kieck that she will keep her abreast of anything that occurs with regard to this project. She also assured Mrs. Kieck that on one will be allowed access to her property.

Bob Fortsch – 511 Bernita Drive – commented on the Bernita Headwall project as well. Mr. Fortsch noted that he received a call from Mr. Gallione last summer asking if he would be interested in the stabilization of the bank. Initially, the equipment discussed was a bobcat. Mr. Fortsch continued that this past November, when the Environmental Engineer for T&M, Bob and Rich were in his yard and it was deemed that is was too far from the headwall location. He added that they looked at a neighbor's property that was closer. Mr. Fortsch believes at that time his property was taken out of play. He added that he only again heard about the project from his neighbor (Mr. Mania) and that access to the project was drawn out on his property.

Mr. Fortsch kindly requested that any further communication on this project come to him a formal manner.

The Mayor assured Mr. Fortsch that he will be notified and the Town will be more diligent moving forward.

Phil Mania – 507 Bernita Drive – commented that he lives at the property with the easement and there are 50 foot pine trees on this easement. He urged the town to find other options for access and he is concerned about what may happen to the trees in order to get this project done.

The Mayor assured Mr. Mania that all the property owners will be kept informed and involved. The Mayor noted that easements were created for these situations and they will do everything they can to make sure the trees don't come down.

Ray Fischer – 829 Cambridge Road – commented on trees that have fallen across the river in his yard and the silt condition.

The Mayor noted that they have been trying for years to back there and have been unable to get access.

Mr. Fischer offered access through his property and long as everything gets repaired afterwards.

Joe Massin – 68 Holiday Court—commented on the upcoming Census and its importance because aide is based on population and River Vale is very close to the 10,000 mark. He also commented on the budget; and what will happen when you run out of things to cut. He continued that next year is going to be difficult and that services may be affected.

There being no further questions or comments from the public; motion by Councilman Bromberg; seconded by Councilman Matos to close the meeting to the public.

RESOLUTIONS

Motion by Councilman Matos; seconded by Councilwoman Sieg to approve Resolutions #2010-59 through #2010-71 on Consent Agenda, as follows:

Resolution #2010-59

RESOLUTION APPROVING THE MINUTES OF THE JANUARY 11, 2010 COUNCIL MEETING

BE IT RESOLVED, by the Township Council of the Township of River Vale that the minutes of the January 11, 2010 Council meeting are hereby approved

Resolution #2010-60

RESOLUTION AUTHORIZING NOT TO EXCEED LIMITATIONS FOR CHRISTOPHER P. STATILE – DPW SOIL REMEDIATION PLAN

WHEREAS the Township of River Vale is desirous to complete the Soil Remediation Plan on the site of the Department of Public Works Building;

WHEREAS, the Township has decided to cap and deed restrict the property for noted contamination;

WHEREAS, the scope of work for the Remedial Action Work plan are detailed in a letter from the Engineer dated January 1, 2010 on file in the Clerk’s Office;

NOW THEREFOR BE IT RESOLVED, by the Township Council of the Township of River Vale that limitations in an amount not to exceed \$ 6,500.00 be authorized for engineering services of Christopher Statile in connection with the DPW Soil Remediation Plan.

Resolution #2010-61

RESOLUTION

REFUND OF TAX OVERPAYMENT

WHEREAS, a tax overpayment have been received for the fourth quarter of 2009, and the property owner has requested a refund of said tax overpayment;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of River Vale, that the Chief Financial Officer is hereby authorized to issue a municipal check as follows:

| <u>Name</u> | <u>Address</u> | <u>Amount</u> |
|--------------------|---|----------------------|
| Antico, Steven | 563 Brook Avenue (Block 1501.04, Lot 6) | \$ 2,254.26 |
| | BAC Tax Services 1757 TAPO Canyon, Suite 200 Simi Valley, CA 93063 ATTN: Cash Management | |

Resolution #2010-62

RESOLUTION
(Release of Escrow)

WHEREAS, David Moskowitz of 529 Track Lane (Block 402, Lot 13) had posted Escrow as requested by the Planning Board; and

WHEREAS, the Planning Board Engineer has deemed the project has been completed satisfactorily;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of River Vale that the remainder of the Escrow Deposit be released;

BE IT FURTHER RESOLVED, by the Township Council of the Township of River Vale that the Chief Financial Officer be directed to release the escrow deposit and issue a check

in the amount of \$286.50 payable to David Moskowitz, 529 Track Lane, River Vale, New Jersey 07675.

Resolution #2010-63

RESOLUTION APPROVING CHANGE ORDER #1 FOR THE SINGLE SLOT CANTILEVER STEEL SHELVING AT THE RIVER VALE LIBRARY – CREATIVE LIBRARY CONCEPTS

WHEREAS, there was one (1) necessary change during the purchase and installation of shelving at the River Vale Free Public Library in the Township of River Vale; and

WHEREAS, this change has been approved by the Library Director and is detailed in a statement from the contractor Creative Library Concepts, dated January 11, 2010 which can be found on file in the Clerk’s office;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of River Vale that change Order #1 for the above mentioned project be approved as follows:

| | |
|---------------------------|----------------------|
| Original Contract Sum was | \$ 30,259.00 |
| Contract Sum Increase | |
| <u>Change Order #1</u> | <u>\$ + 2,197.50</u> |
| New Contract Sum | \$ 32,456.50 |

Resolution #2010-64

RESOLUTION CONFIRMING APPOINTMENT OF PLANNING BOARD ENGINEER

WHEREAS, on January 12, 2010 the Planning Board appointed Christopher P. Statile as the Planning Board Engineer;

NOW THEREFORE BE IT RESOLVED that the Township Council of the Township of River Vale confirms the appointment of Planning Board Engineer Christopher P. Statile for a term expiring on December 31, 2010.

Resolution #2010-65

RESOLUTION CONFIRMING APPOINTMENT OF PLANNING BOARD ATTORNEY

WHEREAS, on January 12, 2010 the Planning Board appointed Dennis S. Deutsch as the Planning Board Attorney;

NOW THEREFORE BE IT RESOLVED that the Township Council of the Township of River Vale confirms the appointment of Planning Board Attorney Dennis S. Deutsch for a term expiring on December 31, 2010.

Resolution #2010-66

RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN INTERLOCAL SERVICES AGREEMENT WITH THE BOROUGH OF OLD TAPPAN FOR THE DEPUTY REGISTRAR OF VITAL STATISTICS

WHEREAS, N.J.S.A. 40:8a-1, et seq., known as the “Interlocal Services Act,” authorizes Interlocal Services Agreements between municipalities; and

WHEREAS, the Township of River Vale wishes to enter into a Interlocal Services Agreement with the Borough of Old Tappan to permit each party's Registrar of Vital Statistics to appoint the other party's Registrar to serve as the Deputy Registrar of Vital Statistic; and

WHEREAS, said Interlocal Services Agreement has been reviewed and approved by the Township Attorney; and

WHEREAS, the terms and conditions of said Interlocal Services Agreement are on file in the Clerk's Office;

NOW THEREFORE BE IT RESOLVED THAT a copy of this Resolution be forwarded to the Borough of Old Tappan.

Resolution #2010-67

RESOLUTION APPOINTING THE HOUSING AUTHORITY OF BERGEN COUNTY AS RIVER VALE'S MUNICIPAL ADMINISTRATIVE AGENT OF AFFORDABLE HOUSING UNITS AND AUTHORIZING THE MAYOR TO SIGN SAID CONTRACT

WHEREAS, N.J.A.C. 5:80-26.14 provides that affordability controls may be administered by an administrative agent acting on behalf of a municipality; and

WHEREAS, the Township of River Vale has selected the Housing Authority of Bergen County to be our Administrative Agent for the purpose of providing control services for all affordable housing within the municipality; and

WHEREAS, said contract for the Administration of Affordable Housing Units has been reviewed and approved by the Township Attorney.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of River Vale that the Mayor is hereby authorized to sign the contract for the Administration of Affordable Housing Units with the Housing Authority of Bergen County.

Resolution #2010-68

Support Freezing any New State Mandated Programs or Ensuring Adequate Funding

WHEREAS, in 1995 New Jersey voters approved an amendment to the State Constitution, designated as Article VIII, Section 2, Paragraph 5 of the New Jersey Constitution, and codified in the Local Mandate Act, N.J.S.A. 52:13H-1, et seq., which was enacted to restrain the State of New Jersey from imposing new unfunded programs upon counties, municipalities and school districts, without the provision of necessary funds by the State of New Jersey; and

WHEREAS, notwithstanding the 1995 amendment to the State Constitution and promulgation of Local Mandates Act, the State of New Jersey continues to impose upon local municipalities, including the Township of River Vale, obligations for programs which the State has failed, refused and/or neglected to fund; and

WHEREAS, the taxpayers of the Township of River Vale should not be required to pay for state mandated programs; and

WHEREAS, Governor Chris Christie and the State Legislature should freeze all new state mandated programs or, alternatively, ensure that adequate funding for such state mandated programs is provided to municipalities;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of River Vale that they call upon Governor Chris Christie and the State Legislature to freeze any

and all new state mandated programs which impose the monetary obligations on any municipality or, provide adequate funding before the imposition of such state mandated programs upon any municipality.

Resolution #2010-69

RESOLUTION AUTHORIZING THE MAYOR TO SIGN SETTLEMENT AGREEMENT

WHEREAS Jeffrey Matfus filed an original Complaint and a First, Second and Third Amended Complaint in the lawsuit styled JEFFREY MATFUS, M.D., Plaintiff vs. TOWNSHIP OF RIVER VALE, JOSEPH BLUNDO, HOLLY SCHEPISI, DWIGHT D. DESTEFAN, GLEN JANONOWSKI, MARK BROMBERG, DENISE SEIG, RIVER VALE BOARD OF EDUCATION, AARON BACK, ROBERTY RYAN, LORRAINE WALDES, DAVID VERDUCCI, KELLY IPPOLITO, AND JOHN DOES 1-5, Defendants, currently pending in the United States District Court, District of New Jersey, bearing Docket No. 07-cv-5856 (the "Litigation").

WHEREAS the Township of River Vale, Joseph Blundo, Holly Schepisi, Dwight D. DeStefan, Glenn Jasionowski, Mark Bromberg, Denise Sieg, Aaron Back and Robert Ryan (the "River Vale Parties"), have filed Answers in the Litigation and have been seeking leave to file a Motion for Summary Judgment in the Litigation;

WHEREAS the River Vale Parties understand that a Motion for Summary Judgment may not be filed until completion of discovery in the Litigation;

WHEREAS the River Vale Parties have been advised by their insurance carrier that the costs and expenses associated with completing discovery and filing a Motion for Summary Judgment could far exceed the payment amount agreed to in the proposed Settlement Agreement;

WHEREAS the River Vale Parties believe that any actions taken by or on behalf of the River Vale Parties pertaining to Matfus were necessary, reasonable and lawful;

WHEREAS the River Vale Parties deny the truth or veracity of each and every allegation contained in the First, Second, and Third Amended Complaints;

WHEREAS the River Vale Parties understand it is in the financial best interests of the Township of River Vale to resolve this dispute for what the River Vale Parties consider a nuisance value payment in exchange for the representations, warranties and covenants by Matfus, including by not limited to, a permanent order of restraint in favor of the River Vale Parties, contained in this Agreement; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of River Vale, that the Mayor of the Township of River Vale and each other party named therein as a River Vale Party are hereby authorized to sign the settlement agreement with Jeffrey Matfus in the form provided to the members of the Township Council.

Resolution #2010-70

RESOLUTION APPROVING RAFFLE LICENSE FOR WEST RIDGE ELEMENTARY SCHOOL PTO

BE IT HEREBY RESOLVED, that the following license to conduct an off Premises 50/50 Raffle be issued to:

NAME: West Ridge Elementary PTO
18 South First Street
Park Ridge, New Jersey 07656

LOCATION OF RAFFLE: Florentine Gardens
97 Rivervale Road
River Vale, NJ 07675

DATE OF RAFFLE: April 28, 2010 6:00- 10:00pm

I.D. #: 374-5-34400

RAFFLE LICENSE: RL 323

BE IT FURTHER RESOLVED that said license shall be issued subject to all rules and regulations of the Legalized Games of Chance Control Commission of the State of New Jersey.

Resolution #2010-71

RESOLUTION APPROVING RAFFLE LICENSE FOR WEST RIDGE ELEMENTARY SCHOOL PTO

BE IT HEREBY RESOLVED, that the following license to conduct an On Premises Merchandise Raffle be issued to:

NAME: West Ridge Elementary PTO
18 South First Street
Park Ridge, New Jersey 07656

LOCATION OF RAFFLE: Florentine Gardens
97 Rivervale Road
River Vale, NJ 07675

DATE OF RAFFLE: April 28, 2010 6:00- 10:00pm

I.D. #: 374-5-34400

RAFFLE LICENSE: RL 324

BE IT FURTHER RESOLVED that said license shall be issued subject to all rules and regulations of the Legalized Games of Chance Control Commission of the State of New Jersey.

ROLL CALL VOTE

Councilman de Stefan, Councilman Matos, Councilman Bromberg, Councilwoman Sieg and Council President Jasionowski voted yes.

Motion by Councilman Bromberg; seconded by Councilman de Stefan to approve Resolution #2010-72, as follows:

Resolution #2010-72

RESOLUTION FOR PAYMENT OF BILLS

BE IT RESOLVED by the Township Council of the Township of River Vale, County of Bergen, State of New Jersey, that the Business Administrator be, and hereby is authorized to pay the following claims:

| | |
|--|---------------|
| CURRENT ACCOUNT claims in the amount of: | \$ 262,062.58 |
| HOUSING TRUST ACCOUNT claims in the amount of: | \$ 1,235.50 |
| RECREATION TRUST ACCOUNT claims in the amount of: | \$ 1,306.07 |
| RESERVE CURRENT ACCOUNT claims in the amount of: | \$ 300,536.36 |
| APPROPRIATION RESERVE ACCOUNT claims in the amount of: | \$ 250.00 |
| RESERVE TRUST ACCOUNT claims in the amount of: | \$ 33,965.67 |
| RESERVE PRIVATE DUTY ESCROW ACCOUNT claims in the amount of: | \$ 56,227.05 |
| RESERVE HOUSING TRUST ACCOUNT claims in the amount of: | \$ 773.50 |
| RESERVE OPEN SPACE TRUST ACCOUNT claims in the amount of: | \$ 43,857.62 |
| RESERVE RECREATION TRUST ACCOUNT claims in the amount of: | \$ 310.00 |
| CAPITAL ACCOUNT claims in the amount of: | \$ 58,291.99 |
| PLANNING BOARD TRUST ACCOUNT claims in the amount of: | \$ 152.50 |
| SPECIAL TRUST ACCOUNT claims in the amount of: | \$ 1,631.60 |
| ZONING BOARD TRUST ACCOUNT claims in the amount of: | \$ 168.73 |

TOTAL CLAIMS TO BE PAID **\$ 760,769.17**

BE IT FURTHER RESOLVED by the Township Council of the Township of River Vale that the following claims have been paid by the Business Administrator prior to the Bill List Resolution in the following amounts:

| | |
|---|--------------------------------|
| APPROPRIATED RESERVE ACCOUNT claims in the amount of: | \$ 163,454.34 |
| CURRENT claims in the amount of: | \$ 2,485,380.29 |
| CAPITAL ACCOUNT claims in the amount of: | \$ 5,116,357.55 |
| TRUST ACCOUNT claims in the amount of: | \$ 104,020.00 |
| RECREATION TRUST ACCOUNT claims in the amount of: | \$ 31,839.72 |
| SNOW TRUST ACCOUNT claims in the amount of: | \$ 961.79 |
| ACCUMULATED ABSENCES TRUST ACCOUNT claims in the amount of: | \$ 107.64 |
| PUBLIC ASSISTANCE TRUST ACCOUNT claims in the amount of: | \$ 650.00 |
| PRIVATE DUTY TRUST ACCOUNT claims in the amount of: | \$ 23,442.50 |
| STATUTORY ACCOUNT claims in the amount of: | \$ 401,540.75 |
| HOUSING TRUST ACCOUNT claims in the amount of: | \$ 905,133.85 |
| OPEN SPACE TRUST ACCOUNT claims in the amount of: | \$ 40,000.00 |
| TOTAL CLAIMS PAID | <u>\$ 9,272,888.43</u> |
| TOTAL BILL LIST RESOLUTION | <u>\$ 10,033,657.60</u> |
| MANUAL DISBURSEMENTS | |
| BILL LIST FOR JANUARY 25, 2010 | |
| 12/30/2009 – Transfer Payroll | \$ 186,998.64 |
| 01/15/2010 – Transfer Payroll | \$ 214,542.11 |
| TOTAL STATUTORY ACCOUNT DISTRIBUTIONS | <u>\$ 401,540.75</u> |

ROLL CALL VOTE

Councilman de Stefan, Councilman Matos, Councilman Bromberg, Councilwoman Sieg and Council President Jasionowski voted yes.

ORDINANCES 1ST READING

There were no Ordinances for 1st Reading this evening.

ORDINANCES 2ND READING

ORDINANCE # 224-2010

Motion by Councilman Matos; seconded by Councilwoman Sieg to open the public hearing on Ordinance #224-2010.

There being no questions or comments from the public motion by Councilman Bromberg; seconded by Councilman Matos to close the public hearing on Ordinance #224-2010.

Council Discussion:

Councilman de Stefan thanked Mike Sartori and noted that we are right in line with the Pascack Valley community. Councilman Bromberg commented that Mike Sartori did an excellent job presenting the changes and Council President Jasionowski thanked him as well.

Mike Sartori thanked the Council and said it is a pleasure serving the residents.

Motion to Adopt: Councilman de Stefan

2nd: Councilman Matos

AN ORDINANCE AMENDING CHAPTER 90, SECTION 90-4 OF THE CODE ENTITLED UNIFORM CONSTRUCTION CODES “FEES”

BE IT ORDAINED by the Township Council of the Township of River Vale that Chapter 90 “Construction Codes, Uniform,” section 90-4 of the Code of the Township of River Vale is hereby amended as follows:

§ 90-4. Fees.

A. The fee for a construction or zoning permit shall be the sum of the subcode fees listed in Subsection A(1) through (6) of this section and shall be paid

before the permit is issued.

(1) Building Subcode Fees. **Minimum Fee Residential R3/R5: \$60.**

All Other Uses & Commercial: \$100.

(a) **New construction or additions:**

[1] Per cubic foot of volume: \$0.04.

[2] Minimum fee (principal building): \$250.

[3] Minimum fee (accessory building): \$150.

[4] Modular structures: \$30 per \$1000 of estimated cost.

(b) **Alterations, repairs, renovations, reconstruction & change of use:**

[1] Per \$1,000 of estimated cost: \$22.

(c) **Roofing, re-roofing and siding:**

[1] Per \$1,000 of estimated cost: \$22.

(d) **Demolition:**

[1] Residential.

[A] Principal building: \$350.

[B] Accessory building:

\$100.

[2] Nonresidential/Mixed use.

[A] Principal: \$750.

[B] Accessory Building: \$200.

[3] Interior Demolition, per subcode.

[A] Residential: \$100.

[B] Mixed Use/Commercial: \$200.

(e) **State surcharge:** calculated upon current state fees N.J.A.C. 5:23-4.19(b)

(f) **Lead Hazard Abatement** with Certificate of Clearance: \$145.

(g) **Asbestos Abatement** with Administrative Certificate: \$160.

(h) **Certificate of Occupancy – U.C.C.:**

[1] Residential (new construction or rehabilitation): \$100.

[2] Non-Residential: \$200.

(i) **Temporary Certificate of Occupancy - U.C.C.,** Initial issuance – No

Fee

[1] Each subsequent renewal & request for Certificate of Occupancy:

\$30.

(j) **Change of Contractor** - \$25 plus any additional items or cost.

(k) **Plan review fee:** 20% of the anticipated permit fee which is nonrefundable.

(l) **Withdrawn permit administrative fee:** 30% includes plan review.

(m) **Reinstatement of Lapse Permit Fee,** 80% percent of original fee.

(n) **Certificate of Continued Occupancy – U.C.C.,** applicant requested:

[1] General visual inspection by all Sub-code Officials: \$100 per sub-code.

(o) **Uniform Construction Code Variations:**

[1] Residential: \$125.

[2] Commercial/Mixed use: \$250.

(p) **Zoning review fee** (requires survey, a current survey depicts as exists):
\$30

(q) **Retaining walls:** plus zoning review fee:

[1] Under 4' in height: Zoning Permit \$30.

[2] Over 4' in height: Per \$1000 of estimated cost: \$22.

(r) **Patios:** \$50 plus zoning review fee:

(s) **Fences:** plus zoning review fee.

[1] **Not associated with pool:**

[A] Fifty (50) feet of fencing or less in length:

[a] With a current property survey: \$30.

[b] Without a current property survey: \$50.

[B] More than fifty feet in length: \$50.

[2] **Pool fence/barrier or fence over 6' high:**

[A] With a current property survey: Per \$1000 of estimated cost:
\$22.

[B] Without a current property survey: Not Permitted

(t) **Swimming pool:** building permit only, does not include fence/barrier: permit also requires zoning review fee:

[1] Aboveground: \$150.

[2] Semi-In-ground: \$300. Also requires Soil Movement Permit

[3] In-ground: Per \$1000 of estimated cost: \$22. Also requires Soil Permit.

(u) **Signs:** plus zoning review fee:

[A] Up to twenty-four (24) square feet: \$65 per sign.

[B] Twenty-five (25) to fifty (50) square feet: \$100 per sign

[C] Fifty (50) square feet and above: \$150 per sign

[D] Free standing sign: \$200 two sided.

(v) **Trailers** used for construction offices and storage: plus zoning review fee:

[1] Residential: \$100 each.

[2] Nonresidential/Mixed use: \$300 each.

(w) **Sidewalks:**

[1] Public New/replacements/repairs over 25%: \$25.

[2] Private walkways: zoning review fee only.

(x) **Driveways:** plus zoning review fee:

[1] Re-surface same size:

[A] With a current property survey \$30.

[B] Without current property survey \$60.

[2] Enlargement:

[A] With a current property survey \$60.

[B] Without a property survey: Not Permitted.

(y) **Change of Tenancy/Occupancy Zoning - Plus Fire Prevention Fees.**

[1] Residential: \$100 plus \$40 each per additional unit.

[2] Non-Residential or mixed: \$200 plus \$100 per additional unit.

(z) **Shed:** (Only 2 permitted if under 150 square feet) plus zoning review fee:

[1] Under 100 square feet:

[A] With a current property survey: \$30.

[B] Without a property survey: Not Permitted.

[2] Between 100 & 200 square feet (U.C.C. permit):

[A] With a current property survey: Per \$1000 of estimated cost: \$22.

[B] Without a current property survey: Not Permitted

[3] Over 200 square feet: Requires Soil Movement Permit and Foundation.

[A] With a current property survey: Per \$1000 of estimated cost \$22.

[B] Without a current property survey: Not Permitted.

(aa) **Temporary Tents:**

[1] Over 900 square feet or thirty feet of length in one direction: \$100.

(bb) Storage tanks in gallons per installation:

- [1] Up to 330: \$75.
- [2] 331 to 660: \$125.
- [3] 661 to 1000: \$200.
- [4] 1,001 to 5000: \$500.
- [5] 5,001 or more \$1000.

(cc) Tank Demolition, per tank:

- [1] Residential: \$100.
- [2] All Other Uses & Commercial: \$200.

(dd) Certificate of Compliance, annual inspection for public swimming pools, spas and hot tubs: \$100.

(ee) Relocation of structure: plus zoning review fee:

- [1] \$30 per \$1000 of estimated cost.

(ff) Special inspection fee request – for emergency/extraordinary situations:

[1] Special inspection fees. Any person, partnership or corporation who requests and obtains a required code inspection either before or after regular Building Department hours of business or on holidays and weekends shall be required to pay, in addition to any established permit and certificate fees, the current contractual hourly compensation rate (one and one half times their normal hourly salary) for the Code Officials performing the inspections, plus an administrative surcharge of 20% of said calculated amount. Said fee shall be calculated and based on the amount of time required for said inspections with payment for a minimum inspection time of no less than two hours with the calculated surcharge.

(gg) Search of Borough Records. Current year and back two years, no retrieval fee only the per page copy charges. Beyond two years from the date of request: \$40 per hour or part thereof retrieval fee, plus copy charges per page.

(2). Electrical Subcode Fees. Minimum Fee Residential R3/R5: \$60. All Other Uses & Commercial: \$ 100.

(a) Receptacles and Fixtures (lighting fixtures, receptacles, switches, detectors, light poles, motors—fractional horsepower, emergency & exit lights, communication points and alarm devices/fire alarm control panel):

- [1] One to 25 units: \$65.
- [2] Each additional 25 or fraction thereof: \$25.

(b) Motors and Electrical Devices over 1 HP up to:

- [1] One horsepower to 10 horsepower: \$45.
- [2] From 11 horsepower to 50 horsepower: \$100.
- [3] From 51 horsepower to 100 horsepower: \$200.
- [4] Greater than 101 horsepower: \$450.

- (c) **Transformers and Generators over 1 KW up to:**
(equipment and appliances, including electrical range oven, dishwasher, dryer, water heater, boiler, furnace, baseboard heat, space heaters, transfer switches, or any other fixed or plug in appliance) each:

- [1] One kilowatt to 10 kilowatts: \$30.
- [2] Over 11 kilowatts to 45 kilowatts: \$60.
- [3] Over 46 kilowatts to 112.5 kilowatts: \$100.
- [4] Over 112.5 kilowatts: \$450.

- (d) **Service Panels, Entrances and Subpanels,**

- [1] Less than or equal to 150 amps: \$60.
- [2] 151 amps or equal to 200 amps: \$70.
- [3] 201 amps or equal to 400 amps: \$200.
- [4] 401 amps or equal to 1200 amps: \$450.
- [5] Over 1201 amps: \$750.

- [6] Additional meters included in service: \$35.

- (d) **Air conditioning units** (disconnect, compress/condenser and air handler):

- [1] Each: \$60.00
- [2] Replacement of any system part: \$35.

- (e) **Burglar Alarm System** (complete): \$60

- (f) **Hydro massage tub** (interior whirlpool tub/spa): \$45.

- (g) **Swimming pools** (includes, receptacle, switch, trench, bonding and equip potential bonding matt):

- [1] Aboveground: \$75.
- [2] Semi-inground: \$90.
- [3] In-ground: \$125.
- [4] Light, each: \$35.

- (g) **Hot tub or spa** (exterior): \$100.

- (h) **Certificate of Compliance**, (annual inspection for public swimming pools, spas and hot tubs): \$100.

- (3). Plumbing **Subcode Fees. Minimum Fee Residential R3/R5: \$60. All Other Uses & Commercial: \$ 100.**

- [1] Water closet/toilet/urinals/bidets: \$20
- [2] Bathtub: \$20.
- [3] Lavatory/sink: \$20.
- [4] Shower: \$20.
- [5] Floor drain: \$20.
- [6] Dishwasher: \$20.

- [7] Drinking fountain/water cooler: \$20.
- [8] Washing machine: \$20.
- [9] Hose bibb: \$20.
- [10] Stacks: \$20.
- [11] Water heater: Residential \$60. Commercial: \$100.
- [12] Fuel oil piping: \$65.
- [13] Gas piping: \$20 per connection.
- [14] Steam/Hot Water Boiler/Furnace: Residential: \$65. Commercial: \$100.
- [15] Sewer pump/ejector: \$65.
- [16] Interceptor/separators: \$65.
- [17] Backflow preventer: Residential \$65. Commercial with Test Ports: \$100.
- [18] Grease trap: \$65.
- [19] Sewer connection/Replace/Repair Residential: \$65. Commercial: \$100.
- [20] Water service connection/2 inch or less: \$65. Over 2 inch: \$100.
- [21] Refrigerant units: \$65.
- [22] Active solar system: \$65
- [23] Garbage disposal: \$20.
- [24] Indirect connection: \$20.
- [25] Humidifier: \$20.
- [26] Condensate line/drain: \$20.
- [27] Roof drains: \$20.
- [28] Septic connection: \$65.
- [29] Water softener: \$65.
- [30] Swimming Pool: Above ground: \$65. Semi-in-ground: \$80. In-ground: \$100.
- [31] Annual Testing of Commercial Backflow devices: \$75 per device.

(4). **Fire Protection Subcode Fees. Minimum Fee Residential R3/R5: \$60. All Other Uses & Commercial: \$100.**

(a) **Installation of Flammable/Combustible/Liquid Storage Tanks:**

- [1] Up to 350 gallons: \$75.
- [2] Over 350 gallons to 1000 gallons: \$100.
- [3] Over 1000 gallons to 5000 gallons: \$250.
- [4] Over 5000 gallons to 10,000 gallons: \$500.
- [5] Over 10,000 gallons: \$1000.

(b) **Alarm/Supervisory/Signaling Devices** (smoke, heat, carbon monoxide, pull stations, water flow, tampers, low/high air, horn/ strobes & bells) each:

[1] 1 thru 6: \$60.

[2] Each additional device: \$5.

(c) **Wet and Dry Sprinkler Heads:**

[1] 1 thru 19: \$100.

[2] 20 thru 100: \$200.

[3] 101 thru 200: \$400.

[4] 201 thru 400: \$748.

[5] 401 thru 1000: \$1036

[6] Over 1000: \$1323.

(d) **Stand Pipes:** \$289.

(e) **Kitchen Hood Exhaust System:** \$200.

(f) **Pre-Engineered Systems:**

[1] Wet Chemical: \$150.

[2] Dry Chemical: \$150.

[3] CO2 Suppression: \$150.

[4] Foam Suppression: \$150.

[5] FM200 Suppression: \$150.

(g) **Smoke Control Systems:** \$500.

(h) **Gas or Oil Fired Appliance:** \$60.

(i) **Fireplaces:** \$75.

(j) **Fire Sprinkler Component Fee Costs in addition to Sprinkler Heads:**

\$75. [1] Hydraulic calculations or alterations to pipe schedule, plan review:

[2] Dry pipe alarm, pre-action and similar devices: \$75.

[3] Supervisory devices, each: \$25.

[4] Water service for Fire Line:

[A] Up to 2 inch: \$100.

[B] 2 inch to 5 inch: \$200.

[C] 6 inch or larger: \$300.

[5] Fire pump: \$500.

(k) **Fire Alarm System Components Fees in addition to Alarm Devices:**

[1] Fire Alarm Panel, new installation or replacement: \$100.

[2] Fire Alarm System security and other devices (i.e. door locks, electromagnetic releases, hold open devices, elevator control valves and floor control valves): \$10 each.

(l) **Metal Chimney or liners:** R3/R5 each: \$60, Mixed Use/Commercial \$100.

(m) **Emergency Lights and Exit Signs,** each: \$5.

(5) Mechanical Subcode Fees.

(a) R3/R5 Structure/use group Minimum Fee: \$60.

- [1] Water Heater: \$60.
- [2] Fuel Oil Piping Connections: \$65.
- [3] Gas Piping Connections: \$20 per connection.
- [4] Steam Boiler with Backflow: \$130.
- [5] Hot Water Boiler with Backflow: \$130.
- [6] Hot Air Furnace: \$130.
- [7] Oil Tank: \$75.
- [8] LPG Tank: \$75.
- [9] Fireplace: \$75.
- [10] Hydronic Piping: \$65.
- [11] Radiant Heat Piping: \$65.
- [12] Lawn Irrigation System: \$60.

(b) Minimum Fee Mixed Use/Commercial: \$100.

[1] Mechanical work on other than a R3/R5 structure/use group shall be calculated based upon: \$22 per \$1000 of estimated cost

ROLL CALL VOTE

Councilman de Stefan, Councilman Matos, Councilman Bromberg, Councilwoman Sieg and Council President Jasionowski voted yes.

ORDINANCE # 225-2010

Motion by Councilman Bromberg; seconded by Councilman Matos to open the public hearing on Ordinance #225-2010.

There being no questions or comments from the public motion by Councilman Bromberg; seconded by Councilman Matos to close the public hearing on Ordinance #225-2010.

Motion to Adopt: Councilman Bromberg

ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF RIVER VALE AND CREATING A CHAPTER THEREOF REQUIRING A REFLECTIVE SYMBOL ON STRUCTURES USING LIGHT-FRAMED CONSTRUCTION

WHEREAS, much new construction, renovations and additions both residential and commercial, consists of Light-Framed Construction, in the forms commonly referred to as prefabricated open web wood trusses, wood I-beams or joists, truss joints, truss rafters, light-gage steel and other similar materials; and

WHEREAS, many types of light –frame construction utilizes lumber that burns at a rate faster than other types of lumber thereby creating in many cases, unexpected problems for firefighters; and

WHEREAS, in fighting fires, time being of the essence in saving lives and property, and

WHEREAS, it is imperative for firefighters, and others, to know the type of materials used in the construction of a structure.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Township of River Vale as follows:

SECTION I

DEFINITIONS. As used in this chapter, the following terms shall have the meanings indicated:

Light –Frame Construction – prefabricated open web wood trusses, wooden I-beam and joists, truss joists, truss rafters, laminated beams, engineered studs and similar materials.

Reflective Symbol – an emblem made of reflective material, in the shape and form designed by the River Vale Fire Department, containing information identifying a structure as containing light-framed construction practices.

Structure – combination of materials used to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land. The word “structure” shall also include any building or improvement with a roof.

SECTION II

The Township Construction Official shall determine if a structure contains light-framed construction. All structures containing light-framed construction lumber, materials and methods must have a reflective symbol affixed to the exterior electrical meter panel serving the structure. The reflective symbol shall be applied by the Construction Official or Fire Official and shall be a condition before any issuance of any certificates of approval or occupancy.

SECTION III

The reflective symbol shall be in a form designed by the River Vale Fire Department and will contain lettering to identify the location of any light-framed construction materials, engineered systems or similar methods of construction used in the structure.

SECTION IV

This chapter shall apply to all structures, whether residential, commercial or otherwise, including structures existing at the time of the effective date of this ordinance and permits existing dwelling to be identified and the emblem affixed to the exterior electric meter panel.

SECTION V

This chapter shall be enforced by the Construction Official and Fire Official of the Township of River Vale.

SECTION VI

Any person violating this ordinance by refusing to use the reflective symbol or by

removing or tampering with the reflective symbol shall be subject to a fine in an amount of \$250.00 per violation. Each day that a violation continues shall be deemed to a separate and distinct offense.

SECTION VII

All ordinances inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistencies only.

SECTION VIII

If any provision of this ordinance shall be found to be invalid, for any reason, by the final judgment of a court of competent jurisdiction, the invalidity of such provision shall not affect the remaining provisions of this ordinance, which shall be severable therefrom.

SECTION IX

This ordinance shall take affect immediately upon final passage and publication as required by law.

ROLL CALL VOTE

Councilman de Stefan, Councilman Matos, Councilman Bromberg, Councilwoman Sieg and Council President Jasionowski voted yes.

ORDINANCE # 226-2010

Motion by Councilman Matos; seconded by Councilman de Stefan to open the public hearing on Ordinance #226-2010.

There being no questions or comments from the public motion by Councilman Bromberg; seconded by Councilman Matos to close the public hearing on Ordinance #226-2010.

Motion to Adopt: Councilman Matos

2nd: Councilman de Stefan

AN ORDINANCE AMENDING CHAPTER 43, ARTICLE II OF THE CODE ENTITLED AFFORDABLE HOUSING “DEVELOPMENT FEES”

1. Purpose

- a) In Holmdel Builder’s Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing’s (COAH’s) adoption of rules.
- b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
- c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH’s regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and

moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic requirements

- a) This ordinance shall not be effective until approved by COAH pursuant to *N.J.A.C. 5:96-5.1*.
- b) River Vale 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 the A, A-1, B, PRD and SHD zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for 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 shall be required to pay a development fee of 6% percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

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. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

iv. The fee shall not be imposed on owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster.

5. Non-residential Development fees

a) Imposed fees

i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land

and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

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 River Vale as a lien against the real property of the owner.

6. Collection procedures

a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.

b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF “State of New Jersey Non-Residential Development Certification/Exemption” to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.

- d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g) Should River Vale 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 River Vale. 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.
 - 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 River Vale. 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. rental income from municipally operated units;
 4. repayments from affordable housing program loans;
 5. recapture funds;
 6. proceeds from the sale of affordable units; and
 7. any other funds collected in connection with River Vale's affordable housing program.
- c) Within seven days from the opening of the trust fund account, River Vale shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8 Use of funds

- a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the River Vale's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b) Funds shall not be expended to reimburse River Vale 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) River Vale may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

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

ROLL CALL VOTE

Councilman de Stefan, Councilman Matos, Councilman Bromberg, Councilwoman Sieg and Council President Jasionowski voted yes.

HEARING OF THE PUBLIC

Motion by Councilman Matos; seconded by Councilman Bromberg to open the meeting to the public.

There being no questions or comments from the public; motion by Councilman Bromberg; seconded by Councilwoman Sieg to close the meeting to the public.

ADJOURNMENT

Motion by Councilman Matos; seconded by Councilman Bromberg to adjourn the meeting at 9:20pm.

Council President
Glen Jasionowski

ATTEST:
Karen Padva
Township Clerk