

MINUTES
Council Meeting
Monday, May 10, 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. Councilman Matos was absent.

Also present: Mayor Joseph Blundo, Robert Gallione, Business Administrator, Holly Schepisi, Township Attorney, Gennaro Rotella, CFO, Christopher Statile, Engineer, Rob Haag, Lerch, Vinci, Higgins, and Karen Padva, Township Clerk.

TOWNSHIP COMMUNICATION

1. Mayor's Comments

Mayor Blundo reported that the Township is being sued by developer Mr. Bonnabel for a builders remedy suit for COAH. The Township did receive certification a few months ago and Mr. Bonnabel is challenging our certification on administrative technicalities. He is suing so that he can be permitted to build on three lots in the Township that are not zoned for multi-family housing.

The Mayor continued that he is confident that our COAH Certification will hold and more confident that this lawsuit has no grounds to continue. None the less we are going to protect the Township's rights and we are not going to be forced to accept a development in an area that does not fit with our community. He continued that Holly Schepisi has a meeting in Trenton with COAH to confirm that the technicalities are minor and non substantial and therefore our certification will be upheld. He added that there is a resolution on the agenda appointing a law firm of Schepisi & McLaughlin; which is Holly's father firm to help assist us in this matter. Mayor Blundo stated that we need protection as we can and we may need more depth in the land use areas. We want to make sure we're fortified with people who have fought these battles before; legal costs will be handled by the COAH fund.

We have also received optimistic news that perhaps the developer; and that perhaps that the suit may have not been intended to be filed. Ms. Schepisi clarified that the suit has been filed but we have not yet been served. We will not sit idly by and take a chance.

Mayor Blundo reported that the County is moving forward to purchase the property north of John Shine Court to preserve it as open space and link up with the County golf course. The Mayor believes this a very good project; but could not support because they would be purchasing property from someone who is suing the Township at the same time. We will make our opinion clear to the County should the lawsuit go forward; that we will have a difficult time being

supportive of the effort to purchase that property. The Mayor explained that it would be a natural acquisition but not at the expense of selling to someone who is suing us to build on other open space in town.

Mayor Blundo reported that tonight we will be asking the Council to move forward on the municipal budget. The budget has changed since introduction due to Governor's cuts in State Aid. The original budget called for a \$98 tax increase that represents a reduced spending of controllable expenses. As a result of the cuts in Trenton they have gone back and some of the cuts have been offset by unanticipated revenue from our cable franchise fees. In addition, the administration has made recommendations to the Council for additional cuts to remain under the 4% CAP and minimize the impact to the taxpayers. As a result, if the Council either accepts the recommendations or meets them with other dollar amounts the proposed increase is about \$125.

Overall, the increase is proposed at \$400 to average tax payers. By comparison to other communities we are in a fortunate place. The Mayor believe strongly that good fiscal manage has put us in a position to survive the economic issues this year.

The Mayor read the following proclamation into the record:

PROCLAMATION
“National Police Week”
MAY 9-15, 2010

WHEREAS, the police officers of America have worked devotedly and selflessly on behalf of the people of this Nation, regardless of the peril or hazard to themselves; and

WHEREAS, these officers have safeguarded the lives and property of their fellow Americans; and

WHEREAS, by the enforcement of our laws, these same officers have given our country internal freedom from fear of the violence and civil disorder that is presently affecting other nations;

WHEREAS, these men and women by their patriotic service and their dedicated efforts have earned the gratitude of the Republic; and

WHEREAS, established in 1962 by President John F. Kennedy and a joint resolution of Congress, National Police Week pays special tribute to those law enforcement officers who have lost their lives in the line of duty for the safety and protection of others; and

WHEREAS, ceremonies are held in Washington, D.C. and in communities across the country; and

WHEREAS, National Police Week is a collaborative effort of many organizations dedicated to honoring America's law enforcement community; and

WHEREAS, principal organizers of National Police Week are National Law Enforcement Officers Memorial Fund, Fraternal Order of Police, Fraternal Order of Police Auxiliary, and Concerns of Police Survivors.

NOW, THEREFORE, I Mayor Joseph Blundo and the Township Council hereby issue this Proclamation designating the week of May 9 – 15th, 2010, as National Police Week in the Township of River Vale, in recognition of the service given by the men and women who, night and day, stand guard in our midst to protect us through the enforcement of our laws, and inviting the governments of the United States and communities and the people of the United States to observe such week with appropriate ceremonies and activities, including designating May 15th of each year as Peace Officers Memorial Day in honor of the Federal, State, and Municipal officers who have been killed or disabled in the line a duty.

*****Councilman Matos arrived at 8:15pm*****

2. Council Comments

Councilman de Stefan credited the Mayor for the budget and that no services were affected and we did not touch the surplus. Councilman de Stefan stated that has shown leadership protecting our High School and that we all stand behind our COAH plan. Councilman de Stefan reported that the River Vale Senior Friendship Club hosted a benefit lunch for Community Hospice on May 4th. He noted that a new restaurant, Que Pasta donated all the food; 118 people attended and \$1,232 which is a great accomplishment.

Councilman Matos supports the budget and that the Mayor and Administration did a good job preparing. He also made special mention to the DPW services on doing a tremendous job taking care of fallen trees and debris during the past few weeks of high winds.

Councilwoman Sieg reported that she recently accompanied Bob Gallione to Newark to attend an Arbor Day Celebration at which we were recognized as a Tree City. She had a wonderful day and really enjoyed the spirit of the kids and faculty. Councilwoman Sieg also met the Mayor of Newark and felt very proud to be a part of the event.

Councilwoman Sieg also encouraged people to donate trees to the EMS Park. She also thanked, Chris, Bob and Rich Campanelli for all their hard work and the administration for their support. Councilwoman Sieg announced that the opening day for EMS Park is the day of the Memorial Day Parade.

Mayor Blundo took this opportunity to thank Bob Menville for all his hard work on the Hospice Fundraiser and for the several tree donations he has collected for the EMS Park.

Councilman Bromberg stated that he is confident that this administration and governing body have done all we could do to avoid litigation wherever possible. We will stand behind and support the Mayor in this frivolous matter.

Councilman Bromberg also commented on the budget. He explained that they looked into additional areas and have decided to stand behind the budget as it has been presented by the administration. Councilman Bromberg concurred that we are in a very good position as the Mayor had stated.

Council President Jasionowski had no comments this evening.

PUBLIC HEARING 2010 MUNICIPAL BUDGET

Motion by Councilman Matos; seconded by Councilman de Stefan to open the public hearing on the 2010 municipal budget.

Joe Massin-69 Holiday Court – questioned how he thought the town would stand in the future budgets as the state continues to erode municipality's resources.

Mayor Blundo stated that they thought they took away it all last year; and that the energy tax hurt but we didn't use our surplus. The Mayor added that it won't be easy but we're in a decent starting position for next year.

Mr. Massin also commented on the under funded pension fund.

David Rice-539 Bernita Drive – you did a great job. He added that they didn't do any big cuts to projects, people and salaries. Mr. Rice stated that going forward it will only get worse.

Motion by Councilman Bromberg; seconded by Councilwoman Sieg to close the public hearing on the 2010 municipal budget.

Council Discussion on 2010 Municipal Budget

Councilman de Stefan thanked the Mayor for his leadership and the hard work of the Departments. He stated the importance of maintaining services such as the DPW, Police and Fire protection and you don't want to lay people off.

Councilman Matos, Councilwoman Sieg and Councilman Bromberg all stated that they were good with the budget.

Council President Jasionowski stated that the Mayor, Administration the Council did a great job on this budget. He added that the administration did run some pro formas on cutting staff and services. The Council decided instead to maintain service levels in the Township.

RESOLUTIONS

Motion by Councilman Matos; seconded by Councilman Bromberg to approved resolutions #2010-144 through 2010-146 on Consent Agenda; as follows:

Resolution #2010-144

Attached

Resolution #2010-145

Attached

Resolution #2010-146

ROLL CALL VOTE

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

Rob Haag explained the second Resolution regarding authorizing the self examination of the budget. Every year the State allows a list of municipalities who are eligible for self examination due to being fiscally sound. Therefore there is no State review of budget; and the CFO can certify the budget.

Council President Jasionowski added that a big part of this is the quality work of our financial audit and practices that have lead to great audits.

Administrator's Report

Mr. Gallione offered a brief report on the second part of the Memorial Day Observance in Veterans Park. Gennaro Rotella and Ann McCarthy did some research and discovered at a nearby museum; (4) log books and the bell from the original USS Enterprise. The new Pastor from the Community Church (next to the DPW building) will be performing the benediction at the service the Veterans run. The Library will also be presenting awards for an essay and poster contest. Mr. Gallione noted that we need convertibles for the Veterans to ride in during the parade.

Councilman de Stefan added that the Orangeburgh Museum had the lanterns from the Enterprise as well. He also requested that they are in need of exhibit cases.

Mr. Gallione continued that Summer Camp and Safety Town registrations are currently going on and the cut off for Safety Town is 50. Mr. Gallione concluded that the two (2) Stormwater Ordinances on the Agenda this evening for introduction are mandated by the BCUA.

Township Engineer's Report

Mr. Statile reported that the bid openings are scheduled for both the Road Program and Brookside Avenue. The Bike Path bids are being received this Thursday and hopefully the award will be later this month. The plan is to complete this project while school is out.

The engineer gave updates on the EMS Park; the landscaping will start tomorrow and is expected to be completed in a week. Rich has brought in irrigations lines to the Park as well. The Bernita Drive permit was received from the State today; we can go out to bid at any time and the access will be through Township property.

Mr. Statile continued the Mr. Gallione has asked that he prepare the contract for sidewalk replacement; that should be advertised by next week with a possible award in June. Regarding the DPW building; there was a large meeting with United Water, River Keeper, SWAN, Deputy Attorney General, the DEP, Holly, Bob Gallione and Rich to discuss what our plans are for mitigation and clean up of the site. Mr. Statile concluded by reporting that Alexander field has been reseeded and fertilized.

HEARING OF THE PUBLIC

Motion by Councilman Matos; seconded by Councilman de Stefan 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.”

Gina Susek – 549 Roosevelt Avenue—Ms. Susek thanked the Mayor and Council for doing all that they can do to keep taxes down. Ms. Susek commented on a previously adopted parking ordinance. Her concern is that people are parking their commercial vehicles on the street for extended periods of time instead of on their property. She asked the Council to consider amending the ordinance to address this issue. Council President Jasionowski will look into it.

Joe Massin – 68 Holiday Court - Commented on the golf course property and their financing; and how this affects the Township. Council President Jasionowski answered that we will stand firm and we will not allow them to forward with the development until the terms of the agreement are met; the easement and exchange of funds for property.

Holly Schepisi added that she did meet with the senior secured lenders and that possibly the bankruptcy matter could be dismissed. The lender would then do a foreclosure sale and end up with the property. She continued that prior to the bankruptcy occurring she did meet both banks (there is now only one bank) to sign off on all the terms of the agreement that we had entered into with the developer for the land swap. In order for the land swap to move forward they need to comply with certain thing. Ms. Schepisi concluded that we will have better clarity in the next few weeks.

Mr. Massin also commented on the zoning ordinances and the time of decision rule. He also questioned the projected costs of the lawsuit would be. Mr. Massin questioned Resolution #155 regarding property maintenance and the resolution pertaining to tax appeals and the towns’ exposure.

Council President Jasionowski answered that the Council is going into closed session to discuss the cost of the litigation. There are safety issues regarding property maintenance of 608 New Street and work will be billed back to the owner.

Holly answered that tax appeals are not over the top but we do have a few new appeals (PNC, United Water). The Mayor added that the person suing us and trying to sell his property to the County for a substantial amount of money; has filed a tax appeal claiming the property is worth 25% of what he’s getting from the County.

Councilman Bromberg added that River Vale’s residential homes have held their value due to the excellent schools, DPW and Police service.

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

Motion by Councilman de Stefan; seconded by Councilman Bromberg to enter into Closed Session to discuss new litigation and contract negotiations.

Motion by Councilman Matos; seconded by Councilman de Stefan to reopen the meeting from Closed Session.

RESOLUTIONS

Motion by Councilman Bromberg; seconded by Councilman de Stefan to approve Resolution #2010-147; as follows:

Resolution #2010-147

RESOLUTION APPROVING THE MINUTES OF THE April 12, 2010 COUNCIL MEETING

BE IT RESOLVED, by the Township Council of the Township of River Vale that the minutes of the April 12, 2010 Council meeting are hereby approved.

ROLL CALL VOTE

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

Motion by Councilman de Stefan; seconded by Councilman Matos to approve Resolutions #2010-149 through #2010-159 on Consent Agenda with the exception of Resolution #2010-148, as follows:

Resolution #2010-149

RESOLUTION APPROVING RAFFLE LICENSE FOR HABITAT FOR HUMANITY BERGEN COUNTY—50/50 ON PREMISES RAFFLE

BE IT HEREBY RESOLVED, that the following license to conduct an on premises raffle be issued to:

NAME:	Habitat for Humanity of Bergen County 10 Banta Place Suite 105 Hackensack, NJ 07601
LOCATION OF RAFFLE:	Florentine Gardens 97 Rivervale Road River Vale, NJ 07675
DATE OF RAFFLE:	June 2, 2010 6:00pm
I.D. #:	180-4-330-50
RAFFLE LICENSE:	RL 330

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 #2010-150

RESOLUTION

**TAX APPEAL JUDGEMENT
REFUND OF TAX OVERPAYMENT**

WHEREAS, 228 Rivervale Road Associates, LLC, was rendered a Tax Court Judgment decision for a reduced assessment for the year 2007;

WHEREAS, 228 Rivervale Road Associates LLC is requesting a tax refund for overpayment for the year 2007 in the amount of \$ 1,859.55;

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 designated above payable to:

“Law Office of Nathan P. Wolf, LLC and 228 Rivervale Road Assoc. LLC”

Mail to:
Law Office of Nathan P. Wolf, LLC

360 Mount Kemble Avenue
Morristown, NJ 07960

Resolution #2010-151

**RESOLUTION CONFIRMING THE MAYORAL APPOINTMENT TO THE
ADVISORY BOARD OF HEALTH – Frank Matrandri**

NOW THEREFORE BE IT RESOLVED, by the Township Council of the Township of River Vale that the Mayoral appointment of Frank Matrandri to the Advisory Board of Health is hereby confirmed.

Resolution #2010-152

**RESOLUTION CONFIRMING THE APPOINTMENT OF A POLICE
SURGEON– Dr. Evan Steinberg**

NOW THEREFORE BE IT RESOLVED, by the Township Council of the Township of River Vale that the appointment of Dr. Evan Steinberg as a River Vale Police Surgeon is hereby confirmed.

Resolution #2010-153

**RESOLUTION APPROVING THE FIREWORKS PERMIT FOR THE
EDGEWOOD COUNTRY CLUB – JULY 3, 2010 (RAIN DATE JULY 5, 2010)**

BE IT RESOLVED, by the Township Council of the Township of River Vale that the fireworks permit for the above mentioned is hereby approved; and

BE IT FURTHER RESOLVED, that all permit fees to the Township of River Vale have been paid in full; and

BE IT FURTHER RESOLVED, that the Fire Official has received all pertinent applications and approvals according to Township Ordinances and Statutes of the State of New Jersey.

Resolution #2010-154

**RESOLUTION AUTHORIZING THE MAYOR TO SIGN FIRE WORKS
CONTRACT WITH GARDEN STATE FIREWORKS, INC. FOR NATIONAL
NIGHT OUT – AUGUST 3, 2010**

BE IT RESOLVED, by the Township Council of the Township of River Vale that the Mayor is hereby authorized to sign a contract with Garden State Fireworks, Inc. for the National Night Out event scheduled for Tuesday, August 3, 2010.

Resolution #2010-155

**RESOLUTION AUTHORIZING ENFORCEMENT OF PROPERTY
MAINTENANCE CODE – 608 NEW STREET**

BE IT RESOLVED, by the Council of the Township of River Vale that the DPW Superintendent is hereby authorized to obtain estimates to board up the structure, remove trash and overgrowth from 608 New Street;

BE IT FURTHER RESOLVED, upon the completion of the work the costs be forwarded to the tax collector in order that a lien for said work can be attached to the property.

Resolution #2010-156

RESOLUTION APPROVING RAFFLE LICENSE FOR HARRINGTON PARK HOME SCHOOL ASSOCIATION—50/50 ON PREMISES RAFFLE

BE IT HEREBY RESOLVED, that the following license to conduct an on premises raffle be issued to:

NAME: Harrington Park Home School Association
191 Harriot Avenue
Harrington Park, NJ 07640

LOCATION OF RAFFLE: Valley Brook Golf Club
15 Rivervale Road
River Vale, NJ 07675

DATE OF RAFFLE: June 10, 2010 12:00pm 10:00pm

I.D. #: 198-5-30223

RAFFLE LICENSE: RL 331

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 #2010-157

RESOLUTION APPROVING RAFFLE LICENSE FOR HARRINGTON PARK HOME SCHOOL ASSOCIATION—HOLE IN ONE

BE IT HEREBY RESOLVED, that the following license to conduct an on premises raffle be issued to:

NAME: Harrington Park Home School Association
191 Harriot Avenue
Harrington Park, NJ 07640

LOCATION OF RAFFLE: Valley Brook Golf Club
15 Rivervale Road
River Vale, NJ 07675

DATE OF RAFFLE: June 10, 2010 12:00pm 10:00pm

I.D. #: 198-5-30223

RAFFLE LICENSE: RL 332

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 #2010-158

AUTHORIZE THE MAYOR TO SIGN DEVELOPER’S AGREEMENT WITH THE HOUSING DEVELOPMENT CORPORATION

WHEREAS, the HOUSING DEVELOPMENT CORPORATION having an address at 25 Rockwood Place, Englewood, New Jersey (hereinafter referred to as the DEVELOPER or HDC) is a nonprofit housing corporation of New Jersey organized for the purpose of providing and constructing housing for low and moderate income persons

and families and has submitted to the TOWNSHIP correspondence offering assistance in complying with the TOWNSHIP'S COAH affordable housing obligations as submitted in a Petition for Substantive Certification specifically as it relates to plans to develop a portion of the properties commonly known as the Meskers Site on Rivervale Road (the "MESKER PROPERTY") and the Kirk Properties located at Cedar Lane (hereinafter the "KIRK PROPERTY" and collectively with the MESKER PROPERTY, the 'PROPERTY') consistent with the Petition for Substantive Certification as set forth above; and

WHEREAS, the TOWNSHIP has determined that it is in the best interest to select HDC to develop the property in accordance with the Township's affordable housing obligation; and

WHEREAS, final certification of the Township's Amended Petition for Substantive Certification of its Housing Element and Fair Share Plan (HEFSP), has been granted by COAH on March 10, 2010; and

WHEREAS, pursuant to the terms of the final certification of the HEFSP, the Township has agreed to enter into a Developer's Agreement for such PROPERTY;

WHEREAS, the Township Council now seeks to pursue the AGREEMENT with HDC, in furtherance of its Petition for Substantive Certification of its HEFSP; and

WHEREAS, the Mayor and Council have determined that it is in the best interest of its citizens of the Township to achieve such Substantive Certification, and it is further in the best interest of the citizens of the Township to enter into the AGREEMENT in furtherance thereof; and

WHEREAS, it is the intention of the TOWNSHIP to develop the PROPERTY to fulfill the requirements of the Township's HEFSP by and through this AGREEMENT; and

WHEREAS, by the Developer's Agreement, the parties desire to express their acknowledgement and acceptance of the safeguards, conditions and limitations under which the required site IMPROVEMENTS will proceed;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of River Vale that the Mayor is hereby authorized to execute a Developer's Agreement with HDC in substantially the form provided to the Township Council with such revisions as deemed reasonable and necessary by the Mayor and the Township Attorney.

Resolution #2010-159

RESOLUTION AUTHORIZING THE MAYOR TO APPOINT SPECIAL LITIGATION COUNSEL

BE IT RESOLVED, by the Township Council of the Township of River Vale that the Mayor is hereby authorized to appoint the law firm of Schepisi & McLaughlin as Special Litigation Counsel.

ROLL CALL VOTE

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

ORDINANCES 1ST READING

ORDINANCE # 233-2010

Motion to Introduce: Councilman Matos

Seconded: Councilman de Stefan

AN ORDINANCE OF THE TOWNSHIP OF RIVER VALE, IN THE COUNTY OF BERGEN, NEW JERSEY, AMENDING CHAPTER 212 OF THE CODE ENTITLED STORMWATER MANAGEMENT ADDING A SECTION ENTITLED “PRIVATE STORM DRAIN INLET RETROFITTING”

BE IT ORDAINED by the Township Council of the Township of River Vale that Chapter 212 of the Code of the Township of River Vale is hereby amended as follows:

SECTION I. Purpose:

An ordinance requiring the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Township of River Vale so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

SECTION II. Definitions:

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- a. Municipal separate storm sewer system (MS4)– a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by Township of River Vale or other public body, and is designed and used for collecting and conveying stormwater. **NOTE:** In municipalities with combined sewer systems, add the following: “MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.”
- b. Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- c. Storm drain inlet- an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.
- d. Waters of the State – means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

SECTION III. Prohibited Conduct:

No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

1. **Already meets the design standard below to control passage of solid and floatable materials; or**
2. **Is retrofitted or replaced to meet the standard in Section V below prior to the completion of the project.**

SECTION V. Design Standard:

Storm drain inlets identified in Section IV above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this

paragraph, “solid and floatable materials” means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section V.3 below.

1. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

- a. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
- b. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

2. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

3. This standard does not apply:

- a. Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
- b. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - i. A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or
 - ii. A bar screen having a bar spacing of 0.5 inches.
- c. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1”) spacing between the bars; or
- d. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

SECTION V. Enforcement:

This ordinance shall be enforced by the Superintendent of Public Works of the Township of River Vale.

SECTION VI. Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed **\$1,000** for each storm drain inlet that is not retrofitted to meet the design standard.

SECTION VII. Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

SECTION VIII. Effective date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

ROLL CALL VOTE

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

ORDINANCE # 234-2010

Motion to Introduce: Councilman de Stefan

Seconded: Councilman Matos

AN ORDINANCE OF THE TOWNSHIP OF RIVER VALE, IN THE COUNTY OF BERGEN, NEW JERSEY, AMENDING CHAPTER 212 OF THE CODE ENTITLED STORMWATER MANAGEMENT ADDING A SECTION ENTITLED “REFUSE CONTAINERS AND DUMPSTERS”

BE IT ORDAINED by the Township Council of the Township of River Vale that Chapter 212 of the Code of the Township of River Vale is hereby amended as follows:

SECTION I. Purpose:

An ordinance requiring dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Township of River Vale and/or the waters of the State so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

SECTION II. Definitions:

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- a. Municipal separate storm sewer system (MS4) – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by Township of River Vale or other public body, and is designed and used for collecting and conveying stormwater. **NOTE:** In municipalities with combined sewer systems, add the following: “MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.”
- b. Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- c. Refuse container – any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.
- d. Stormwater – means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.
- e. Waters of the State – means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

SECTION III. Prohibited Conduct:

Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.

Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system(s) operated by the Township of River Vale.

SECTION IV. Exceptions to Prohibition:

- a. Permitted temporary demolition containers
- b. Litter receptacles (other than dumpsters or other bulk containers)
- c. Individual homeowner trash and recycling containers
- d. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit
- e. Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup)

SECTION V. Enforcement:

This ordinance shall be enforced by the Superintendent of Public Works of the Township of River Vale.

SECTION VI. Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed \$1,000.

SECTION VII. Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

SECTION VIII. Effective date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

ROLL CALL VOTE

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

ORDINANCE # 235-2010

Motion to Introduce: Councilman Bromberg

Seconded: Councilman de Stefan

AN ORDINANCE OF THE TOWNSHIP OF RIVER VALE, COUNTY OF BERGEN, NEW JERSEY, AMENDING ORDINANCE #231-2010 TO ADDRESS THE REQUIREMENTS OF THE COUNCIL ON AFFORDABLE HOUSING (COAH) REGARDING COMPLIANCE WITH THE MUNICIPALITY'S PRIOR ROUND AND THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Township Council of the Township of River Vale adopted Ordinance #231-2010 on April 26, 2010 to address the requirements of the Council on Affordable Housing (COAH) regarding compliance with the Municipality's Prior Round and Third Round Affordable Housing Obligations;

WHEREAS, copies of such Ordinance were previously circulated to the members of the Township Council of the Township of River Vale on several occasions, including as part of the Township of River Vale's certification process;

WHEREAS, the Township Council believed in good faith that they were adopting Ordinance 231-2010 in its entirety, including the provisions set forth below, which had been previously circulated to the members of the Township Council;

WHEREAS, it has come to the attention of the Township of River Vale that due to a clerical error, the portions of Ordinance 231-2010 set forth below were inadvertently omitted from the public notice prior to the meeting;

WHEREAS, the Township Council wishes to immediately correct such omission and amend Ordinance 231-2010 to include the provisions which were inadvertently omitted;

BE IT ORDAINED by the Township Council of the Township of River Vale that Chapter 43 of the Code of the Township of River Vale is hereby amended as follows:

Section 8. New Construction

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

- (a) Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
 2. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
 3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - ii. At least 30 percent of all low- and moderate-income units shall be two bedroom units;
 - iii. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
 - iv. The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
 4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.
- (b) Accessibility Requirements:
1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.
 2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - i. An adaptable toilet and bathing facility on the first floor;
 - ii. An adaptable kitchen on the first floor;
 - iii. An interior accessible route of travel on the first floor;

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

(c) Maximum Rents and Sales Prices

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

4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household;
 - iii. A two-bedroom unit shall be affordable to a three-person household;
 - iv. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - v. A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - iii. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
10. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.
11. **Utilities.** Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

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

Section 9. Affirmative Marketing Requirements

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

Section 10. Occupancy Standards

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

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

- (a) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until the Township of River Vale elects to release the unit from such requirements however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.

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

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

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

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

Section 13. Buyer Income Eligibility

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

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

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

Section 15. Control Periods for Restricted Rental Units

- (a) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until the Township of River Vale elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (b) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (c) A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 1. Sublease or assignment of the lease of the unit;
 2. Sale or other voluntary transfer of the ownership of the unit; or
 3. The entry and enforcement of any judgment of foreclosure.

Section 16. Price Restrictions for Rental Units; Leases

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

Section 17. Tenant Income Eligibility

- (a) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.

- (b) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 3. The household is currently in substandard or overcrowded living conditions;
 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (c) The applicant shall file documentation sufficient to establish the existence of the circumstances in (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

Section 18. Administration

- (a) The position of Municipal Housing Liaison (MHL) for the Township of River Vale is established by this ordinance. The Township of River Vale governing body shall make the actual appointment of the MHL by means of a resolution.
1. The MHL must be either a full-time or part-time employee of the Township of River Vale.
 2. The person appointed as the MHL must be reported to COAH for approval.
 3. The MHL must meet all COAH requirements for qualifications, including initial and periodic training.
 4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of River Vale, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - ii. The implementation of the Affirmative Marketing Plan and affordability controls.
 - iii. When applicable, supervising any contracting Administrative Agent.
 - iv. Monitoring the status of all restricted units in the Township of River Vale's Fair Share Plan;
 - v. Compiling, verifying and submitting annual reports as required by COAH;
 - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.
- (b) The Township of River Vale shall designate by resolution of the governing body, subject to the approval of COAH, one or more Administrative Agents to

administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.

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

Section 19. Enforcement of Affordable Housing Regulations

- (a) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- (b) After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - 1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - i. A fine of not more than \$1,000 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - ii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of River Vale Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing

units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.

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

- (h) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

Section 20. Appeals

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

REPEALER

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

SEVERABILITY

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

ROLL CALL VOTE

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

ORDINANCES 2nd READING

ORDINANCE # 232-2010

Motion by Councilman Bromberg; seconded by Councilman Matos to open the public hearing on Ordinance #232-2010.

There being no questions or comments from the public motion by Councilman Bromberg; seconded by Councilman Matos to close the public hearing on Ordinance #232-2010.

Motion to Adopt: Councilman Matos

2nd: Councilwoman Bromberg

AN ORDINANCE OF THE TOWNSHIP OF RIVER VALE, IN THE COUNTY OF BERGEN, NEW JERSEY, AMENDING CHAPTER 81 OF THE CODE ENTITLED VEHICLES AND TRAFFIC SECTION 35 “TWO-HOUR PARKING”

BE IT ORDAINED by the Township Council of the Township of River Vale that Chapter 81 Vehicles and Traffic Section 35 of the Code of the Township of River Vale is hereby amended as follows:

§ 81-35. Two-hour parking.

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Rivervale Road	East	From the Westwood Avenue Intersection To the Collignon Way Intersection

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

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

ADJOURNMENT

Motion by Councilman Bromberg; seconded by Councilman Matos to adjourn the meeting at 10:00pm.

ATTEST:
Karen Padva
Township Clerk

Council President
Glen Jasionowski