

Executive Session – June 9, 2015, August 4, 2015, September 1, 2015.

IX. HEARING ON AGENDA ITEMS ONLY – 3 minutes per resident

Comments are welcome during the public comment period during this meeting on any agenda item. However, if an ordinance is listed for its own public hearing on the agenda, please hold your comments for that particular public hearing. To make your comment, the speaker must come forward to the microphone and state his/her name and address for the record. Each speaker is limited to 3 minutes. The (Mayor/Council President) will keep time. Please promptly yield on the floor when time is called and return to your seat. Your cooperation in adherence to these rules of order will ensure an orderly and respectful meeting.

X. PUBLIC HEARING AND FINAL ADOPTION OF ORDINANCES INTRODUCED ON AUGUST 9, 2016.

“AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, STATE OF NEW JERSEY, ADOPTING A REDEVELOPMENT PLAN FOR THE PROPERTY IDENTIFIED AS BLOCK 1301, LOT 26, LOCATED AT 290 PLAINFIELD AVENUE, PUSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW.”

XI. NEW BUSINESS- RESOLUTIONS

OFFICIAL ACTION WILL BE TAKEN ON THE FOLLOWING:

A. RESOLUTIONS

1. Resolution approving Bill List dated September 20, 2016 in the amount of \$266,625.03.
2. Resolution authorizing the Settlement Agreement with Fair Share Housing Center, which will ultimately result in approval of the Township’s Fair Share Plan which, in turn, will maintain the Township’s immunity from all Mount Laurel lawsuits for the ten-year period set forth in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 to 329.
3. Resolution authorizing the sale of surplus personal property on the State-approved online auction website of GovDeals.com.
4. Resolution supporting the Green Team associated with the Environmental Commission in their efforts to renew the Township’s Silver Certification.
5. Resolution authorizing a shared services agreement with the Board of Education for the provision of repair and maintenance services for the Board of Education Vehicles.
6. Resolution authorizing the Hold Harmless Agreement for composting leaves with the County of Union.

7. CONSENT AGENDA – All matters listed under Consent Agenda are considered routine by the Township Council and will be enacted upon by one motion; there will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Resolution authorizing the Tax Collector to refund the following 2016 tax overpayment:
 1. Eric & Millie Dawson 51 Webster Drive \$3,963.07

- | | | | |
|----|--------------------------|-------------------|----------|
| 2. | Stephen & Grace Lombardi | 368 Timber Drive. | \$108.57 |
| 3. | George & Erica Koufakis | 100 Crest Drive | \$452.45 |

- b. Resolution authorizing a renewal of a blue light permit for, Toni Ann Gestone, who is a member of the Berkeley Heights Rescue Squad.
- c. Resolution authorizing a renewal of a blue light permit for, Donna Foster, who is a member of the Berkeley Heights Rescue Squad.
- d. Resolution authorizing a renewal of a blue light permit for, Stephen Kirsch, who is a member of the Berkeley Heights Rescue Squad.
- e. Resolution requesting a block party on September 24, 2016 from 4:00 – 9:30 p.m. between 55 and 95 Wentworth Drive.
- f. Resolution authorizing the return of a Maintenance Bond in the amount of \$18,321.00 to Connell Solar Canopy, for work performed at 50 Connell Drive and 100 Connell Drive.

XII. INTRODUCTION OF ORDINANCES:

Public Hearing and Final Adoption scheduled for October 4, 2016:

“AN ORDINANCE AMENDING THE MINIMUM AND MAXIMUM RATE OF SALARY AND COMPENSATION OF ELECTED AND APPOINTED TOWNSHIP OFFICIALS, AND NON-UNION EMPLOYEES IN THE VARIOUS MUNICIPAL DEPARTMENTS OF THE TOWNSHIP OF BERKELEY HEIGHTS.”

Public Hearing and Final Adoption scheduled for October 4, 2016:

“AN ORDINANCE AMENDING, REVISING AND SUPPLEMENTING VARIOUS SECTIONS OF TITLE 1 ENTITLED “GENERAL PROVISIONS” OF THE CODE OF THE TOWNSHIP OF BERKELEY HEIGHTS TO CREATE NEW CHAPTER 1.06 TO BE ENTITLED “RECORDING OF PUBLIC MEETINGS” TO ESTABLISH GUIDELINES FOR THE RECORDING OF PUBLIC MEETINGS.”

XIII. CITIZENS HEARING - 3 minutes per resident

Comments are welcome during the public comment period during this meeting on any matter over which the Township has jurisdiction. To make your comment, the speaker must come forward to the microphone and state his/her name and address for the record. Each speaker is limited to 3 minutes. The Mayor and/or Council will keep time. Please promptly yield the floor when time is called and return to your seat. Your cooperation in adherence to these rules of order will ensure an orderly and respectful meeting.

XIV. EXECUTIVE SESSION –

- 1. **Attorney – Client Privilege/ Contract Negotiations – Connell**
- 2. **Attorney-Client Privilege/Contract Negotiations – Berkeley Heights Developers, LLC**

XV. ADJOURNMENT

**Ana Minkoff
Township Clerk**

Proclamation
Township of Berkeley Heights

Proclamation to congratulate SAGE Eldercare's Meals on Wheels on celebrating their 50th Anniversary; and

WHEREAS, SAGE Eldercare began its Meals on Wheels in October 1966 with funding received from the Summit Junior League. Volunteers were recruited from various organizations such as the College Club, United Church Women, P.E.O., Red Cross, Women Pioneers of Bell Laboratories, and the Junior Fortnightly Club.

Senior Nutrition Programs became part of the Older Americans Act when signed into law under President Nixon in 1972. SAGE is one of approximately 5,000 current programs in the United States and the oldest continuously run program in New Jersey.

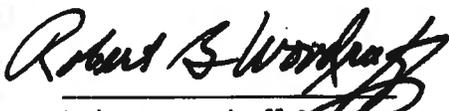
WHEREAS, the core of the Meals on Wheels service is a nutritious meal, companionship and a watchful eye on the health and safety of our neighbors every weekday. SAGE Eldercare's Meals on Wheels program currently serves about 44,000 meals to nearly 250 clients annually via 15 routes in ten communities. Towns presently being served include Berkeley Heights, Chatham, Madison, Millburn, Mountainside, New Providence, Short Hills, South Orange, Springfield, and Summit.

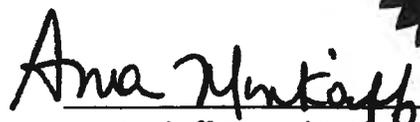
WHEREAS, since 1954, SAGE Eldercare has been helping make this community an amazing place to age. Professional and highly trained staff provides a wide array of information, support, and services designed to help older adults lead the most independent and active lives possible. SAGE Eldercare continues to make a positive impact on the lives of the older adults in our community.

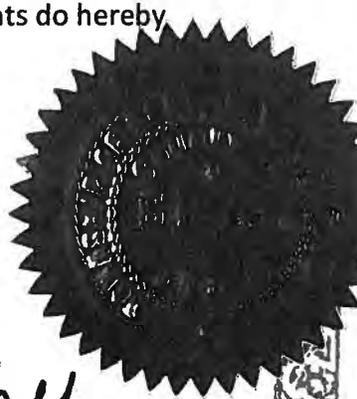
NOW THEREFORE, I Robert Woodruff, Mayor of the Township of Berkeley Heights do hereby proclaim November 30, 2016 as:

SAGE Eldercare's Meals on Wheels 50th Anniversary

Approved this 20th day of September, 2016.


Robert Woodruff, Mayor


Ana Minkoff, Township Clerk



(1)

EXPLANATORY STATEMENT: This ordinance authorizes and adopts a Redevelopment Plan for the redevelopment of the property identified as Block 1301, Lot 26, located at 290 Plainfield Avenue, consisting of approximately 1.33± acres, upon which the Berkeley Heights Public Library is currently situated, pursuant to the Local Redevelopment and Housing Law.

TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY

ORDINANCE No. _____

An Ordinance of the Township of Berkeley Heights, County of Union, State of New Jersey, Adopting a Redevelopment Plan for the Property Identified as Block 1301, Lot 26, located at 290 Plainfield Avenue, Pursuant to the Local Redevelopment and Housing Law.

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A.40A:12A-1 et seq. (the "Redevelopment Law") authorizes municipalities to determine whether certain parcels of land located with the municipality constitute areas in need of non-condemnation redevelopment, and the adoption of a redevelopment plan governing the redevelopment project; and

WHEREAS, on April 21, 2015, the Township Council of the Township of Berkeley Heights, by way of Resolution, authorized and directed the Berkeley Heights Planning Board (the "Planning Board") to conduct a preliminary investigation pursuant to the Redevelopment Law to determine whether the properties identified as Block 1301, Lot 19; Block 1301, Lot 26; Block 208, Lot 38; a portion of Block 208, Lot 39; and a portion of Block 208, Lot 40, as shown on the Tax Map of the Township (the "Study Area"), constitute an area in need of non-condemnation redevelopment in accordance with the criteria set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, within the Study Area was the property identified as Block 1301, Lot 26, located at 290 Plainfield Avenue, consisting of approximately 1.33± acres, upon which the Berkeley Heights Public Library is currently situated (the "Redevelopment Area"); and

WHEREAS, on May 6, 2015, the Planning Board authorized Michael J. Mistretta, P.P., Lic. No. 00575900, of Harbor Consultants, Inc. (the "Planning Consultant") to conduct an investigation to determine whether the Study Area, or any portion thereof, constitutes an area in need of non-condemnation redevelopment in accordance with the Redevelopment Law, and to prepare a preliminary investigation report of the Study Area (the "Study"); and

WHEREAS, the Planning Consultant prepared a Study, entitled "Preliminary Investigation Report for the Redevelopment of the Township of Berkeley Heights Municipal Complex," dated August 2015 (the "Report"), which details the findings and recommendations relevant to whether the Study Area should be designated as an area in need of non-condemnation redevelopment, as well as a map of the Study Area; and

WHEREAS, upon proper notice, and in compliance with the Redevelopment Law, the Planning Board conducted a public hearing on September 16, 2015 to determine whether the Study Area met the criteria as an area in need of redevelopment, at which hearing the Planning Consultant, being sworn and qualified as an expert in professional planning, made a presentation of the Study and the Report to the Planning Board; and

WHEREAS, in addition to the presentation of the Planning Consultant, at the public hearing the Planning Board heard testimony and evidence from members of the general public, who also were given an opportunity to cross-examine the Planning Consultant and address questions to the Planning Board concerning the potential designation of the Study Area as an area in need of non-condemnation redevelopment; and

WHEREAS, the Planning Consultant concluded that the Study Area satisfies the criteria of the Redevelopment Law, N.J.S.A. 40:A:12A-5, as follows:

Property	Redevelopment Criteria
Block 208, Lot 38	Criteria (c), (h) and Section 3
Block 208, Lot 39	Criteria (c), (e) and (h)
Block 208, Lot 40	Criteria (c), (e) and (h)
Block 1301, Lot 19	Criteria (a), (d) and (h)
Block 1301, Lot 26 ("Redevelopment Area")	Criteria (a), (d) and (h)

and that the Study Area is an area in need of non-condemnation redevelopment; and

WHEREAS, at the conclusion of the public hearing, the Planning Board found that the Planning Consultant's conclusions in the Report and his testimony provide substantial evidence to support the findings that the Study Area satisfies criteria of the Redevelopment Law, N.J.S.A. 40:A:12A-5 as determined by the Planning Consultant, that the public questions and comments did not erode the Planning Consultant's testimony or conclusions, and that the collective designation of the Study Area as an area in need of non-condemnation redevelopment is necessary for the effective redevelopment of the Redevelopment Area; and the Planning Board unanimously voted to recommend that the Township Council find that the Study Area be designated a an area in need of non-condemnation redevelopment meeting the criteria of the Redevelopment Law, N.J.S.A. 40:A:12A-5; and

WHEREAS, on September 30, 2015, the Planning Board adopted a Resolution memorializing the public hearing and decision on September 16, 2015; and

WHEREAS, after review and consideration of the Planning Board's recommendation, including all documents submitted therewith, the Township Council agreed with the conclusion of the Planning Board that the Study Area meets the aforementioned criteria for redevelopment area designation, finding that such conclusion is supported by substantial evidence; and, by Resolution No. 2011-2015, adopted on October 6, 2015, designated the Study Area as an area in need of non-condemnation redevelopment pursuant to the Redevelopment Law, and

WHEREAS, upon submission of the Township's designation of the Study Area as an area in need of redevelopment to the Commissioner of the New Jersey Department of Community Affairs for review and approval, the Township received a letter dated November 16, 2015 from

Charles A. Richman, DCA Commissioner, approving the redevelopment designation and applauding the Township's actions relating to same; and

WHEREAS, the Township authorized Harbor Consultants, Inc., Township Planners, in consultation with the appropriate Township officials, to prepare a redevelopment plan for the development of a the Redevelopment Area, being a portion of the Study Area; and

WHEREAS, Harbor Consultants, Inc., presented a redevelopment plan entitled "Redevelopment Plan for the Berkeley Heights Township Public Library," dated July 21, 2016, prepared by Harbor Consultants, Inc. (the "Redevelopment Plan"), in the form substantially attached hereto, to the Township Council for its consideration and adoption pursuant to N.J.S.A. 40A:12A-7 of the Redevelopment Law; and

WHEREAS, the Township Council of the Township of Berkeley Heights finds it to be in the best interests of the Township and its citizens to adopt the Redevelopment Plan for the Redevelopment Area for the redevelopment of the Redevelopment Area.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The redevelopment plan entitled "Redevelopment Plan for the Berkeley Heights Township Library," dated July 21, 2016, prepared by Harbor Consultants, Inc. (the "Redevelopment Plan"), in the form substantially attached hereto, is hereby adopted pursuant to the terms of N.J.S.A. 40A:12A-7 of the Redevelopment Law.

Section 3. The zoning district map in the zoning ordinances of the Township is hereby amended to include the boundaries described in the Redevelopment Plan and the provisions therein.

Section 4. All of the provisions of the Redevelopment Plan shall supersede the applicable development regulations of the Township's ordinances, as and where indicated, for the Redevelopment Area.

Section 5. A copy of this Ordinance and the Redevelopment Plan shall be available for public inspection at the office of the Township Clerk during regular Township business hours.

Section 6. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 7. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Berkeley Heights, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances

of the Township of Berkeley Heights are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 8. The Township Clerk is directed to give notice at least ten days prior to a hearing on the adoption of this ordinance to the Union County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 9. After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Berkeley Heights for its review in accordance with N.J.S.A. 40A:12A-7(e). The Planning Board is directed to make and transmit to the Township Council, within 45 days after referral, a report including an identification of any provisions in the proposed Redevelopment Plan which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 10. This Ordinance, after adoption, shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40:69A-149.7. If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

Section 11. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Union County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

INTRODUCED the 9th day of August, 2016.

ADOPTED the _____ day of _____, 2016.

Robert Woodruff, Mayor

ATTEST:

Ana Minkoff, Township Clerk

**NOTICE OF
INTRODUCTION**

Ordinance -2016

**An Ordinance of the Township of Berkeley Heights, County of Union, State of
New Jersey, Adopting a Redevelopment Plan for the Property Identified as
Block 1301, Lot 26, located at 290 Plainfield Avenue, Pursuant to the Local
Redevelopment and Housing Law.**

I, Ana Minkoff, Township Clerk of the Township of Berkeley Heights , do hereby certify that the foregoing Ordinance was introduced on First Reading at a meeting of the Township Council of the Township of Berkeley Heights, County of Union and State of New Jersey, on August 9, 2016 and that said Ordinance shall be submitted for consideration and final passage at the Public Hearing to be held on September 20, 2016 at 7:00 p.m. or as soon thereafter, as practical, same can be considered, at the Municipal Building, 29 Park Avenue, Berkeley Heights, NJ, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning the same. During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available in the Municipal Clerk's office in said Municipal Building, to the members of the general public who shall request the same.

**Ana Minkoff
Township Clerk**

ROLL CALL	AYE	NAY	ABSTAIN	ABSENT
D'AQUILA	✓			
DELIA		✓		
FAECHER	✓			
KINGSLEY	✓			
PASTORE	✓			
PIRONE	✓			
TIE:				
MAYOR WOODRUFF				

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

NOTICE OF FINAL ADOPTION

**PUBLIC HEARING AND FINAL ADOPTION OF ORDINANCE
INTRODUCED ON AUGUST 9, 2016:**

**“An Ordinance of the Township of Berkeley Heights, County of
Union, State of New Jersey, Adopting a Redevelopment Plan for the
Property Identified as Block 1301, Lot 26, located at 290 Plainfield
Avenue, Pursuant to the Local Redevelopment and Housing Law.”**

I, Ana Minkoff, Township Clerk of the Township of Berkeley Heights, County of Union, State of New Jersey, hereby certify that the above entitled Ordinance was adopted on final Passage by the Township Council of the Township of Berkeley Heights at its meeting held on September 20, 2016.

**Ana Minkoff,
Township Clerk
Township of Berkeley Heights**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, in meeting assembled, authorizes and directs the Township Treasurer to make payment of vouchers listed on the Bill List dated 9/20/16, in the amount of \$266,625.03 such vouchers having been received by the Township Council, having been satisfied that appropriate procedure has been followed in the processing of said vouchers.

APPROVED this 20th day of September, 2016.

ATTEST:

Ana Minkoff
Township Clerk

Agenda Item No.: 2

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, on March 24, 2015, the Township Council of the Township of Berkeley Heights adopted a resolution in which the Township reaffirmed its voluntary commitment to satisfy its affordable housing obligations, however they may ultimately be defined by COAH or a court; and

WHEREAS, in compliance with the New Jersey Supreme Court decision in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), on or about July 2, 2015, the Township filed an action with the Superior Court of New Jersey, entitled In the Matter of the Application of the Township of Berkeley Heights, County of Union, Docket No. UNN-L-2405-15, seeking, among other things, a Judgment of Compliance and Repose declaration that its Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), to be amended as necessary, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine" (the "Compliance Action"); and

WHEREAS, the Township simultaneously sought, and ultimately secured, a protective order providing Berkeley Heights immunity from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan; and

WHEREAS, the Fair Share Housing Corporation ("FSHC") participated in the Township's Compliance Action, with its Motion to Intervene currently pending before the Court; and

WHEREAS, the trial judge also appointed Elizabeth C. McKenzie, P.P., A.I.C.P. as the "Special Master," as is customary in Mount Laurel matters adjudicated in the courts; and

WHEREAS, with assistance from the Special Master, Berkeley Heights and FSHC engaged in good faith negotiations which resulted in an amicable accord on the various substantive terms and conditions as set forth in the Settlement Agreement attached hereto, which Agreement has been reviewed and approved by legal counsel for the Township and FSHC; and

WHEREAS, through this process, the Township and FSHC agreed upon the Township's affordable housing obligations and the compliance techniques necessary for Berkeley Heights to satisfy its "fair share" of the regional need for low- and moderate-income housing; and

WHEREAS, the Township and FSHC also agreed to present the Settlement Agreement to the Trial Judge for approval at a duly-noticed Mount Laurel Fairness Hearing; and

WHEREAS, although there is a well-established policy favoring the settlement of all forms of litigation, the settlement of Mount Laurel litigation is particularly favored because (1) it

avoids the expenditure of finite public resources; and (2) expedites the construction of safe, decent housing for the region's low- and moderate-income households; and

WHEREAS, in light of the above, the Township Council finds that it is in the best interests of Berkeley Heights to enter into the Settlement Agreement with FSHC and to take various other actions delineated below, which will ultimately result in approval of the Township's Fair Share Plan which, in turn, will maintain the Township's immunity from all Mount Laurel lawsuits for the ten-year period set forth in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 to 329.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, as follows:

1. The Township is hereby authorized to enter into the Settlement Agreement with FSHC, in substantial the form attached hereto, subject to the terms and conditions set forth therein.
2. The Mayor and Township Clerk are hereby authorized to execute the Settlement Agreement in the substantial form attached hereto.
3. The Township hereby directs its Special Mount Laurel Counsel, Township Planner, and other appropriate Township official to take all actions to have the Settlement Agreement filed and approved by the Court and satisfy the terms set forth in the Settlement Agreement, including, without limitation, to: (a) file the fully-executed Settlement Agreement with the Court for review and approval at a duly-noticed Fairness Hearing, (b) take all actions reasonable and necessary to secure an Order approving the Settlement Agreement, and (c) work towards ultimately securing judicial approval of the Township's Fair Share Plan, after it is drafted, adopted by the Township's Planning Board and endorsed by the Township Council.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

APPROVED this 20th day of September, 2016.

ATTEST:

Ana Minkoff
Township Clerk

AGREEMENT TO RESOLVE ISSUES BETWEEN THE TOWNSHIP OF BERKELEY HEIGHTS AND FAIR SHARE HOUSING CENTER CONCERNING THE TOWNSHIP'S MOUNT LAUREL FAIR SHARE OBLIGATIONS AND THE MEANS BY WHICH THE TOWNSHIP SHALL SATISFY SAME.

**In the Matter of the Township of Berkeley Heights, County of Union,
Docket No. UNN-L-2405-15**

THIS SETTLEMENT AGREEMENT ("Agreement") made this 13th day of September 2016, by and between:

TOWNSHIP OF BERKELEY HEIGHTS, a municipal corporation of the State of New Jersey, County of Union, having an address at 22 Park Avenue, Berkeley Heights, New Jersey 07922 (hereinafter the "Township" or "Berkeley Heights");

And

FAIR SHARE HOUSING CENTER, having an address at 510 Park Boulevard, Cherry Hill, New Jersey 08002, (hereinafter "FSHC");

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), the Township filed the above-captioned matter on July 2, 2015 seeking, among other things, a judicial declaration that its amended Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), as may be further amended in accordance with the terms of this settlement, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the Mount Laurel doctrine; and

WHEREAS, the Township simultaneously sought and ultimately secured an Order protecting Berkeley Heights from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan; and

WHEREAS, the immunity secured by Berkeley Heights remains in force as of the date of this Agreement; and

WHEREAS, the trial court appointed Elizabeth C. McKenzie, A.I.C.P., P.P., as the "Special Master" in this case as is customary in Mount Laurel matters; and

WHEREAS, with Ms. McKenzie's assistance, Berkeley Heights and FSHC have engaged in good faith negotiations and have reached an amicable accord on the various substantive provisions, terms and conditions delineated herein; and

WHEREAS, through that process, the Township and FSHC agreed to settle the litigation and to present that settlement to the trial court, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households; and

WHEREAS, at this time and at this particular point in the process resulting from the Mount Laurel IV decision, when fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round present and prospective need, instead of doing so through plenary adjudication of the present and prospective need.

NOW, THEREFORE, in consideration of the promises, the mutual obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties, the parties hereto, each binding itself, do hereby covenant and agree, each with the other, as follows:

Settlement Terms

The Township and FSHC hereby agree to the following general terms, subject to any relevant conditions set forth in more detail below:

1. Berkeley Heights' "Rehabilitation" obligation is 11.
2. Berkeley Heights' "Prior Round" obligation is 183.
3. Berkeley Heights' allocation of the Round 3 regional need is 389.
4. FSHC and the Township agree that Berkeley Heights does not accept the basis of the methodology or calculations proffered by FSHC's consultant, David N. Kinsey, PhD, P.P., F.A.I.C.P. The Parties agree to the terms in this agreement solely for purposes of settlement of this action. Although the Township does not accept the basis of the methodology or calculations proffered by FSHC's consultant, FSHC contends, and is free to take the position before the court, that the 389-unit obligation should be accepted by the court because it is based on the Prior Round methodology and reflects a 35-percent reduction of Dr. Kinsey's May 2016 calculation of the Township's Third Round fair share obligations.
5. Pursuant to N.J.A.C. 5:93-4.2, and as confirmed by Special Master McKenzie, Berkeley Heights' current Realistic Development Potential (hereinafter "RDP") is 359.
6. **Satisfaction of Rehabilitation Obligation:** The Township has an 11-unit rehabilitation obligation, and shall satisfy that obligation as follows:
 - a) The Township has an entity (Mary M. Moody, P.P.) in place that has recently rehabilitated 12 units in the Township.
 - b) Of the 12 units, all have been rehabilitated since July of 2010 (of which five (5) were rehabilitated since July of 2014).
 - c) There are six (6) more units in the pipeline to be rehabilitated in the near future.
 - d) The Township will continue to implement its rehabilitation program until the six (6) units in the pipeline have been completed or withdrawn, thereby fully satisfying the Township's 11-unit rehabilitation obligation, with up to seven (7) excess units rehabilitated.
7. **Satisfaction of Prior Round Obligation:** The Township has a 183-unit Prior Round obligation, and has satisfied that obligation as follows:

- a) The Township is entitled to secure all of the 129 credits from its Regional Contribution Agreement (“RCA”) with the City of Newark. 91 RCA credits will be applied to the Township’s Prior Round Obligation. The remaining 38 RCA credits will be applied towards the 1999 to 2008 time period.
- b) 47 existing affordable units from the following constructed and occupied units:
 - i. 13 affordable family rental units from the Station Court (Lockhern Assoc.) Sherman Avenue project.
 - ii. 14 affordable family rental units from the Villas on the Park (Glenside) Springholm project.
 - iii. 5 affordable family rental units from the Whispering Way Project.
 - iv. 3 age-restricted rental units from the Park Edge project.
 - v. 4 group home bedrooms from the Our House Project on 18 Whitney Dr.
 - vi. 5 group home bedrooms from the Our House Project on 135 Windsor Way
 - vii. 3 group home bedrooms from the Our House Project on 640 Plainfield Ave.
- c) 45 rental bonus credits.

8. **Satisfaction of RDP:** The Township has a 359-unit RDP, and intends to satisfy that obligation as follows:

- a) 119 units from the following six (6) new inclusionary redevelopment projects:
 - i. Kings Site Project (434 Springfield Ave. - Block 702, Lot 17). 150 total rental units, including 23 affordable family rental units. An MOU has been executed.
 - ii. Locust Ave. Project (100 Locust Ave., - Block 1901, Lot 35). 196 total rental age-restricted units, including 29 age-restricted affordable rental units. An MOU has been executed.
 - iii. Movie Theatre site project (450 Springfield Avenue, Block 702, Lot 13). 20 total rental units, including 3 affordable family rental units. An MOU has been executed.
 - iv. Former Hotel Site Project (Lone Pine Drive – Block 702, Lot 18). 62 total rental units including 9 affordable family rental units. To be included in Downtown Redevelopment Plan with zoning similar to Kings Site Project.
 - v. Connell Site Project (500 Connell Drive – Block 41, Lot 1). 312 total units, including 35 affordable units to be provided over and above the \$2,350,000 already paid towards the Township’s RCA with Newark. The Township will provide documentation in the form of an MOU one week prior to the date of the Fairness Hearing.
 - vi. Hamilton Ave. Site (110 Roosevelt Ave – Block 1301, Lot 19). 100 total units - 80 market rate for-sale townhouses and 20 affordable family rental units, subject to and contingent upon acquisition of the property by the Township and adoption of a redevelopment plan by the Township. Negotiations are ongoing. Following the transfer of title to the Township, the Township will adopt a Redevelopment Plan on or before October 17,

2017 that will demonstrate that it creates a realistic opportunity in accordance with the terms of this Agreement.

- b) 57 units from two future redevelopment projects in the DMX and DH-24 zones. The DH-24 and DMX zones are to be identified as "future redevelopment projects" and shall be designed to the same building height and architectural design standards as the Kings Shopping Center redevelopment project. Within eighteen ("18") months of the entry of an Order granting a final Judgment in this matter, a Redevelopment Plan shall be adopted encompassing the area along both sides of Lone Pine Drive, including (but not necessarily limited to) the existing DMX and DH-24 zones, to provide for inclusionary residential development yielding 57 affordable housing units, along with such other uses as the Township sees fit to permit. Berkeley Heights agrees to send a copy of this Redevelopment Plan to FSHC at least 30 days prior to its consideration by the Planning Board or Council, whichever occurs first.
- c) 55 units from the following existing affordable housing projects:
 - i. 29 age-restricted rental units from the Park Edge Project.
 - ii. 11 for-sale units from the Highlands at Berkeley Heights Project.
 - iii. 3 for-sale units from the Cottage Lane I, Tudor Court I Project.
 - iv. 6 for-sale units from the Cottage Lane II, Tudor Court II Project.
 - v. 2 for-sale units from the 10 Cottage St., Lot 8 in Block 1301 Project.
 - vi. 4 for-sale units from the Berkeley Village, Helen Way (off Cottage St.) Project.
- d) 38 remaining RCA credits (applied to 1999-2008 portion of obligation).
- e) 90 rental bonus credits.

9. For the purposes of settlement, the Township agrees to address the 30-unit remaining portion of its allocation of the Round 3 regional need through the following mechanisms:

- a) 10 units to be built in the Downtown Districts (HB-2, HB-3 and DD).
- b) 20 units to be provided under the Mandatory Set-Aside Ordinance (MSO).

10. The projected 10-units from the as-of-right zoning in the Township's Downtown Districts (HB-2, HB-3 and DD), and the projected 20-units from the mandatory set-aside language from projects approved in the future, creates a 30-unit remaining portion of the Township's allocation of the Round 3 regional need. The Township's Affordable Housing Plan will fully address this 30-unit portion by: a) as-of-right zoning over the remainder of the Downtown Districts, which for the purposes of this agreement are defined as the HB-2, HB-3 and DD zoned districts, that will, conservatively, produce at least another 10 units as a result of the redevelopment of underutilized sites; and b) the adoption of the MSO requiring any site that benefits from a rezoning, variance or redevelopment plan approved by the Township that results in multi-family residential development of five (5) dwelling units or more to produce affordable housing at a set-aside rate of 20% for for-sale affordable units and at a set-aside rate of 15% for rental affordable units. These mechanisms are agreed to in order to fully satisfy the Township's 30-unit remaining portion of its allocation of the Round 3 regional need. The Township shall have the exclusive right to solve any gap associated with this remaining portion of its Round 3

obligation. The adoption of the MSO does not give any developer the right to any such rezoning, variance, redevelopment designation or other relief, or establish any obligation on the part of Berkeley Heights to grant such rezoning, variance, redevelopment designation or other relief. The MSO will remain in place through July of 2025, or until the Township's remaining portion of its Round 3 obligation is satisfied, whichever is later.

11. The Township's RDP shall not be revisited by FSHC or any other interested party absent a substantial changed circumstance and, if such a change in circumstance occurs with the RDP, the Township shall have the right to address the issue without negatively affecting its continuing entitlement to immunity from all Mount Laurel lawsuits through July 2, 2025.

12. All redevelopment projects in the Township's Affordable Housing Plan shall be constructed to satisfy the Township's Part 19 Design Standards.

13. The Township agrees to require 13% of all the affordable units referenced in this plan, with the exception of units constructed as of July 1, 2008, and units subject to preliminary or final site plan approval as of July 1, 2008, to be very low income units (defined as units affordable to households earning 30 percent or less of the regional median income by household size), with half of the very low income units being available to families.

14. To the extent that Berkeley Heights is entitled to any "bonus credits" to be applied to its Round 3 obligation, such bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d). Furthermore, the Township will be entitled to additional rental bonus credits generated by projects that may be developed under Sections 9 and 10 of this Agreement up to the maximum of 97 rental bonuses for which it is eligible based on its third round obligation.

15. At least 50 percent of the units addressing the Third Round Prospective Need shall be affordable to a combination of very-low-income and low-income households, while the remaining affordable units shall be affordable to moderate-income households.

16. At least twenty-five percent of the Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.

17. At least half of the units addressing the Third Round Prospective Need in total must be available to families.

18. The Township agrees to comply with COAH's Round 2 age-restricted cap of 25 percent, and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the Township claim credit toward its fair share obligation for age-restricted units that exceed 25 percent of all units developed or planned to meet its prior round and Round 3 fair share obligations.

19. The Township and/or its administrative agent shall add the following entities to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5): Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002), the New Jersey State Conference of the NAACP, the Latino Action Network (P.O. Box 943, Freehold, NJ 07728, East Orange NAACP (P.O. Box 1127, East Orange, NJ 07019), Newark NAACP (P.O. Box 1262, Newark, NJ 07101, Morris County NAACP (P.O. Box 2256, Morristown, NJ 07962, and Elizabeth NAACP (P.O. Box 6732, Elizabeth, NJ 07206). As part of its regional affirmative marketing strategies during implementation of its fair share plan, the Township and/or

its administrative agent shall also provide notice of all available affordable housing units to the above-referenced organizations.

20. All affordable housing units created pursuant to the measures set forth in this Agreement shall comply with the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be affordable to households earning at or below 35 percent of the regional median household income by household size, 13 percent of affordable units in such projects shall be required to be affordable to households earning at or below 30 percent of the regional median household income by household size subject to paragraph 13 herein, and all other applicable law. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law. The Township, as part of the Housing Element and Fair Share Plan that will be prepared, adopted and endorsed as a result of this Agreement, shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied.

21. Upon full execution of this Agreement, Berkeley Heights shall place this agreement on file in the Township's municipal building and file a copy with the Court for the upcoming scheduled Fairness Hearing, at which the Township will seek judicial approval the terms of this Agreement pursuant to the legal standard set forth in Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), *aff'd o.b.*, 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. City of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). Notice of the Fairness Hearing shall be published at least 30 days in advance of the Hearing. Berkeley Heights shall also apply to the Court for scheduling a "Compliance Hearing" seeking judicial approval of Berkeley Heights's Housing Element and Fair Share Plan, once same is prepared, adopted and endorsed. The Fairness and Compliance Hearings can be held concurrently or sequentially, which shall be decided by the Court with consultation by the Special Master, Berkeley Heights, and FSHC. Although it is expected that the Special Master will provide the majority of the required testimony, Berkeley Heights shall also make its consulting planner and any other relevant witnesses available for testimony at the Hearing(s). FSHC shall not challenge the validity of any of the documents attached hereto, or the validity of the Township's Fair Share Plan. If the Fairness and Compliance Hearing(s) result in approval of this Agreement and the Township's Fair Share Plan, the parties agree that the Township will be entitled to either a "Judgment of Compliance and Repose" ("JOR") or the "judicial equivalent of substantive certification and accompanying protection as provided under the FHA," 221 N.J. at 6, which shall be determined by the trial judge. Each party may advocate regarding whether substantive certification or repose should be provided by the court, with each party agreeing to accept either form of relief and to not appeal an order granting either repose or substantive certification. Among other things, the entry of such an Order shall maintain Berkeley Heights's immunity from all Mount Laurel lawsuits through July 2, 2025.

22. Subsequent to the signing of this Agreement, if a binding legal determination by the Judiciary, the Legislature, or any administrative subdivision of the Executive Branch determines that Berkeley Heights's Round 3 obligation is decreased to 311 or less, with any relevant appeal periods having passed, the Township may file a proposed form of Order, on notice to FSHC and the Township's Service List, seeking to reduce its Round 3 obligation accordingly. Such relief shall be presumptively granted. Notwithstanding any such reduction, the Township shall be obligated to implement the Fair Share Plan prepared, adopted and endorsed as a result of this Agreement, including by leaving in place any site specific zoning adopted or relied upon in connection with the Plan approved pursuant to this settlement agreement; maintaining all

mechanisms to address the remaining portion of the Township's allocation of the Round 3 regional need; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Township's obligation below that established in this agreement does not provide a basis for seeking leave to amend this agreement or the fair share plan adopted pursuant to this agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Township prevails in reducing its prospective need for Round 3, the Township may carry over any resulting surplus credits to Round 4.

23. Berkeley Heights agrees to pay \$15,000 to FSHC within 10 days after the approval of this Agreement by the court at a Fairness Hearing.

24. The Township shall prepare a Spending Plan which shall be approved by the Court during, or prior to, a duly-noticed Compliance Hearing. FSHC reserves its right to provide any comments or objections on the Spending Plan to the Court upon review. Upon approval by the Court, the Township and Fair Share Housing Center agree that the expenditures of funds contemplated in the Township's Spending Plan shall constitute the "commitment" for expenditure required pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period contemplated therein commencing in accordance with the provisions of In re Tp. Of Monroe, 442 N.J.Super. 565 (Law Div. 2015) (aff'd 442 N.J.Super. 563). Upon approval of its Spending Plan the Township shall also provide an annual Mount Laurel Trust Fund accounting report to the New Jersey Department of Community Affairs, Council on Affordable Housing, Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services.

25. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to FSHC, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC. In addition to the foregoing, the Township may also post such activity on the CTM system and/or file a copy of its report with the Council on Affordable Housing or its successor agency at the State level.

26. The Fair Housing Act includes two provisions regarding action to be taken by the Township during the ten-year period of protection provided in this agreement. The Township agrees to comply with those provisions as follows:

- a) For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.

- b) For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this agreement, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.
- c) In addition to the foregoing postings, the Township may also elect to file copies of its reports with the Council on Affordable Housing or its successor agency at the State level.

27. This agreement may be enforced by the Township or FSHC through a motion to enforce litigant's rights or a separate action filed in Superior Court, Union County. If FSHC determines that such action is necessary, the Township consents to the entry of an order providing FSHC party status as an intervenor solely for purposes of its motion to enforce litigant's rights.

28. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement. However, if an appeal of the Court's approval or rejection of the Settlement Agreement is filed by a third party, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division, and New Jersey Supreme Court, and to continue to implement the terms of the Settlement Agreement if the Agreement is approved by the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to return to the *status quo ante*. In this regard, the Township and FSHC acknowledge that the parties have entered into this agreement to settle the litigation and that each is free to take such position as it deems appropriate should the matter return to the *status quo ante*. In no circumstance shall FSHC shall be required to return funds paid to it and the Township agrees not to seek the return of those funds.

29. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.

30. This Agreement shall be governed by and construed by the laws of the State of New Jersey.

31. This Agreement may not be modified, amended or altered in any way except by a writing signed by both the Township and FSHC.

32. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.

33. The Township and FSHC acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each person to sign this Agreement is the proper person and possesses the authority to sign the Agreement, that this Agreement contains the entire understanding of the Township and FSHC and that there

are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

34. The Township and FSHC acknowledge that this Agreement was not drafted by the Township and FSHC, but was drafted, negotiated and reviewed by representatives of the Township and FSHC and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. The Township and FSHC expressly represent that: (a) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (b) it has conferred due authority for execution of this Agreement upon the persons executing it.

35. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both the Township and FSHC.

36. This Agreement constitutes the entire Agreement between the Township and FSHC hereto and supersedes all prior oral and written agreements between the Township and FSHC with respect to the subject matter hereof except as otherwise provided herein.

37. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which representatives of the Township and FSHC have executed and delivered this Agreement.

38. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the Township and FSHC by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

TO FSHC:

Kevin D. Walsh, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: kevinwalsh@fairsharehousing.org

TO THE TOWNSHIP:

Erik C. Nolan, Esq.
Jeffrey R. Surenian & Associates, LLC
707 Union Avenue, Suite 301
Brielle, NJ 08730
Phone: (732) 612-3100
Telecopier: (732) 612-3101
Email: EN@Surenian.com

Joseph V. Sordillo, Esq.
McElroy, Deutsch, Mulvaney & Carpenter, LLP
1300 Mount Kemble Avenue

PO Box 2075
Morristown, NJ 07962-2075
Phone: (973) 425-4170
Telecopier: (973) 425-0161
Email: jsordillo@mdmc-law.com

**WITH A COPY TO THE
TOWNSHIP ADMINISTRATOR:**

John Bussiculo, Administrator
Township of Berkeley Heights
29 Park Avenue
Berkeley Heights, NJ 07922
Phone: (908) 464-2700 x2232
Telecopier: (908) 464-8150
Email: jbussiculo@bhtwp.com

In the event any of the individuals identified above has a successor, the individual identified shall name the successor and notify all others identified of their successor.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be properly executed, their corporate seals affixed and attested and this Agreement to be effective as of the Effective Date.

Witness/Attest:



FAIR SHARE HOUSING CENTER:

By: 
Kevin D. Walsh, Esq.
On Behalf of Fair Share Housing Center
9/13/2016

Witness/Attest:

TOWNSHIP OF BERKELEY HEIGHTS:

By: _____
Robert Woodruff, Mayor
On Behalf of the Township of Berkeley
Heights

Dated: _____

Agenda Item No.: 3

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

**AUTHORIZING THE SALE OF SURPLUS PERSONAL
PROPERTY NO LONGER NEEDED FOR PUBLIC USE
ON AN ONLINE AUCTION WEBSITE**

WHEREAS, the Township of Berkeley Heights has determined that the property described on Schedule A attached hereto and incorporated herein is no longer needed for public use; and

WHEREAS, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) authorizes the sale of surplus personal property no longer needed for public use through the use of an online auction service; and

WHEREAS, the *Township* intends to utilize the online auction services of GovDeals located at www.GovDeals.com; and

WHEREAS, the sales are being conducted pursuant to the Division of Local Government Services' Local Finance Notice 2008-9; and

WHEREAS, Township Council finds it to be in the best interests of the Township to authorize the sale of the surplus property identified on Schedule A by online public auction.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, that the Township is hereby authorized to sell the surplus personal property as indicated on Schedule A on the State-approved online auction website of GovDeals (www.GovDeals.com).

BE IT FURTHER RESOLVED that the terms and conditions of the agreement entered into between GovDeals and the Township of Berkeley Heights are available at www.GovDeals.com and in the Township Clerk's office.

BE IT FURTHER RESOLVED that a certified copy of the within Resolution be forwarded by the Township Clerk to the New Jersey Division of Local Government Services and GovDeals.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

APPROVED this 20th day of September , 2016.

ATTEST:

Ana Minkoff, Township Clerk

EXHIBIT A

DESCRIPTION

VIN # / Serial #

Heavy Duty Floor Jack	
Kelly Kreswell Heavy Duty Model C Line Paint Machine	
1999 GMC 3500 Mason Dump w/Plow	1GDJK34F8XF0157721
2 - 21 inch Snapper Lawn Mowers - Parts Only	
1990s Toro Sand Pro	
Giant Vac Push Blower	
1990s Toro 345 Multi Purpose Mower - 70 inch Deck, V-Plow	
Hockey Stick Stand	
2005 Crown Victoria	2FAHP71W15X125615
Tree Chipper Box for Single Axle	
Husky Toolbox Top / Bottom	
Manual Clay Blade for Sand Pro	
Deck Wheel Kits for Toro 345	
Caterpillar 924G 3-Front Bucket Pins	
Pro-Caster Salter 2-Yard Central Hydraulic	
1998 International 4900 Single Axle Dump Truck	1HTSDAAR2WH577786
Henderson Salter, Good Roads Plow	
Lot of 6 STIHL Chainsaw Cases w/Bar Covers	
1971 Ford F-350 Utility Truck 2WD, Winch, on Board Generator Power Source w/Spot Lights	F35HEL63837FE35
Lot of 2 STIHL Chainsaws MS 260 & 026 Parts Only	
Convertamatic 20 Floor Scrubber Model #A20E	167185

#4

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, Sustainable Jersey is a program sponsored by the League of Municipalities' Mayors' Committee for a Green Future, the New Jersey Department of Environmental Protection, the Board of Public Utilities and other groups committed to the protection of the environment of the State of New Jersey and the welfare of its citizens; and

WHEREAS, the Township of Berkeley Heights has had an active Green Team associated with the Environmental Commission since 2009 and through its efforts and the efforts of the Environmental Committee and with the support of the Township Council the Township has achieved both Bronze and Silver Certification for the past several years; and

WHEREAS, the Township Council wishes to continue to support and encourage the mission of the Sustainable Jersey Program including, but not limited to, the promotion of energy conservation, the reduction of negative environmental impacts, the maintenance of a healthy tree canopy, and the promotion of health and well-being in our community; and

WHEREAS, the Township Council recognizes the tangible and image benefits of continuing to be a leader on the path laid out by Sustainable Jersey and desires to support this activity and continue the Silver Certification;

THEREFORE, BE IT RESOLVED by the Township Council of Berkeley Heights that we authorize, encourage, and support the Green Team in their efforts to renew the Township's Silver Certification.

Copies of this resolution are to be forwarded to the Environmental Commission.

APPROVED this 20th day of September, 2016.

ATTEST:

Ana Minkoff
Township Clerk

Agenda Item No.: 5

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Berkeley Heights Board of Education (the "Board of Education") is in need of repair and maintenance services for its vehicles; and

WHEREAS, the Township of Berkeley Heights and the Board of Education have reviewed their needs, resources and personnel and have found that the Township can assist with the Board of Education's vehicular maintenance needs through its Department of Public Works; and

WHEREAS, the Township and the Board of Education negotiated a shared services agreement for the provision of vehicular maintenance and repair services, which is attached hereto and made a part hereof; and

WHEREAS, the Township is authorized to enter into this Shared Services Agreement pursuant to the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq.; and

WHEREAS, it would be in the best interest of the residents of the Township to enter a Shared Services Agreement for the exchange of services and various other opportunities such as the Township providing repair and maintenance services for the Board of Education vehicles; and

WHEREAS, the Township Council of the Township of Berkeley Heights find it to be in the best interest of the Township and its residents to enter into this Shared Services Agreement with the Board of Education for the provision of repair and maintenance services for the Board of Education vehicles.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Council of the Township of Berkeley Heights, in the County of Union, and the State of New Jersey that the Shared Services Agreement with the Berkeley Heights Board of Education for the provision of vehicular maintenance and repair services for the Board of Education's vehicles be and hereby is approved; and that the Mayor and Township Clerk are authorized and directed to executed the Agreement in substantially the form attached hereto.

BE IT FURTHER RESOLVED that the appropriate Township officials are hereby authorized to take any and all action required to complete this Shared Services Agreement.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law, and the adoption of the appropriate mechanism approving the Shared Services Agreement adopted by the Board of Education.

APPROVED this 20th day of September, 2016.

ATTEST:

Ana Minkoff, Township Clerk

Shared Services Agreement
VEHICULAR MAINTENANCE

This SHARED SERVICES AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 2016, by and between the parties hereto:

THE TOWNSHIP OF BERKELEY HEIGHTS a New Jersey municipal corporation with an address at 29 Park Avenue, Berkeley Heights, New Jersey 07922 (hereinafter the "Township"); and

THE BERKELEY HEIGHTS BOARD OF EDUCATION, having offices at 345 Plainfield Avenue, Berkeley Heights, New Jersey 07922 (hereinafter the “Board of Education”).

WITNESSETH

WHEREAS, the Township and the Board of Education have reviewed their needs, resources and personnel and have found that they can assist each other at considerable savings to the tax payers of the Township of Berkeley Heights; and

WHEREAS, it would be in the best interest of the residents of the Township to enter a Shared Services Agreement for the exchange of services and various other opportunities such as the Township providing repair and maintenance services for the Board of Education vehicles; and

WHEREAS, the Township and the Board of Education are authorized to enter into this Shared Services Agreement pursuant to the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, *et seq.*; and

WHEREAS, the Township and the Board of Education hereby wish to enter into this Shared Services Agreement.

NOW, THEREFORE, for and in good and valuable consideration in hand paid, receipt of which is hereby acknowledged, and in consideration of the mutual covenants and obligations hereinafter set forth, the Township and the Board of Education hereby agree to and with each other as follow:

1. Services to be Provided. The Township hereby agrees to provide, through the Township’s Public Works Department, regular vehicular maintenance and repair services for the Board of Education’s vehicles similar to such services on the Township’s vehicles. Prior to performing any maintenance or repairs, the Township’s Public Works Department shall provide a written estimate for the costs of such maintenance or repairs for each vehicle pursuant to the terms of Section 2 hereinbelow. The Township’s labor hours required to

assess each vehicle and prepare the written estimate may be included in the costs to make such maintenance or repair.

All of the Township services set forth herein are to be scheduled and performed by Township staff and personnel, thus are subject to the availability of Township staff and personnel to perform such services. The Township shall not be required to hire additional staff or personnel, or contract with outside firms or individuals in order to perform any of the services identified herein. The Township expressly reserves the right to refuse to provide any service which it can no longer perform due to staff and personnel availability.

2. Consideration. In exchange for the services provided by the Township set forth in Section 1 hereinabove, the Board of Education agrees to pay the Township the cost of the parts necessary to complete the vehicular maintenance and repair, at the Township's actual cost for such parts, along with a rate of \$35.00 per hour to cover the Township's labor costs. Payment for services rendered shall be made by the Board of Education to the Township within thirty (30) days from receipt of the voucher/invoice for said services from the Township.

Pursuant to N.J.S.A. 40A:65-7(g), in the event of any dispute as to the amount to be paid under this Agreement, the voucher/invoice shall be paid in full by the Board of Education; however, if through subsequent negotiation, mediation, arbitration or litigation, the amount due shall be determined, agreed or adjudicated to be less than was actually so paid, then the Township shall repay the excess to the Board of Education.

3. Term. Pursuant to N.J.S.A. 40A:65-7(a)(4), this Agreement shall be for a term of three (3) year(s), or until such time as either party notifies the other, in writing, at least thirty (30) days in advance of the intent to terminate this Agreement, or if this Agreement is otherwise terminated pursuant to the terms herein.
4. Insurance. The Township and the Board of Education shall maintain appropriate automobile and liability insurance coverage; and annually provide a copy of its insurance certificate, naming the other party as an additional insured with regard to the use and maintenance of the Board of Education's vehicles. Minimum acceptable limits for bodily injury and property damage are \$1,000,000 each occurrence and \$3,000,000 aggregate.
5. Indemnification. The Board of Education, its successors, assigns, contractors, agents, servants, officers, employees, designees, guests and invitees, shall indemnify, defend and hold harmless the Township, its successors and assigns, elected officials, officers, employees, servants, contractors, designees and invitees, from and against any and all claims, demands, suits, actions at law or equity or otherwise, judgments, arbitration determinations, damages, liabilities, decrees of any person(s) or entities related to the Board of Education's use of its vehicles, which duty to indemnify, defend and hold harmless shall commence immediately upon assertion of a claim against the Township. This indemnification shall not include any claim arising from any willful negligence on behalf of the Township officers and employees, in connection with the vehicular maintenance and repair services provided under this Agreement. This

indemnification shall specifically include, but not be limited to, any and all costs, reasonable attorneys fees, court costs and any other expenses that may be incurred by the Township in connection with any and all claims, demands, suits, actions at law or equity or otherwise and/or arbitration proceedings which may arise in connection with the Board of Education's project(s). The Board of Education, upon notice from the Township, shall resist and defend, at the expense of the Board of Education, any legal action or proceeding brought against the Township and/or its officers, employees, representatives and/or agents with counsel selected in the sole discretion of the Township. In addition, at its option, the Township may engage separate counsel to appear on its behalf in such action or proceeding without waiving its rights or the Board of Education's obligations under this Agreement.

The Township, its successors and assigns, elected officials, officers, employees, servants, contractors, designees and invitees, shall indemnify, defend and hold harmless the Board of Education, its successors and assigns, from and against any and all claims, demands, suits, actions at law or equity or otherwise, judgments, arbitration determinations, damages, liabilities, decrees of any person(s) or entities that may arise during the Township's officers and employees performance of vehicular maintenance and repair services provided under this Agreement. This indemnification shall cease the moment the Board of Education accepts the vehicles and takes same from the Township.

6. Termination. If either party breaches this Agreement, the other party may terminate this Agreement after providing thirty (30) day notice to the breaching party, providing such breaching party 30 days to cure any such breach. If the breach cannot be cured within 30 days, and the parties do not mutually agree to an extension thereof, the non-breaching party may terminate this Agreement and seek all appropriate legal redress.
7. Assignment. This Agreement shall not be assigned by either party.
8. Notices. All notices under this Agreement must be in writing. The notices must be sent via fax and regular mail simultaneously, or by certified mail, return receipt requested, or by an overnight delivery service of good repute, to the other party, at the addresses identified herein.

For the Township:

Township Administrator
Township Clerk
29 Park Ave.
Berkeley Heights, New Jersey 07922

With a copy to:

Joseph Sordillo, Esq.
McElroy, Deutsch, Mulvaney&Carpenter
1300 Mt. Kembel Ave
P.O. Box 2075
Morristown, New Jersey 07962-2075

For the Board of Education:

With a copy to:

The time at which any notice or demand shall be deemed given or served shall be the time at which such notice or demand is delivered, whether or not such delivery is refused. Any notice may also be delivered personally. The parties may designate by notice, in writing, a new or other address to which such notice or demand shall thereafter be so given, made or mailed

- 9. Miscellaneous. This Agreement contains the entire understanding of the parties. This Agreement may not be modified or amended except by mutual agreement between the parties incorporated in writing and signed by the parties. This Agreement shall be construed in accordance with the laws of the State of New Jersey. In the event that any provision of this Agreement is deemed to be illegal by any Court or agency of competent jurisdiction, then the remaining provisions shall continue in full force and effect. In the event of any conflict between the terms, conditions, and provisions of this Agreement and the provisions of the parties' policies or any permissive State and/or Federal law, then, unless otherwise prohibited by law, the terms of this Agreement shall take precedence over the contrary provisions of each entities policies or any such permissive laws during the Agreement term.
- 10. Pursuant to N.J.S.A. 40A:65-4(b), a copy of this Agreement shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, or caused this Agreement to be signed by their proper corporate officers and their corporate seal to be set hereto.

ATTEST:

TOWNSHIP OF BERKELEY HEIGHTS

Name: Ana Minkoff
Title: Township Clerk

By: _____
Name: Robert Woodruff
Title: Mayor

Dated: _____, 2016

ATTEST:

**BERKELEY HEIGHTS BOARD OF
EDUCATION**

David Hepple
Name:

Title:

Dated: 9/6, 2016

By: [Signature]
Name:
Title:

#6

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, The County of Union operates a leaf composting facility and has offered the use of the facility to the Township at a rate of \$2.00 per yard – loose and \$4.00 per yard – compacted; and

WHEREAS, as a condition of the use of such facility the Township is required to execute a Hold harmless Agreement holding the County of Union harmless from the negligence of any Township employees while using such facility.

NOW, THEREFORE BE IT RESOLVED that the appropriate municipal officials are authorized to execute the Hold Harmless Agreement annexed to the Memorandum of Understanding from the County of Union to allow use of the composting facility.

BE IT FURTHER RESOLVED that copies of this resolution be forward to the Twp. Clerk and the Director of Public Works.

APPROVED this 20 day of September, 2016.

ATTEST:

Ana Minkoff
Township Clerk

Agenda Item

#

7a.1

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Tax Collector has advised that there was an overpayment of a portion of 2016 property taxes for property known as Block #1816 Lot #16 also known as 51 Webster Drive, owners Eric and Millie Dawson, which requires a refund in the amount of \$3,963.07; and

NOW, THEREFORE BE IT RESOLVED that the Treasurer is authorized to refund the overpayment for 2016 taxes in the amount of \$3,963.07 to Corelogic Real Estate Tax Service, P.O. Box 961250, Fort Worth, TX 76161-9858.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to Corelogic Real Estate Tax Service, Treasurer and Tax Collector.

APPROVED this 20th day of September, 2016.

Attest:

Ana Minkoff
Township Clerk

Agenda Item

#

7a2

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Tax Collector has advised that there was an overpayment of a portion of 2016 property taxes for property known as Block #2502 Lot #23 also known as 368 Timber Drive, which requires a refund in the amount of \$108.57; and

NOW, THEREFORE BE IT RESOLVED that the Treasurer is authorized to refund the overpayment for 2016 taxes in the amount of \$108.57 to Steven F. and Grace A. Lombardi, 368 Timber Drive, Berkeley Heights, NJ 07922.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to Steven F. and Grace A. Lombardi, Treasurer and Tax Collector.

APPROVED this 20th day of September, 2016.

Attest:

**Ana Minkoff
Township Clerk**

Agenda Item

#

7a.3

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Tax Collector has advised that there was an overpayment of a portion of 2016 property taxes for property known as Block #3905 Lot #26 also known as 100 Crest Drive, which requires a refund in the amount of \$452.45; and

NOW, THEREFORE BE IT RESOLVED that the Treasurer is authorized to refund the overpayment for 2016 taxes in the amount of \$452.45 to George and Erica Koufakis, 100 Crest Drive, Summit, NJ 07901.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to George and Erica Koufakis, Treasurer and Tax Collector.

APPROVED this 20th day of September, 2016.

Attest:

**Ana Minkoff
Township Clerk**

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, members of the Berkeley Heights Rescue Squad are permitted by law to operate blue emergency lights on their vehicle when responding to an emergency; and

WHEREAS, the Township is required to endorse any application for "blue light" permit; and

WHEREAS, Toni Ann Gestone, is a member of the Berkeley Heights Rescue Squad and has requested that the Township endorse the blue light permit application.

NOW, THEREFORE, BE IT RESOLVED that the appropriate municipal officials are hereby authorized to endorse the renewal of an application of Toni Ann Gestone, for a blue light permit.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to Toni Ann Gestone, BH Rescue Squad, Police Department and Township Clerk.

APPROVED this 20th day of September, 2016

ATTEST:

Ana Minkoff
Township Clerk

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, members of the Berkeley Heights Rescue Squad are permitted by law to operate blue emergency lights on their vehicle when responding to an emergency; and

WHEREAS, the Township is required to endorse any application for “blue light” permit; and

WHEREAS, Donna Foster, is a member of the Berkeley Heights Rescue Squad and has requested that the Township endorse the blue light permit application.

NOW, THEREFORE, BE IT RESOLVED that the appropriate municipal officials are hereby authorized to endorse the renewal of an application of Donna Foster, for a blue light permit.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to Donna Foster, BH Rescue Squad, Police Department and Township Clerk.

APPROVED this 20th day of September, 2016

ATTEST:

Ana Minkoff
Township Clerk

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, members of the Berkeley Heights Rescue Squad are permitted by law to operate blue emergency lights on their vehicle when responding to an emergency; and

WHEREAS, the Township is required to endorse any application for “blue light” permit; and

WHEREAS, Stephen Kirsch, is a member of the Berkeley Heights Rescue Squad and has requested that the Township endorse the blue light permit application.

NOW, THEREFORE, BE IT RESOLVED that the appropriate municipal officials are hereby authorized to endorse the renewal of an application of Stephen Kirsch, for a blue light permit.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to Stephen Kirsch, BH Rescue Squad, Police Department and Township Clerk.

APPROVED this 20th day of September, 2016

ATTEST:

Ana Minkoff
Township Clerk

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, by email dated September 6, 2016 a request was made by Jeanne Kim requesting permission from the Township Council to hold a neighborhood block party between 55 and 95 Wentworth Drive, which would involve erecting barricades on a public street; and

WHEREAS, the Township Council wishes to support the request for a neighborhood block party subject, however, to the special requirements of the appropriate local Township Officials.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Berkeley Heights that it does hereby approve of a neighborhood block party for Wentworth Drive on Saturday, September 24, 2016 from 4:00 p.m. until 9:30 p.m.

BE IT FURTHER RESOLVED that said approval is subject and contingent upon the approval of the Berkeley Heights Police Department, Fire Department and other appropriate officials; and

BE IT FURTHER RESOLVED that a copy of this Resolution is to be forwarded to Jeanne Kim, Chief of Police, Fire Chief, and the Director of Public Works.

APPROVED this 20th day of September, 2016.

ATTEST:

Ana Minkoff
Township Clerk

7 f

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, Connell Solar Canopy Project was required to post a Maintenance Bond, in the amount of \$18,321.00, in connection with work being performed at 50 Connell Drive and 100 Connell Drive, the Township Engineer by letter dated September 2, 2016, has recommended a full release of the Maintenance bond in the amount of \$18,321.00

NOW, THEREFORE BE IT RESOLVED, by the Township Council, of the Township of Berkeley Heights ,that it hereby authorizes the Township Treasurer to release and return the Maintenance Bond posted by Connell Solar Canopy Project Inc. in the amount of \$18,321.00, together with any applicable interest.

BE IT FURTHER RESOLVED, that a copy of this Resolution is to be forwarded to, Township Treasurer and Township Engineer.

APPROVED this 20th day of September, 2016.

ATTEST:

Ana Minkoff
Township Clerk

Explanation: This Ordinance amends the Township's current Salary Ordinance (Ordinance #15-2015) to update and add the salary ranges for the various positions.

AN ORDINANCE AMENDING THE MINIMUM AND MAXIMUM RATE OF SALARY AND COMPENSATION OF ELECTED AND APPOINTED TOWNSHIP OFFICIALS, AND NON-UNION EMPLOYEES IN THE VARIOUS MUNICIPAL DEPARTMENTS OF THE TOWNSHIP OF BERKELEY HEIGHTS

BE IT ORDAINED by the Township Council of the Township of Berkeley Heights, County of Union and State of New Jersey, pursuant to N.J.S.A. 40A:5-19 and N.J.S.A. 40A:9-10, that the Township's Salary Ordinance be amended as follows: [New language **bold and underlined**, and deleted language in ~~double strikethrough~~.]

SECTION 1.

The annual salaries and wages of the elected and appointed officials of the Township and certain non-union Township employees in the various municipal departments of the Township of Berkeley Heights shall be fixed from time to time by the Township Council by Resolution and, except as provided herein shall not be less than the minimum amounts nor more than the maximum amounts hereinafter set forth for each position.

<u>DEPARTMENT</u>	<u>POSITION</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>
Administration & Executive	Mayor	1.00	4,000.00
	Council Members	1.00	3,500.00
	Township Administrator	60,000.00	135,150.00
	Executive Assistant	25,000.00	59,466.00
	Administrative Assistant	25,000.00	48,654.00
	Township Clerk	50,000.00	95,145.00
	Acting Township Clerk	35,000.00	63,600.00
	Deputy Township Clerk	25,000.00	54,060.00

Finance Department	Treasurer/Chief Financial Officer	60,000.00	108,120.00
	Assistant Finance Officer	40,000.00	60,000.00
	Tax Assessor	20,000.00	54,060.00
	Tax Collector	20,000.00	<u>65,166.00</u> 65,090.00
Municipal Court	Municipal Judge	10,000.00	35,700.00
	Municipal Prosecutor	10,000.00	20,400.00
	Public Defender	3,000.00	10,200.00
	Board of Adjustment Attorney	2,000.00	5,100.00
Public Works - Engineering Division	Township Engineer / Director of Public Works	45,000.00	<u>109,093.00</u> 108,970.00
	Asst. Dir. of Public Works	45,000.00	82,712.00
	Zoning Official <u>(Tree Inspector & Code Review Officer)</u>	30,000.00	65,508.00
	Construction Official	60,000.00	86,496.00
	Dispatcher/Asst Terminal Agency Coordinator	1.00	2,500.00
Stipends	Board of Health Secretary	1.00	4,000.00
	Fire Official	1.00	13,000.00
Fire	Fire Official	1.00	13,000.00
	Superintendent of Wastewater Management	85,000.00	127,200.00
Sewer Plant	Acting Superintendent of Wastewater Management	50,000.00	79,500.00

Police Dept	Chief	90,000.00	<u>158,797.00</u> 156,060.00
	Police Secretary	28,000.00	54,060.00
	Confidential Secretary	28,000.00	59,466.00
	Special Police (per hr)	8.38	30.00
	Special Police Matrons (per hr)	8.38	30.00
	Crossing Guards (per hr)	8.38	30.00
	Emergency Management	Emergency Management Coordinator	500.00
	Assistant Emergency Management Coordinator	500.00	1,500.00
Part Time Hourly Employees			
	Level 1 -, Seasonal	8.38 Hr	18.00/Hr
	Level 2 - Casual	10.00/Hr	30.00/Hr
	Level 3 - Casual w/ License *	20.00/Hr	45.00/Hr
	Level 4 - Part Time w/ License*	20.00/Hr	45.00/Hr

* This includes all Sub code officials.

SECTION 2.

The provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to that the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

SECTION 3.

All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 4.

The provisions of this Ordinance shall be effective according to law.

Introduced: _____

Adopted: _____

Robert Woodruff

Mayor

ATTEST:

Ana Minkoff
Township Clerk

**NOTICE OF
INTRODUCTION**

Ordinance -2016

**AN ORDINANCE AMENDING THE MINIMUM AND MAXIMUM RATE OF
SALARY AND COMPENSATION OF ELECTED AND APPOINTED
TOWNSHIP OFFICIALS, AND NON-UNION EMPLOYEES IN THE VARIOUS
MUNICIPAL DEPARTMENTS OF THE TOWNSHIP OF BERKELEY
HEIGHTS**

I, Ana Minkoff, Township Clerk of the Township of Berkeley Heights , do hereby certify that the foregoing Ordinance was introduced on First Reading at a meeting of the Township Council of the Township of Berkeley Heights, County of Union and State of New Jersey, on September 20, 2016 and that said Ordinance shall be submitted for consideration and final passage at the Public Hearing to be held on October 4, 2016 at 7:00 p.m. or as soon thereafter, as practical, same can be considered, at the Municipal Building, 29 Park Avenue, Berkeley Heights, NJ, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning the same. During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available in the Municipal Clerk's office in said Municipal Building, to the members of the general public who shall request the same.

**Ana Minkoff
Township Clerk**

EXPLANATORY STATEMENT: This Ordinance establishes terms and conditions for the recording of public meetings of the Township of Berkeley Heights by members of the public.

TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY

ORDINANCE No. _____

An Ordinance of the Township of Berkeley Heights, County of Union, State of New Jersey, Amending, Revising and Supplementing Various Sections of Title 1 entitled "General Provisions" of *The Code of the Township of Berkeley Heights* to create new Chapter 1.06 to be entitled "Recording of Public Meetings" to establish guidelines for the recording of public meetings.

BE IT ORDAINED by the Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, as follows:

Section 1. Title 1 entitled "General Provisions" of *The Code of the Township of Berkeley Heights* is hereby supplemented and amended to create and establish a new Chapter 1.06 to be entitled "Recording of Public Meetings" to read as follows:

Chapter 1.06 RECORDING OF PUBLIC MEETINGS

Sections:

- 1.06.010 - Purpose.
- 1.06.020 - Definitions.
- 1.06.030 - Video Recording and Still Photography of Public Meetings.
- 1.06.040 - Audio Recording of Public Meetings.
- 1.06.050 - Prohibitions.
- 1.06.060 - Exemptions.
- 1.06.070 - Duplication of Recordings and Photographs.

1.06.010 – Purpose.

The Mayor and Council of the Township of Berkeley Heights recognizes the public's right in photographing, video recording and audio recording of public meetings of the Township as recognized by the New Jersey Courts in Maurice River Township Board of Education v. Maurice River Township Teachers Ass'n, 187 N.J. Super. 566 (Ch. Div. 1982), *aff'd*, 193 N.J. Super. 488 (App. Div. 1984); and Tarus v. Borough of Pine Hill, 189 N.J. 497 (2007), and want to protect such rights. While protecting the public's right, the Mayor and Council of the

Township of Berkeley Heights desire to ensure the unfettered administration and conduct of public meetings and to minimize interference with the governmental administration of such public meetings while still protecting the public's right to record such meetings.

1.06.020 – Definition.

As used in this Chapter, terms shall have the meaning as indicated and defined within the Open Public Meetings Act, N.J.S.A. 10:4-6 *et seq.*

1.06.030 – Video Recording and Still Photography of Public Meetings.

A. Equipment and Personnel.

1. Not more than two (2) video recording devices, operated by no more than one person each, shall be permitted at any public meeting.
2. Not more than two (2) still photographers shall be permitted at any public meeting.
3. This ordinance shall also, to the extent applicable, include cell phone video recording.
4. All video recording and photography equipment must be operated by a person at all times, and may not be left unattended.

B. Sound and light criteria.

1. Only video recording devices and audio equipment used in conjunction with the video recording devices which does not produce distracting sound or light shall be employed to cover public meetings within the Township.
2. Only photography camera equipment which does not produce distracting sound or light shall be employed to cover public meetings within the Township
3. No artificial lighting device of any kind shall be employed in connection with the use of video recording devices or photography cameras.

C. Notice.

1. Notice shall be given to the Municipal Clerk prior to the close of the last business day preceding the day of the public meeting for which an individual is seeking permission to video record or photograph public meetings.
2. Permission to video record or photograph a public meeting shall be granted by the Municipal Clerk on a first come, first served basis, subject to compliance with the provisions contained in these guidelines.

D. Location of equipment and personnel.

1. Video recording devices shall be placed in the rear of the meeting room behind the last row of chairs. The person video recording the public meeting shall not move about the meeting room while the public meeting is in session. It is the responsibility of the video recording device operator to ensure that the video recording device is operated in a safe manner and does not create an unsafe or hazardous environment by blocking pedestrian traffic in areas within the public meeting room.
2. Still photographers shall be positioned in the rear of the meeting room behind the last row of chairs. Still photographers shall assume fixed positions within the designated areas and once the photographers are positioned, such photographers shall not be permitted to move about in any way to attract attention through further movement.
3. Video recording and related audio equipment and still camera equipment shall not be placed in or removed from the meeting room except upon the commencement and after adjournment of the public meeting or during a recess.

1.06.040 – Audio Recording of Public Meetings. In addition to photography and video tape recording of public meetings, an individual may audio record a public meeting subject to the following conditions:

- A. Notice shall be given to the Municipal Clerk prior to the close of last business day preceding the meeting for which the individual is seeking permission to audio recording.
- B. The recording device shall be unobtrusive, limited to hand-held size such as mini-cassette or standard portable cassette recorder or cell phones. It shall be placed in an appropriate position and may not be moved in any way as to attract attention.
- C. The audio recording device shall not produce distracting sound, either from the equipment or its operation. The recording may not be played back while the meeting is in session.

1.06.050 – Prohibitions.

- A. Meetings or portions of meetings which are permitted by law to be closed to the public shall not be video recorded, photographed or audio recorded.
- B. In order to comply with and protect the attorney/client privilege, there shall be no audio recording or video recording of conferences which occur at an executive session or in a public facility between the attorney representing the Township and/or one of the Township's public bodies and any member of the Township Council, member of the public body, the Municipal Clerk, the Municipal Administrator, or any other officer or employee of the Township of Berkeley Heights.

- C. No recording, whether audio or video, may be used in any Court proceeding, nor may same be used to contest the accuracy of an official record of the public meeting. The recordings may not be represented as an official transcript in any manner and/or for any purpose.

1.06.060 – Exemptions.

- A. Any recording by or on behalf of the Township or any of its boards, commissions, committees, agencies or employees shall be exempt from the requirements and regulations of this Chapter.
- B. Any recording by a member of the press, having the required credentials presented to and accepted by the Municipal Clerk prior to the public meeting. After having accepted the credentials of a member of the press for a public meeting, at the Township's discretion, it may waive such requirement for other public meetings of the Township.
- B. Ceremonial proceedings. Any recording of ceremonial proceedings, such as proclamations and swearing-in ceremonies, involving the Mayor and Council or other public body during a public meeting or otherwise shall be exempt from these requirements and regulations of this Chapter.
- C. Recordings at municipal court hearings shall be governed by the N.J. Supreme Court policy and guidelines.

1.06.070 – Duplication of Recordings and Photographs.

- A. Prior to, or within twenty-four (24) hours of the public meeting, the Municipal Clerk or Administrator may request the original video recording, audio recording or photograph taken at a public meeting for the purpose of duplication. If such request is made, the original video recording, audio recording or photograph shall be immediately provided to the Municipal Clerk so that the Township may make a duplicate of same. The original shall be returned to the individual producing the same within five (5) business days.
- B. The individual who made the recording or photograph shall maintain the original video recording, audio recording or photograph for a period of one year from the date of the public meeting.

Section 2. The provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to that the portion of the Ordinance

actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

Section 3. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4. This Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40:69A-149.7. If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

Section 5. This Ordinance shall not take effect until after final passage, approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7, and publication in accordance with all applicable laws and statutes.

INTRODUCED the _____ day of _____, 2016.

ADOPTED the _____ day of _____, 2016.

Robert Woodruff, Mayor

ATTEST:

Ana Minkoff, Township Clerk

**NOTICE OF
INTRODUCTION**

Ordinance -2016

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, STATE OF NEW JERSEY, AMENDING, REVISING, AND SUPPLEMENTING VARIOUS SECTIONS OF TITLE 1 ENTITLED "GENERAL PROVISIONS" OF *THE CODE OF THE TOWNSHIP OF BERKELEY HEIGHTS* TO CREATE NEW CHAPTER 1.06 TO BE ENTITLED "RECORDING OF PUBLIC MEETINGS" TO ESTABLISH GUIDELINES FOR THE RECORDING OF PUBLIC MEETINGS.

I, Ana Minkoff, Township Clerk of the Township of Berkeley Heights , do hereby certify that the foregoing Ordinance was introduced on First Reading at a meeting of the Township Council of the Township of Berkeley Heights, County of Union and State of New Jersey, on **September 20, 2016** and that said Ordinance shall be submitted for consideration and final passage at the Public Hearing to be held on **October 4, 2016** at **7:00** p.m. or as soon thereafter, as practical, same can be considered, at the Municipal Building, 29 Park Avenue, Berkeley Heights, NJ, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning the same. During the week prior to and up to the time of Public Hearing, copies of said Ordinance will be available in the Municipal Clerk's office in said Municipal Building, to the members of the general public who shall request the same.

**Ana Minkoff
Township Clerk**