

**MINUTES OF THE REGULAR MEETING OF THE MAYOR &
COUNCIL OF THE BOROUGH OF ROCKLEIGH, HELD ON DECEMBER 5, 2016 AT
BOROUGH HALL, 26 ROCKLEIGH RD., ROCKLEIGH NJ AT 8 PM**

Mayor Robert Schaffer called the meeting to order at 8:04 p.m. and led the meeting with a flag salute.

OPENING STATEMENT:

Mayor Schaffer announced that the meeting of this date is being held in compliance with the Open Public Meetings Act of the State of New Jersey and that adequate notice of same was given in writing to *The Record*, and that notice of same was also posted on the Borough Hall bulletin board as required.

The Borough Clerk called the Roll Call of the Mayor and Council:

Present: Mayor Schaffer, Councilwoman Bresnak, Councilwoman Ewald, Councilman Johnsen, Councilman Cumiskey, Councilman Mender and Councilman Pontone

Also Present: Robert T. Regan, Esq., Borough Attorney; Marcella Giampiccolo, Borough Clerk, William J. McGuire, Administrator, Kunjesh Trivedi, CFO and Gregory Polyniak, Borough Engineer.

MINUTE APPROVAL:

Minutes from the October 3, 2016 Regular and Closed Session Meetings were presented for approval. A Motion was offered by Councilman Johnson, seconded by Councilwoman Bresnak to accept the October 3, 2016 Regular and Closed Session Minutes as presented. All Councilmembers present voted in the affirmative, except Councilmen Mender and Pontone, who abstained from the vote, to accept the October 3, 2016 Regular and Closed Session Minutes as presented. The Motion passed.

Minutes from the November 7, 2016 Regular Meeting were presented for approval. Motion offered by Councilman Mender, seconded by Councilwoman Ewald to accept the November 7, 2016 minutes as presented. All Councilmembers present voted in the affirmative, except Councilwoman Bresnak, who abstained from the vote. The Motion passed.

COMMITTEE REPORTS:

No committee reports were provided.

OLD BUSINESS:

The Mayor announced the Second Reading and Public Hearing of Ordinance 2016-6, entitled, "AN ORDINANCE TO AMEND CHAPTER XXXIV OF THE CODE OF THE BOROUGH OF ROCKLEIGH ENTITLED, "ZONING".

**BOROUGH OF ROCKLEIGH
ORDINANCE NO. 2016-6**

**AN ORDINANCE TO AMEND CHAPTER XXXIV OF THE CODE OF THE BOROUGH
OF ROCKLEIGH ENTITLED, "ZONING".**

BE IT ORDAINED by the Mayor and Council of the Borough of Rockleigh, in the County of Bergen, and State of New Jersey as follows:

SECTION 1.

Chapter XXXIV of the Code of the Borough of Rockleigh, Zoning, §34-23.8, Accessory Apartments on One-Family Parcels, be and is hereby amended to read as follows:

§34-23.8 Accessory Apartments on One-Family Parcels.

a. *Purpose.* It is the specific purpose and intent of this section to allow accessory apartments on one-family parcels of minimum size of two (2) acres to provide the opportunity for persons of moderate and very low income and in compliance with the Housing Element and Fair Share Plan adopted by the Planning Board. When approvals have been issued for a total of five (5) accessory apartments, no new approvals will be granted. To help achieve these goals and to promote the other objectives of the Housing Element and Fair Share Plan, the following specific standards and limitations are set forth for such accessory apartment use.

b. Standards and Limitations.

1. Occupancy.

- (a) The owner(s) of the one-family lot upon which the accessory apartment is to be located shall occupy and maintain as his or her legal full-time residence in one (1) of the dwelling units on the lot.

2. Location and Number of Units.

- (a) An accessory apartment may be located in the principal dwelling building or in a permitted accessory building, such as a barn or garage, and may include existing, new or expanded structure construction.
- (b) There shall be no more than one (1) accessory apartment permitted per one-family building lot.
- (c) An accessory apartment is not permitted on any single lot where more than one (1)

dwelling unit already exists, regardless of whether the additional dwelling is a prior nonconforming dwelling unit or not.

3. Size.

- (a) The minimum floor area for an accessory apartment located within a principal dwelling building shall be six hundred (600) square feet, but in no case shall it exceed the gross floor area of the existing principal dwelling on the lot.
- (b) For an accessory apartment located in an existing accessory building, the minimum floor area shall also be six hundred (600) square feet.
- (c) To the extent practical, an accessory apartment shall have either two (2) or three (3) bedrooms.

4. Other Requirements.

- (a) Exterior appearance. Principal buildings containing an accessory apartment shall have only one (1) front or principal entry to the building, and the accessory apartment shall be located, designed, constructed, and landscaped so as to preserve the appearance of the principal building as a single-family residence to the maximum extent feasible and further to enhance and not detract from the single-family character of the principal building and the surrounding neighborhood. An accessory apartment shall have a separate, distinct entry which does not detract from the single-family character of the principal building.
- (b) Off-street parking. Off-street parking requirements shall be that two (2) off-street parking spaces must be provided for each dwelling unit on the property of the applicant. Additional parking areas shall be paved only when proven necessary and shall be screened and buffered from adjacent properties to the extent possible.

(c) Approval of utilities. Prior to the issuance of a building permit for the establishment of an accessory apartment in a principal dwelling or the conversion of an existing accessory building to an accessory apartment use, all septic systems and wells must be approved by the governing agency.

(d) The occupant must meet the established income limitations for moderate and very low-income households as specified by the rules and regulations of COAH or any successor agency or tribunal.

SECTION 2. Severability.

If any section, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such judgment shall be rendered.

SECTION 3. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

SECTION 4. Effective Date.

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

ROBERT R. SCHAFFER, Mayor

**MARCELLA GIAMPICCOLO,
Borough Clerk**

MOTION offered by Councilman Cumiskey, seconded by Councilman Johnson to open the meeting to the public as to Ordinance 2016-6 only. All Councilmembers present voted in the affirmative to open the meeting to the public. The Motion passed. No public came forward. MOTION to close the meeting to the public was offered by Councilman Cumiskey, seconded by Councilman Mender to close the meeting to the public. All Councilmembers present voted in the affirmative. The Motion passed. Without further discussion, a MOTION was offered by Councilman Johnsen, seconded by Councilman Mender to adopt Ordinance 2016-6 as stated above. The Roll Call vote was recorded as follows:

AYES: Bresnak, Cumiskey Ewald, Johnsen, Mender, Pontone

NAYS: None

ABSENT: None

ABSTAIN: None

The Motion passed.

The Mayor stated Ordinance 2016-7 was to have its Second Reading and Public Hearing.

**BOROUGH OF ROCKLEIGH
ORDINANCE NO. 2016-7**

AN ORDINANCE TO AMEND CHAPTER XXXVI OF THE CODE OF THE BOROUGH OF ROCKLEIGH ENTITLED, "AFFORDABLE HOUSING".

BE IT ORDAINED by the Mayor and Council of the Borough of Rockleigh, in the County of Bergen, and State of New Jersey as follows:

SECTION 1.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-1.2, Definitions, be and is hereby amended to add the following new term and to read as follows:

Alternative Living Arrangement shall mean a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

SECTION 2.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-1.3, Affordable Housing Programs, Paragraph a.1(a), Accessory Apartment Program, be and is hereby amended to read as follows:

(a) Accessory apartments are permitted by the Zoning Ordinance for various zoning districts, provided the units are affordable to very low- and moderate-income households.

SECTION 3.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-1.3, Affordable Housing Programs, Paragraphs a.1.(c), (d) and (g), Accessory Apartment Program, be and are hereby amended to read as follows:

(c) At the time of initial occupancy of the unit and for ten (10) years thereafter pursuant to *N.J.A.C. 5:97-6.8c(1)*, the accessory apartment shall be rented only to a household which is either a very low or moderate-income household.

(d) Rents of accessory apartments shall be affordable to very low or moderate-income households as per COAH and UHAC regulations, or such other regulations as may be in force and in effect under applicable law.

(g) The Borough of Rockleigh accessory apartment program shall not restrict the number of bedrooms in any accessory apartment. In addition the Borough shall strive and use its best efforts so that an accessory apartment shall have either two (2) or three (3) bedrooms.

SECTION 4.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-1.3, Affordable Housing Programs, Paragraph a.2, Accessory Apartment Program, be and is hereby amended to read as follows:

2. The maximum number of creditable accessory apartments shall be five (5) units as may be approved by the Superior Court of New Jersey in a Judgment of Repose.

SECTION 5.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-1.3, Affordable Housing Programs, Paragraph 3, Subparagraph (c), shall be amended to read as follows:

(c) In accordance with COAH requirements, or any successor agency or entity, the Borough of Rockleigh shall provide at least thirty-five thousand (\$35,000.00) dollars per unit to subsidize the creation of very-low income accessory apartment or twenty thousand (\$20,000.00) dollars per unit to subsidize the creation of each moderate-income accessory apartment.

SECTION 6.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-1.4, New Construction, Paragraph c, Maximum Rents and Sales Prices, Subparagraph 1, shall be amended to read as follows:

1. In estimating rents and sales prices of affordable units, the administrative agent shall follow the procedures set forth in UHAC or any successor agency or entity,

utilizing the regional income limits establishing by COAH or any successor agency.

SECTION 7.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-1.4, New Construction, Paragraph c, Maximum Rents and Sales Prices, Subparagraph 3(a), shall be amended to read as follows:

(a) At least thirteen (13%) percent of all low- and moderate-income rental units shall be affordable to households earning no more than thirty (30%) percent of median income.

SECTION 8.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-1.5, Affirmative Marketing Requirements, Subparagraph c, shall be amended to read as follows:

c. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 1 comprised of Bergen, Hudson, Passaic and Sussex.

SECTION 9.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-1.14, Administration, Subparagraphs 4(e) and (g), shall be amended to read as follows:

(e) Compiling, verifying and submitting annual reports as required by the Court;

(g) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Court.

SECTION 10.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-1.14, Administration, Subparagraph c, shall be amended to read as follows:

c. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the Governing Body and subject to approval of the Court. The Operating Manuals shall be available for public inspection

in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

SECTION 11.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-1.14, Administration, be and is hereby amended to add the following paragraph and subparagraphs:

e. The Borough of Rockleigh has adopted a Housing Element and Fair Share Plan which has been endorsed by the Mayor and Council. The following reporting shall be required by the Borough in connection with the issuance of a Final Judgment of Compliance and Repose:

1. On the first anniversary of the entry of the Order granting Rockleigh a Final Judgment of Compliance and Repose in In the Matter of the Application of the Borough of Rockleigh, a Municipal Corporation of the State of New Jersey, Docket No. BER—5761-15, and every anniversary thereafter through the end of the Repose period, the Borough shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council On Affordable Housing or 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. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

2. On the first anniversary of the entry of the Order granting Rockleigh a Final Judgment of Compliance and Repose in In the Matter of the Application of the Borough of Rockleigh, a Municipal Corporation of the State of New Jersey, Docket No. BER—5761-15, and every anniversary thereafter through the end of the Repose period, the Borough shall provide annual reporting of the status of all affordable housing activity within the Borough through posting on the municipal website, with copies provided to Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, and the Bergen County Chapter of the NAACP. Such

reporting shall be by using forms previously developed for this purpose by the Council On Affordable Housing or any other forms endorsed by the Court-Appointed Special Master and Fair Share Housing Center.

3. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to *N.J.S.A. 52:27D-313*, the Borough shall post on its municipal website, with copies provided to Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, and the Bergen County Chapter of the NAACP, 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. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to the above named groups and organizations, regarding whether any sites no longer present a realistic opportunity and should be replaced. Any interested party may by motion request a hearing before the Court regarding these issues.

4. 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 the entry of the Order granting Rockleigh a Final Judgment of Compliance and Repose in In the Matter of the Application of the Borough of Rockleigh, a Municipal Corporation of the State of New Jersey, Docket No. BER—5761-15, and every third year thereafter, the Borough will post on its municipal website, with copies provided to Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, and the Bergen County Chapter of the NAACP, a status report as to its satisfaction of its very low income requirement, including the family very low income requirement referenced in the Housing Element and Fair Share Plan. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to the above named groups and organizations, on the issue of whether the municipality has complied with its very low income housing obligation.

SECTION 12.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-1.16, Appeals, be and is hereby amended to read as follows:

§36-1-16 Appeals.

Appeals from all decisions of an Administrative Agent designated pursuant to this section shall be filed in writing with the appropriate agency or party having jurisdiction.

SECTION 13.

Chapter XXXVI of the Code of the Borough of Rockleigh, Affordable Housing, §36-2.3, Establishment of Municipal Liaison Position and Compensation: Powers and Duties, be and is hereby amended to read as follows:

- a. No change.
- b. Subject to the approval of the Court, the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full- or part-time municipal employee.
- c. No change.
 1. No change.
 2. No change.
 3. Compiling, verifying, and submitting annual reports as required by the Court.
 4. No change.
 5. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Court or any approved party or agency.
 6. No change.
- d. Subject to approval by the Court, Rockleigh may contract with or authorize a consultant, authority, government or any agency charged by the Council, which entity shall have the responsibility of administering the affordable housing program of Rockleigh, except for those responsibilities which may not be contracted out pursuant to paragraph c. above. If Rockleigh contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.
- e. No change.
- f. No change.

SECTION 14. Severability.

If any section, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such judgment shall be rendered.

SECTION 15. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

SECTION 16. Effective Date.

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

ROBERT R. SCHAFFER, Mayor

**MARCELLA GIAMPICCOLO,
Borough Clerk**

MOTION offered by Councilman Cumiskey, seconded by Councilman Johnson to open the meeting to the public as to Ordinance 2016-7 only. All Councilmembers present voted in the affirmative to open the meeting to the public. The Motion passed. No public came forward. MOTION to close the meeting to the public was offered by Councilman Cumiskey, seconded by Councilman Johnsen to close the meeting to the public. All Councilmembers present voted in the affirmative. The Motion passed. Without further discussion, a MOTION was offered by Councilman Cumiskey, seconded by Councilman Mender to adopt Ordinance 2016-7 as stated above. The Roll Call vote was recorded as follows:

AYES: Bresnak, Cumiskey Ewald, Johnsen, Mender, Pontone

NAYS: None

ABSENT: None

ABSTAIN:

The Motion passed.

The Mayor announced Ordinance 2016-8 was to have its Second Reading and Public Hearing:

**BOROUGH OF ROCKLEIGH
ORDINANCE NO. 2016-8**

AN ORDINANCE TO AMEND CHAPTER XXXIV OF THE CODE OF THE BOROUGH OF ROCKLEIGH ENTITLED, "ZONING".

BE IT ORDAINED by the Mayor and Council of the Borough of Rockleigh, in the County of Bergen, and State of New Jersey as follows:

SECTION 1.

Chapter XXXIV of the Code of the Borough of Rockleigh, Zoning, Article XI, Affordable Housing, be and is hereby repealed in its entirety and the following Sections and Subsections are added to this Article as hereinafter set forth:

**Article XI
Affordable Housing Development Fees**

34-42 DEVELOPMENT FEE REQUIREMENTS.

34-42.1 Purpose.

- a. In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., and the New Jersey Constitution.
- b. Pursuant to N.J.S.A. 52:27D-329.2 and the Statewide Nonresidential Development Fee Act, N.J.S.A. 40:55D-8.1 through 40:55D-8.7 inclusive, municipalities are authorized to adopt and promulgate regulations for the collection, maintenance and expenditure of development fees intended to be used for the sole purpose of providing low and moderate income housing.
- c. This Ordinance establishes standards for the collection, maintenance and expenditure of development fees pursuant to the aforementioned statutory provisions.

34-42.2 Approval Required.

This Ordinance shall not be effective until the Superior Court of New Jersey or such agency or tribunal having jurisdiction approves a plan for spending such development fees and the Borough has received Third Round Substantive Certification and a Judgment of Compliance from the Superior Court of New Jersey.

34-42.3 Definitions.

As used in this Ordinance, the following terms shall have the meanings indicated:

Affordable Housing Development shall mean a development included in the Housing Element and Fair Share Plan adopted by the Planning Board, which includes but is not limited to accessory apartment units for very low and moderate income persons. Such a development may also include a special needs housing inclusive development or a one-hundred-percent-affordable development.

Developer shall mean the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

Development Fee shall mean money paid by a developer for the improvement of property as permitted by applicable law.

Equalized Assessed Value shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c.123 (N.J.S.A. 54:1-35a through 54:1-35c).

34-42.4 Nonresidential Development Fees.

- a. Imposed Fees.
 1. Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% percent of the equalized assessed value of the land and improvements, for all new

nonresidential construction on an unimproved lot or lots.

2. Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% percent shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

b. Eligible Exactions, Ineligible Exactions and Exemptions For Residential Development.

1. The nonresidential portion of mixed-use inclusionary or market rate development shall be subject to the development fee of 2.5% percent, unless otherwise exempted below.
2. The fee of 2.5% percent shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
3. Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c.46, as specified in the Form N-RDF, State of New Jersey Nonresidential Development Certification/Exemption form. Any

exemption claimed by a developer shall be substantiated by that developer.

4. A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c.46, shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.

5. If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section with 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by Rockleigh as a lien against the real property of the owner.

34-42.5 Collection Procedures.

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

- b. The developer shall also be provided with a copy of Form N-RDF, State of New Jersey Nonresidential Development Certification/Exemption, to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per

the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

- c. The Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d. Within 90 days of receipt of that notice, the municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e. The Construction Official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f. Within 10 business days of a request for the scheduling of a final inspection, the Municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g. Should Rockleigh fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b of Section 37 of P.L. 2008, c.46 (N.J.S.A. 40:55D-8.6).
- h. The payment of the nonresidential development fee shall be made prior to the issuance of a certificate of occupancy for such development. A final certificate of occupancy shall not be issued until such time as the fee imposed pursuant to this section has been paid by the developer.
- i. Appeal of development fees.
 - 1. A developer may challenge nonresidential development fees imposed by filing a

challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by Rockleigh. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

34-42.6 Affordable Housing Trust Fund.

- a. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from nonresidential developers.
- b. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities permitted by applicable law.

34-42.7 Use of Funds.

- a. The expenditure of all funds shall conform to a spending plan approved by the Superior Court of New Jersey or by such other agency or tribunal having jurisdiction. Funds deposited in the housing trust fund may be used for any activity approved by the applicable tribunal or agency to address Rockleigh's fair share obligation and may be set up as a grant or revolving loan program. Such activities may include, but are not limited to, providing subsidies to homeowners who make available accessory apartment units consistent with the Borough's Housing Element and Fair Share Plan.
- b. The Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan consistent with applicable regulations.
- c. No more than 20% percent of all revenues collected from development fees may be expended on administration, including but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a

Housing Element and Fair Share Plan, and/or an affirmative marketing program. Administrative funds may be used for income qualification of households, monitoring the turnover of units, and compliance with applicable monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

34-42.8 Monitoring.

The Borough shall complete and return to such designated agency or tribunal all required monitoring forms related to the collection of development fees from nonresidential developers.

34-42.9 Ongoing Collection of Fees.

The ability of Rockleigh to impose, collect and expend development fees shall expire with its substantive certification unless Rockleigh has prepared an adopted Housing Element and Fair Share Plan and has petitioned for substantive certification and for approval of its Development Fee Ordinance. If the Borough fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to Section 20 of P.L. 1985, c.222 (N.J.S.A. 52:27D-320). Rockleigh shall not impose a nonresidential development fee on a development that received preliminary or final site plan approval after the expiration of its substantive certification or Judgment of Compliance, nor shall Rockleigh retroactively impose a development fee on such a development. Rockleigh shall not expend development fees after the expiration of its substantive certification or Judgment of Compliance.

SECTION 2. Severability.

If any section, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such judgment shall be rendered.

SECTION 3. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

SECTION 4. Effective Date.

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

ROBERT R. SCHAFFER, Mayor

**MARCELLA GIAMPICCOLO,
Borough Clerk**

MOTION offered by Councilman Johnsen, seconded by Councilman Mender to open the meeting to the public as to Ordinance 2016-8 only. All Councilmembers present voted in the affirmative to open the meeting to the public. The Motion passed. No public came forward. MOTION to close the meeting to the public was offered by Councilman Mender, seconded by Councilman Johnsen to close the meeting to the public. All Councilmembers present voted in the affirmative. The Motion passed. Brief discussion took place regarding a question concerning the roman numerals listed within the Ordinance. Following the conclusion of that discussion by Mr. Regan, a MOTION was offered by Councilwoman Ewald, seconded by Councilman Mender to adopt Ordinance 2016-8 as stated above. The Roll Call vote was recorded as follows:

AYES: Bresnak, Cumiskey Ewald, Johnsen, Mender, Pontone

NAYS: None

ABSENT: None

ABSTAIN: None

The Motion passed.

Resolution 2016-63 was presented as follows:

MOTION:

SECOND:

BOROUGH OF ROCKLEIGH
County of Bergen
State of New Jersey

RESOLUTION NO. 2016-63

Re: RESOLUTION AUTHORIZING NEGLIA ENGINEERING ASSOCIATES TO PREPARE SPECIFICATIONS FOR ROCKLEIGH ROAD IMPROVEMENTS.

WHEREAS, the Governing Body has reviewed an Engineer's Cost Estimate for the improvement of Rockleigh Road prepared by the Borough Engineer, Neglia Engineering Associates; and

WHEREAS, the Governing Body has determined that the public safety and welfare will be promoted by the improvement of this roadway, which will include road widening with milling, catch basin reconstruction, and signage; and

WHEREAS, the Chief Financial Officer has determined that funds are available to cover the cost of the preparation of the bid documents from Line Item No. 01-2010-20-1652-01.

NOW THEREFORE BE IT RESOLVED that Neglia Engineering Associates be and is hereby authorized to prepare bid specifications for this project, which shall include the Base Bid - Road Widening With Full Width Milling, Alternate Bid A - Catch Basin Reconstruction, and Alternate Bid B - Signage.

Dated: December 5, 2016

Discussion took place after the presentation of resolution 2016-63. The Mayor stated resolution 2016-64 presented by Neglia Engineering Associates also pertained to the Rockleigh Road Safety Project and was presented as follows:

**BOROUGH OF ROCKLEIGH
COUNTY OF BERGEN
2016- (R) - 64**

RESOLUTION TO ADVERTISE FOR BIDS

BE IT RESOLVED by the Mayor and Council of the Borough of Rockleigh, Bergen County, New Jersey upon the recommendation of the Borough Engineer, Neglia Engineering Associates, that the plans & specifications for:

**ROCKLEIGH ROAD IMPROVEMENTS (NJDOT FUNDED)
BOROUGH OF ROCKLEIGH
BERGEN COUNTY, NEW JERSEY**

Are hereby approved and the Borough Clerk is hereby authorized to advertise for bids. This Resolution to take effect immediately.

Dated: _____

Approved: _____

Mayor

Brief discussion took place regarding resolutions 2016-63 and 2016-64. Motion offered by Councilman Mender, seconded by Councilwoman Bresnak to approve Resolutions 2016-63 and 2016-64. The Roll Call vote was recorded as follows:

AYES: Bresnak, Cumiskey, Ewald, Johnsen, Mender and Pontone

NAYS: None

ABSENT: None

ABSTAIN: None

The Motion passed.

At this time Greg Polyniak addressed the Governing Body with the NJDOT 2017 call for projects. Municipal Aid grants would be due February 3, 2017. Mr. Polyniak discussed with the Council possible projects to apply for 2017 grants. Discussion ensued. Following that discussion it was the consensus of the Council to have the Borough Engineer prepare an endorsing resolution for Phase II of the Rockleigh Road Improvement Safety Project, which Mr. Polyniak agreed would look favorably upon by the NJDOT. An endorsing resolution would be prepared for the Sine/Die meeting.

NEW BUSINESS:

At this time Mayor Schaffer read aloud the following resolution:

**BOROUGH OF ROCKLEIGH
RESOLUTION**

WHEREAS, due to retirement, Shirl Ewald will be ending her service on the Borough Council after twenty-one years of service; and

WHEREAS, during her term, Shirl Ewald well and truly faithfully performed the functions and duties of Councilwoman to the highest degree; and

WHEREAS, Shirl Ewald was a dedicated and loyal elected official of the Borough of Rockleigh; and

WHEREAS, Shirl Ewald was highly regarded by her fellow Council Members; and

WHEREAS, Shirl Ewald faithfully served the residents of Borough of Rockleigh.

NOW THEREFORE, BE IT RESOLVED on behalf of the Mayor and Council and all the residents of the Borough of Rockleigh, that the greatest thanks and appreciation be extended to Shirl Ewald for her years of dedicated service to the Borough of Rockleigh; and

BE IT FURTHER RESOLVED, that the Borough of Rockleigh wishes Shirl Ewald only the best and happiest of days in her future endeavors.

CERTIFICATION

The foregoing is a true and complete copy of a resolution adopted by the governing body of the Borough of Rockleigh at a meeting thereof duly called and held on December 5, 2016.

Marcella Giampiccolo,
Borough Clerk

Robert R. Schaffer,
Mayor

MOTION offered by Councilwoman Bresnak, seconded by Councilman Cumiskey to approve the resolution honoring Councilwoman Ewald. The Roll Call vote was recorded as follows:

AYES: Bresnak, Ewald, Cumiskey, Johnsen, Mender, Pontone

NAYS: None

ABSENT: None

ABSTAIN: None

The Motion passed.

Congratulations were offered by all.

Resolution 2016-60 was presented as follows:

**BOROUGH OF ROCKLEIGH
COUNTY OF BERGEN
STATE OF NEW JERSEY**

Resolution No. 2016-60

A RESOLUTION IN SUPPORT OF SENATE BILL S-2254 AND ASSEMBLY BILL A-3821 WHICH AFFIRMS THE LANGUAGE AND LEGISLATIVE INTENT OF THE FAIR HOUSING ACT

WHEREAS, the Borough of Rockleigh supports the provisions of affordable housing in a reasonable, rational and achievable way, consistent with economic realities and sound planning; and

WHEREAS, pursuant to the March 2015 New Jersey Supreme Court order which transferred oversight of the Fair Housing Act (FHA) to the courts, hundreds of municipalities filed declaratory judgment actions to voluntarily comply with their State imposed affordable housing requirements; and

WHEREAS, in February, the Ocean County Superior Court included a distinct “gap period” analysis retroactively over an additional 16 year period, separate and apart from the normal 10 year present and prospective need; and

WHEREAS, the Appellate Division recently in an unanimous decision overturned the February Ocean County Superior Court decision and held that municipalities are only responsible to address the ten year present and prospective need, not any “gap period” number; and

WHEREAS, the New Jersey Supreme Court has, for the state purposes of, “...*judicial economy and efficiency based on the large number of actions involved. **The Court makes no findings as to the reasonable probability of success on the merits, irreparable harm, or the relative hardship to the parties.***” Agreed to hear an appeal of the Appellate Division ruling in late November; and

WHEREAS, the Fair Housing Act (FHA) and existing case law, requires that “present and prospective fair share of the housing need in a given region...shall be computed for a 10-year period.” [N.J.S.A. 52:27D-307(c)]; and

WHEREAS, the “gap issue” arises out of the inability of the New Jersey Council on Affordable Housing to promulgate third round regulations from 1999 to the present or make any final determination as to state and regional housing need, as well as constant litigation by certain groups; and

WHEREAS, any retroactive “gap” obligation could have significant and unfunded impacts on municipalities, may double count households under both present and prospective need, and will likely result in forcing municipalities and their property taxpayers to subsidize development; and

WHEREAS, this issue needs a resolution which provides both certainty and an achievable path forward so municipalities can proceed with planning for and implementing their affordable housing obligations;

WHEREAS, Senate Bill S-2254, sponsored by Senators Greenstein and Batemann, and Assembly Bill A-3821, sponsored by Assemblymen DeAngelo and Benson, re-affirm the language and legislative intent of the Fair Housing Act, so as to preclude significant unfair impacts and instead further progress toward a more rational statewide housing policy, including reasonable and achievable obligations for municipalities, facilitate municipal compliance and the actual provision of affordable housing.

NOW, THEREFORE, BE IT RESOLVED, on this 5th day of December, 2016, by the Borough of Rockleigh, that:

1. The Borough of Rockleigh strongly urges New Jersey Legislators to immediately reaffirm the language and legislative intent of the Fair Housing Act (FHA) and expressly clarify that the municipal affordable housing share is the sum of present and prospective need for the enumerate ten year period.
2. The Borough of Rockleigh supports Senate Bill S-2254 and Assembly Bill A-3821.
3. Copies of this resolution be distributed to the Governor, the Lieutenant Governor, the President of the New Jersey Senate, the Speaker of the New Jersey General Assembly, the Legislative Sponsors, (Senator Loretta Weinberg, Assemblyman Gordan M. Johnson and Assemblywoman Valerie Vainieri-Huttle), Senator Jeff Van Drew, Senator Ronald Rice, Assemblyman Jerry Green and Assemblywoman Mila Jasey, the New Jersey League of Municipalities and the New Jersey Conference of Mayors.

Mr. Regan provided the background as to this resolution regarding GAP and Fair Share Housing. Some discussion took place. MOTION offered by Councilman Pontone, seconded by Councilwoman Ewald to approve Resolution 2016-60. The Roll Call vote was recorded as follows:

AYES: Bresnak, Ewald, Cumiskey, Johnsen, Mender, Pontone

NAYS: None

ABSENT: None

ABSTAIN: None

The Motion passed.

Resolution 2016-61 was presented as follows:

MOTION:

SECOND:

**BOROUGH OF ROCKLEIGH
County of Bergen
State of New Jersey**

Re: RESOLUTION (2016-61) APPOINTING ADMINISTRATIVE AGENT IN CONNECTION WITH THE BOROUGH'S AFFORDABLE HOUSING PLAN.

WHEREAS, pursuant to a settlement in the affordable housing Declaratory Judgement matter entitled, "In the Matter of the Application of the Borough of Rockleigh, Docket No. BER-L-5761-15", the Borough is required to retain the services of an Administrative Agent for the purpose of addressing the accessory apartment component as detailed in the Housing Element and Fair Share Plan ("HE/FSP"); and

WHEREAS, the Administrative Agent will assist in the creation of a program implementing an affordable marketing plan, review the qualifications of applicants seeking to reside in the accessory apartments, and other services; and

WHEREAS, the Borough is in receipt of a proposal from Piazza & Associates dated November 3, 2016; and

WHEREAS, such services constitute professional services under the Local Public Contracts Law, *N.J.S.A. 40A:11-5*, which may be awarded without public advertising for bids.

NOW THEREFORE BE IT RESOLVED that the Borough hereby retains the services of Piazza & Associates to serve as the Administrative Agent, and the Mayor and Borough Clerk be and are hereby authorized to execute a contract for such services; and

BE IT FURTHER RESOLVED that the Borough Clerk is hereby directed to have published a notice detailing the award of this contract, which notice shall include that a copy of this resolution and the contract are on file in the office of the Borough Clerk.

Dated: December 5, 2016

MOTION offered by Councilman Mender, seconded by Councilman Johnsen to approve Resolution 2016-61. No discussion took place. The Roll Call vote was recorded as follows:

AYES: Bresnak, Cumiskey, Ewald, Johnsen, Mender, Pontone

NAYS: None

ABSENT: None

ABSTAIN: None

The Motion passed.

Resolution 2016-62 was presented for approval. Brief discussion took place regarding the renewal of the contract for elevator inspections and the fees collected by the Borough and the vendor.

MOTION:
SECOND:

BOROUGH OF ROCKLEIGH
County of Bergen
State of New Jersey

Re: RESOLUTION (2016-62) AWARDING A THIRD PARTY CONTRACT FOR ELEVATOR INSPECTION/SUBCODE DUTIES TO NEW JERSEY TECHNICAL SERVICES, INC.

WHEREAS, the Borough of Rockleigh is presently provided with elevator inspection/subcode services by New Jersey Technical Services, Inc. (hereinafter "the Contractor"), 100 Schraalenburgh Road, Harrington Park, New Jersey; and

WHEREAS, the Borough of Rockleigh desires to enter into an Agreement with the Contractor for such services for the calendar period of January 1, 2017 through December 31, 2017; and

WHEREAS, a public bidding process is not required under Rules of the Division of Local Government Services; and

WHEREAS, the Borough desires to retain Contractor for the 2017 calendar year; and

WHEREAS, the Chief Financial Officer has certified that funds are available for such purpose, and are provided for in Trust Fund Account No.02-0311-02.

WHEREAS, a Contract has been prepared for such services.

NOW THEREFORE BE IT RESOLVED that the Mayor Robert R. Schafer, and Borough Clerk Marcella Giampiccolo be and are hereby authorized to execute a Contract for such services, subject to the inclusion of Schedule A defining fees and payments in connection therewith.

Dated: _____, 2016

MOTION offered by Councilman Pontone, seconded by Councilman Johnsen to approve Resolution 2016-62 as presented. No further discussion took place. The Roll Call vote was recorded as follows:

AYES: Bresnak, Cumiskey, Ewald, Johnsen, Mender, Pontone

NAYS: None

ABSENT: None

ABSTAIN: None

The Motion passed.

As this time Mayor Schaffer announced that the Sine/Die and Re-Organization meetings will be held on Wednesday, January 4, 2017. The Sine/Die meeting will take place at 7:30 p.m. and the Re-Organization meeting will begin at 8:00 p.m. at the Borough Hall.

Municipal Court fines and Police Report were acknowledged for November 2016. No discussion took place.

Mayor Schaffer asked the Council to consider supporting a donation made in the memory of Mrs. Dolores Pontone, mother of Councilman James Pontone, to the Holy Name Foundation as requested by the family. Motion offered by Councilwoman Ewald, seconded by Councilwoman Bresnak to approve a \$250.00 donation by the Borough to Holy Name Hospital Foundation in memory of Mrs. Pontone. The Roll Call vote was recorded as follows:

AYES: Bresnak, Ewald, Cumiskey, Johnsen, Mender

NAYS: None

ABSENT: None

ABSTAIN: Pontone

The Motion passed.

Councilman Pontone expressed his gratitude to the Mayor and Council.

FINANCIAL BUSINESS/PAYMENT OF CLAIMS:

The CFO presented Resolution 2016-57 regarding a budget transfer, Resolution 2016-58 re: Refund of Escrow funds – Block 201, Lot 11 and Resolution 2016-59 re: Cancellation of Tax Overpayment or Delinquent Amount Less Than \$10.00.

MOTION:

SECOND:

**BOROUGH OF ROCKLEIGH
COUNTY OF BERGEN
STATE OF NEW JERSEY**

RESOLUTION (2016 -57)

RE: BUDGET TRANSFERS

BE IT RESOLVED by the Mayor and Council of the Borough of Rockleigh that upon the recommendation of the Chief Financial Officer, the following transfers be made at this time between 2016 Budget line items.

From	
01-2010-32-4650-20	37.50
(Recycling Tax)	

01-2010-26-3012-01 10,000.00
(Buildings and Grounds)

To

01-2010-26-3053-01 37.50
(Recycling Cordinator)
01-2010-20-1802-01 10,000.00
(Planning Board OE)

Dated: _____

.....
MOTION:
SECOND:

BOROUGH OF ROCKLEIGH
County of Bergen
State of New Jersey

Re: RESOLUTION REFUNDING ESCROW MONEYS TO OWNER OF BLOCK 201 LOT 11.

WHEREAS, the Borough is presently holding escrow moneys in the amount of \$1,093.54 pertaining to Block 201, Lot 11, being more commonly known as 24 Rockleigh Road, pertaining to Robert R. Schaffer ("Property Owner"); and

WHEREAS, the Property Owner has requested a release of the escrow funds, and the Chief Financial Officer has determined that no moneys are owed to the Borough from such property.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Rockleigh does hereby authorize the release of the foregoing escrow moneys in the amount of \$1,093.54.

Dated: December 5, 2016

RESOLUTION
BOROUGH OF ROCKLEIGH
CANCELLATION OF TAX OVERPAYMENT OR DELINQUENT
AMOUNT LESS THAN \$10.00

2016-59

WHEREAS, N.J.S.A. 40A:5-17.1 allows for the cancellation of property tax refunds or delinquent amounts in the amounts of less than \$10.00; and

WHEREAS, the governing body may authorize a municipal employee chosen by said body to process, without further action on their part, any cancellation of property tax refunds or delinquencies of less than \$10.00

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rockleigh in the County of Bergen, State of New Jersey, hereby authorizes the Tax Collector to cancel said tax amounts for the year 2016 and prior as deemed necessary.

ADOPTED, at a meeting of the Mayor and Council of the Borough of Rockleigh, in the County of Bergen and the State of New Jersey, held on December 5, 2016

BOROUGH OF ROCKLEIGH

Robert R. Schaffer, Mayor

ATTEST:

Marcella Giampiccolo
Borough Clerk

Dated: _____, 2016

MOTION offered by Councilwoman Ewald, seconded by Councilman Johnsen to approve Resolutions 2016-57, 2016-58 and 2016-59 as presented (above). No discussion took place. The Roll Call vote was recorded as follows:

AYES: Bresnak, Cumiskey, Ewald, Johnsen, Mender, Pontone

NAYS: None

ABSENT: None

ABSTAIN: None

The Motion passed.

The Bill List dated December 5, 2016 was presented for approval. Motion was offered by Councilwoman Ewald, seconded by Councilman Johnsen, to approve the Bill List dated December 5, 2016, noting the total claims and accounts amounting to \$144,055.99 is paid, and that checks be issued therefore, in accordance with established procedure, upon confirmation from the Borough Treasurer/CFO that sufficient monies are available to pay said obligations. No further discussion took place. The Roll Call vote was recorded as follows:

AYES: Bresnak, Cumiskey, Ewald, Johnsen, Mender, Pontone
NAYS: None
ABSENT: None
ABSTAIN: None
The Motion passed.

MOTION offered by Councilman Cumiskey, seconded by Councilman Pontone to open the meeting to the public. All Councilmembers present voted in the affirmative. The Motion passed. No public came forward. Motion offered by Councilman Cumiskey, seconded by Councilman Pontone to close the meeting to the public. All Councilmembers present voted in the affirmative. The Motion passed.

At this time the Mayor announced it was necessary to enter into Closed Session for discussion regarding Rockleigh Equestrian Centre, LLC vs. Planning Board of the Borough of Rockleigh and the Borough of Rockleigh, Docket No.: BER-L-007961-16.

Mr. Regan read aloud the resolution to enter into Closed Session:

RESOLUTION TO ENTER INTO CLOSED SESSION

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body wishes to discuss item relating to *the Rockleigh Equestrian Centre v. Planning Board of the Borough of Rockleigh and the Borough of Rockleigh Docket No. BER-L-007961-16.*

NOW THEREFORE BE IT RESOLVED by the Mayor and Council that at **8:50 p.m.** on **MONDAY, December 5, 2016** the Governing Body determined to exclude members of the public to discuss the aforesaid items; and

BE IT FURTHER RESOLVED that the proceedings relative to the Closed Session may be made public as such time as the Governing Body determines the Borough's interests may not be adversely affected.

MOTION offered by Councilman Johnsen, seconded by Councilman Pontone to approve entering into Closed Session. The Roll Call vote was recorded as follows:

AYES: Bresnak, Cumiskey, Ewald, Johnsen, Mender, Pontone
NAYS: None
ABSENT: None
ABSTAIN: None
The Motion passed.

Upon returning to the Regular Meeting and there being no further business to come before the Governing Body, a Motion was offered by Councilman Pontone seconded by Councilwoman Bresnak to adjourn the meeting. All Councilmembers present voted in the affirmative and the meeting was adjourned. The Motion passed.

Respectfully submitted,


Marcella Giampiccolo,
Borough Clerk