

TOWNSHIP OF UPPER DEERFIELD

RESOLUTION 17-104

AUTHORIZING THE SOLICITOR TO MAKE APPLICATION TO THE COURT FOR THE PAYMENT OF PROFESSIONAL FEES ASSOCIATED WITH THE AFFORDABLE HOUSING LITIGATION FROM THE TOWNSHIP'S AFFORDABLE HOUSING TRUST FUND.

WHEREAS, the Township of Upper Deerfield has filed a Declaratory Judgment lawsuit in the Superior Court of New Jersey under docket number CUM-L-17-17 seeking to have the Court determine if it is in compliance with its affordable housing obligations, and

WHEREAS, as part of the lawsuit, the Township shall be submitting a proposed Housing Element and Fair Share Plan to the Court for review and determination of its adequacy, and

WHEREAS, in order to prepare the proposed Housing Element and Fair Share Plan the Township is required to expend sums for planning and legal expenses, and

WHEREAS, the Township has previously adopted a municipal development fee ordinance to impose and collect development fees and, pursuant thereto, has collected and maintained funds so collected from developers for the construction of affordable housing and its related requirements. These funds have been collected and kept in trust pursuant to N.J.S.A. 52:27D-329.2 which authorizes their collection and expenditure and as of the end of 2016, the amount in this trust fund was \$53,556.63, and

WHEREAS, in view of the expenditures the Township has made thus far in order to comply with its affordable housing obligations, and the amounts that it anticipates expending for planning and legal expenses as referenced above, the Township now seeks authorization from the Court to use a portion of the Affordable Housing Trust funds it currently holds to offset the costs it is incurring to comply with its affordable housing obligations, and

WHEREAS, N.J.S.A. 52:27D-329.2 provides that a municipality which has adopted a municipal development fee ordinance to impose and collect development fees from developers may not spend or commit to spend any affordable housing development fees without first obtaining approval from the Council on Affordable Housing ("COAH") of the expenditure, and

WHEREAS, the statute specifically provides for the use of affordable housing fees for purposes of administering an affordable housing plan including the preparation of Housing Elements and Fair Plans, and

WHEREAS, the Supreme Court has given courts the authority to act in the stead of COAH for this and other purposes, and

WHEREAS, The Township now seeks court approval of the use of a portion of Housing Trust Funds for the payment of the planners who will draft the Housing Element and Fair Share Plan to be submitted to the court, as well as the legal costs associated with providing legal advice related to the preparation and submission of that plan, and

WHEREAS, in order to do so the filing of a motion must be undertaken for such purposes.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper Deerfield that the Township Solicitor, Rocco Tedesco, Esq., is hereby authorized to prepare and file a motion with the Superior Court for purposes of seeking Court approval for the use of Affordable Housing Trust Funds now held by the Township for reimbursement of planning and legal expenses incurred or to be incurred in the preparation and submission of the Township's Housing Element and Fair Share Plan.

Moved By: Bruce Peterson

Seconded By: Scott Smith

VOTING	<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>
James P. Crilley	X			
John L. Daddario	X			
John T. O'Neill, Sr.	X			
Bruce T. Peterson	X			
Scott Smith	X			

CERTIFICATION

I hereby certify that the foregoing is a true copy of Resolution adopted by the Township Committee of the Township of Upper Deerfield, in the County of Cumberland, at a meeting thereof held April 20, 2017.

Roy J. Spoltore, Township Clerk