

RESOLUTION 2025-60

RESOLUTION ADOPTING THE THIRD ROUND SPENDING PLAN

WHEREAS, On March 10, 2015, the Supreme Court transferred responsibility to review and approve housing elements and fair share plans from the Council on Affordable Housing (COAH) to designated Mount Laurel trial judges within the Superior Court; and

WHEREAS, on June 12, 2015, the Township submitted a Declaratory Judgment Action to the New Jersey Superior Court; and

WHEREAS, the Colts Neck Township Planning Board, under protest with the intent to appeal the Court Orders of November 21, 2024, adopted on February 11, 2025 a Third Round Housing Element and Fair Share Plan as being consistent with the goals and objectives of the Colts Neck Township Master Plan, as guiding the use of lands in the municipality in a manner which protects public health and safety and promotes the general welfare in accordance with N.J.S.A. 40:55D-28, and as achieving access to affordable housing to meet present and prospective housing needs in accordance with N.J.S.A. 52:27D-310;

WHEREAS, the Township's Third Round Housing Element and Fair Share Plan was prepared consistent with the November 21, 2024 Orders issued by the Hon. Linda Grasso Jones, albeit under protest with the intent to appeal the Orders once the matter is deemed final;

WHEREAS, these Orders granted the Township's durational adjustment and required the Township's Housing Element and Fair Share Plan to be adopted within 90 days of its issuance and for the adopted Fair Share Plan to include several provisions, the most consequential being the following: (1) granting the Township's request for a durational adjustment without the durational adjustment waiver; (2) retaining the "Area 1" overlay district; (3) providing up to \$2 million toward extending water and/or sewer service to affordable housing in "Area 1" as specified in Exhibit B to the 2020 Fair Share Housing Center Settlement Agreement and as specified in the Court's November 21, 2024 Orders wherein the Court notes that while the 2020 Fair Share Housing Agreement required sewer service to Area 1 be provided by Manasquan River Regional Sewerage Authority ("MRRSA") with treatment provided by Ocean County Utilities Authority ("OCUA"), the Court directs that if an alternative manner of providing sanitary sewer service for Area 1 becomes viable, e.g., through another treatment provider, the up to \$2 million amount may be applied to the provision of wastewater transmission and treatment by an alternative provider, subject to an application to the Court to propose an alternative plan in lieu of MRRSA; and (4) removing the market to affordable program;

WHEREAS, the Township agrees to comply with the Court's November 21, 2024 Orders, albeit under protest, with the intent to appeal the Orders once the matter is deemed final and reserves all rights and positions in connection with any appeal;

WHEREAS, the Township's development fee ordinance establishes an affordable housing trust fund that includes some or all of the following sources of revenue: development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units; and

WHEREAS, N.J.A.C. 5:93-8.9 requires a municipality with an affordable housing trust fund to receive approval of a spending plan from COAH or Superior Court prior to spending any of the funds in its housing trust fund; and

WHEREAS, N.J.A.C. 5:93-5.1(c). and N.J.S.A. 52:27D-329.2(d) requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;

2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds;
5. A schedule for the expenditure of all affordable housing trust funds;
6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A plan to spend the trust fund balance as of July 17, 2008 within four years of the Council's approval of the spending plan, or in accordance with an implementation schedule approved by the Council;
8. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
9. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, the Township of Colts Neck has prepared a spending plan consistent with N.J.A.C. 5:93-5.1(c). and P.L. 2008, c.46, as well as the November 21, 2024 Orders issued by the Hon. Linda Grasso Jones, albeit under protest with the intent to appeal the Orders once the matter is deemed final; and

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Township of Colts Neck, Monmouth County requests that Superior Court review and approve the Township's 2025 Spending Plan, albeit under protest, with the intent to appeal the Orders once the matter is deemed final and reserves all rights and positions in connection with any appeal.

I, Trina Lindsey, do hereby certify the foregoing to be a true and accurate copy of a resolution passed by the Township Committee of Colts Neck Township during a regular meeting held on the 12th day of February 2025


 Trina Lindsey, Municipal Clerk

RECORD OF VOTE						
	M	S	Yes	No	NV	Ab
Mayor Torchia Buss			X			
Deputy Mayor Viola	M		X			
Buzzetta			X			
Fitzpatrick		S	X			
Rizzuto			X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent						



SPENDING PLAN

TOWNSHIP OF COLTS NECK | MONMOUTH COUNTY, NEW JERSEY

JANUARY 28, 2025



INTRODUCTION

The Township of Colts Neck has prepared a Housing Element and Fair Share Plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (*N.J.S.A. 40:55D-1 et seq.*), the Fair Housing Act (*N.J.S.A. 52:27D-3.01*) and the remaining valid regulations of the Council on Affordable Housing found at *N.J.A.C. 5:93-1*. A development fee ordinance creating a dedicated revenue source for affordable housing was adopted in 2004 and approved by the Superior Court on June 7, 2004. Among other attributes, the ordinance established the development fees to be collected and the terms of the Township’s affordable housing trust fund. This Spending Plan projects anticipated collection of fees and directs how the trust fund monies will be dispersed through the end of the third round, July 1, 2025.

To date, Colts Neck has collected \$2,129,100 in development fees and interest. There have been \$831,397 expenditures toward affordable housing activity and administrative costs. All development fees, other income, and interest generated by the fund will be kept in an interest-bearing affordable housing trust fund account at Ocean First Bank. All affordable housing trust money shall be spent in accordance with *N.J.A.C. 5:93-8.16* and consistent with this Spending Plan, as described in the sections that follow.

Affordable Housing Trust Fund Summary		
As of 12/31/24		
		Total Collected through December 31, 2024
Development Fees	+	\$2,036,711
Interest	+	\$92,389
Payments in Lieu of Construction	+	\$0
Other Income	+	\$0
Expenditures	-	\$831,397
Ending Balance 12/31/24		\$1,297,703



THIRD ROUND REVENUES

In calculating a projection of revenue anticipated during the remaining Third Round, Colts Neck Township considered the following:

- A. **Development Fees.** The Township anticipates that it will receive up to \$122,146 from residential development and nonresidential development fees between January 1, 2025, and the end of Third Round, July 1, 2025.
 - 1. Residential and nonresidential projects that have had development fees imposed upon them at the time of preliminary or final development approvals.
 - 2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy.
 - 3. Future development that is likely to occur based on historical rates of development.
- B. **Payments in lieu of construction.** The Township has not received any payments in lieu of construction and does not expect future revenues from this source.
- C. **Other funding sources.** The Township has not received any funds from other funding sources and does not expect future revenues from this source.
- D. **Projected interest.** Based on the current average interest rate and projected rates of development fee revenue, Colts Neck Township anticipates collecting \$183 in interest between January 1, 2025 and the end of Third Round, July 1, 2025.

Assumptions. Colts Neck Township projects a total of \$122,146 in revenue to be collected between January 1, 2025, and the end of Third Round, July 1, 2025 from residential and non-residential development fees, and accrued interest. Projected residential and non-residential development fees are based on approved development and development trends of the last five (5) years.



Projected Revenue			
Revenue Source		Jul-25	Total
Residential Development Fees	\$1,297,703 STARTING BALANCE (As of 12/31/2024)	\$122,146	\$122,146
Payments-In-Lieu		\$0	\$0
Other		\$0	\$0
Interest		\$183	\$183
Total		\$122,330	\$122,330

ADMINISTRATIVE MECHANISMS TO COLLECT AND DISTRIBUTE FUNDS

The following steps for the collection and distribution of development fee revenues shall be followed by Colts Neck Township.

- A. Collection of development fee revenues. All collection of development fee revenues will be consistent with the Township’s development fee ordinance and the requirements of N.J.S.A. 40:55D-8.1 through -8.7.
- B. Distribution of development fee revenues. The Municipal Affordable Housing Administrator, in concert with the Township Manager and Chief Financial Officer will process the distribution of funds. The release of such funds, with the exception of administrative use of funds, requires the adoption of a resolution by the Township Council. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body’s resolution.



DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

Colts Neck Township proposes to use the funds in the trust fund for the below listed items, pursuant to N.J.A.C. 5:93-8.16(a) and (c), during the Third Round:

- Rehabilitation Program
- Affordability assistance to very low-, low- and moderate-income buyers and renters of affordable housing units; and
- Sewer infrastructure funding

For any other uses of affordable housing trust funds, the Township will apply to a court of competent jurisdiction or other authority, as the case may be, for an amendment to the Spending Plan.

REHABILITATION PROGRAM (N.J.A.C. 5:93-5.2)

The Township intends to spend up to \$50,000 on rehabilitation activity through July 2025. The Township has a rehabilitation obligation of 25 units. The Township satisfies the rehabilitation obligation through participation in the Monmouth County Housing Improvement Program. The proposed rehabilitation expenditure is to be used as supplemental funding to the County program to the extent necessary.

SEWER INFRASTRUCTURE FUNDING

The November 21, 2024 Order issued by the Hon. Linda Grasso Jones, J.S.C requires the provision of the up to \$2 million as an infrastructure contribution to "Area 1" as defined in Exhibit B to the 2020 FSHC Settlement Agreement. The Township, under protest, commits to implementing this Order and will utilize its available affordable housing trust fund to do so. This Spending Plan anticipates \$700,529 will be available for this purpose.



AFFORDABILITY ASSISTANCE (N.J.A.C. 5:93-8.16(C))

Colts Neck Township is required to spend a minimum of 30% of development fee revenue and interest to render existing affordable units more affordable. At least one-third of that amount must be dedicated to very low-income households (i.e., households earning less than 30% of the regional median income) or to create very low-income units. It may use a variety of vehicles to do this, including but not limited to the following:

- Down-payment assistance and security deposit assistance;
- Rental assistance;
- Low interest loans;
- Assistance with homeowners association or condominium fees and special assessments; and/or
- Converting low-income units to very-low-income units or creating new very low income units, etc.

The following table shows the calculations required to determine the minimum amount of affordability assistance.

Affordability Assistance Calculation		
Actual development fees through December 31, 2024		\$2,129,100
Less Nonresidential Development Fee Reimbursements	-	\$0.00
Development fees and interest projected through July 1, 2025	+	\$122,330
Less development fees collected to finance new construction of affordable housing	-	\$0.00
Total	=	\$2,251,430
30 percent requirement	x 0.30 =	\$675,429
Less affordability assistance expenditures through December 31, 2024	-	\$5,925
Projected minimum affordability assistance requirement	=	\$669,504
Projected minimum very low-income affordability assistance requirement	÷ 3 =	\$223,168



Based on fees and interest collected to date, projected revenues, and affordability assistance expenditures to date, Colts Neck Township must dedicate not less \$669,504 toward affordability assistance for income-qualified households in affordable units, including \$223,168 for very low-income households. The municipality will operate security deposit and rental assistance programs to fulfill the affordability assistance requirements. See the Appendix to this Spending Plan for additional information.

ADMINISTRATIVE EXPENSES (N.J.A.C. 5:93-8.16(E))

Colts Neck Township may use affordable housing trust fund revenue for related administrative costs in an amount up to 20% of collected development fees. The table that follows provides a calculation of permitted administrative expenses.

Permitted administrative expenditures within this framework are as follows:

- A. Township Attorney, Engineer, Planner and other staff (proportionate) salaries and fees related to plan preparation and implementation; and
- B. Program administration expenses, such as but not limited to those for the administrative agent.

Administration Expenditure Calculation		
Actual development fees and interest through December 31, 2024		\$2,129,100
Non-residential Development Fee Reimbursements	-	\$0
Development fees and interest projected through July 1, 2025	+	\$122,330
Total	=	\$2,251,430
20 percent maximum permitted administrative expenses	x 0.20 =	\$450,286
Less administrative expenditures through December 31, 2024	-	\$787,971
Projected Administrative Costs through July 1, 2025	=	-\$337,685



The Township recognizes it has exceeded its maximum administrative costs. In order to rectify this noncompliance, the Township commits to not expending money from the affordable housing trust fund for administration expenditures until its total administration expenditures are less than 20%.

EXPENDITURE SCHEDULE

Colts Neck Township intends to spend affordable housing trust funds on the rehabilitation, affordability assistance programs, and sewer infrastructure funding.

Projected Expenditures		
Program	Jul-25	Total
Rehabilitation	\$50,000	\$50,000
Affordability Assistance	\$669,504	\$669,504
Administration	\$0	\$0
Sewer Infrastructure Funding	\$700,529	\$700,529
Total	\$1,420,033	\$1,420,033

EXCESS OR SHORTFALL OF FUNDS

If funding should fall short of the amount necessary, the Township of Colts Neck will seek grants or low-cost loans, or use general revenues and its bonding capacity to meet such shortfall. In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to produce additional affordable housing through these programs or pursuant to a Court-approved amendment to this Spending Plan.



SUMMARY

The Township will expend affordable housing trust fund revenues pursuant to the regulations governing such funds and consistent with its Housing Element and Fair Share Plan. To date, Colts Neck has collected \$2,129,100 in development fees and interest and anticipates an additional \$122,330 in revenues before the expiration of the third round. There have been \$831,397 in expenditures toward affordable housing activity and administrative costs. Based on those projected revenues, \$50,000 will be spent on Township’s rehabilitation program; \$669,504 will be reserved for affordability assistance measures; and \$700,529 will be spent on sewer infrastructure funding.

Spending Plan Summary		
Affordable Housing Trust Fund Balance December 31, 2024		\$1,297,703
Development fees and interest projected through July 1, 2025	+	\$122,330
Total	=	\$1,420,033
Rehabilitation expenditures through July 1, 2025	-	\$50,000
Affordability Assistance Program expenditures through July 1, 2025	-	\$669,504
Administrative expenditures through July 1, 2025	-	\$0
Sewer Infrastructure expenditures through July 1, 2025	-	\$700,529
Excess Funds	=	\$0



APPENDIX: AFFORDABILITY ASSISTANCE PROGRAM

Security Deposit Assistance

Colts Neck will designate \$334,754 of its affordable housing trust fund as a revolving Security Deposit Assistance Fund. An interest-free loan from the fund will be received by an income eligible renter with good credit standing who qualifies for a low- or moderate-income rental unit.

The security deposit assistance will be in the form of a cash loan equal to the security deposit amount determined by the landlord paid to the landlord on behalf of the tenant.

At the termination of the lease, the landlord will return the portion of the security deposit it determines to Colts Neck along with the interest earned. The tenant will repay any difference between the original security deposit amount and the portion returned by the landlord. Funds returned to the municipality will be placed in the affordable housing trust fund to be used for future security deposit assistance.

Rental Assistance

Colts Neck will designate \$334,752 of its affordable housing trust fund as a Rental Assistance Fund. A rental supplement from the fund will be received by an income eligible renter with good credit standing who qualifies for a low- or moderate-income rental unit when only a unit in a higher income category is available (i.e.: placing a low-income household in a moderate-income unit, or placing a very-low income household in a low-income unit).

The amount of the rental supplement will be determined by Colts Neck as the difference between the restricted rent set by the landlord and 35 percent of the renter's gross monthly income. The rental supplement will be paid directly to the landlord each month by Colts Neck on behalf of the tenant.

Rental assistance does not need to be repaid by the tenant. If the tenant wishes to renew the lease, they must be re-income qualified and the rental supplement will be recalculated. If the tenant no longer qualifies for the rental assistance, but qualifies for the actual rent, they may renew the lease and stay in the unit, but will no longer receive rental assistance.

Administration

Colts Neck's Affordability Assistance Programs will be administered by the Township's affordable housing administrator. After an applicant is income qualified by the affordable housing administrator pursuant to the Department's rules and the Uniform Housing Affordability Controls, or cannot be qualified due to a need for assistance, an affordability assistance application will be completed and forwarded with all necessary documentation to the affordable housing administrator.



The affordability assistance recipient will sign a contract with Colts Neck which states, at a minimum: the amount of funds granted, interest information, procedures, duration and conditions of affordability assistance, and repayment information.

The availability of any Affordability Assistance Programs must be noticed to all tenants of affordable units within Colts Neck and provided to all administrative agents of affordable units within Colts Neck.

An income eligible occupant or applicant for an affordable unit within municipality may not be denied participation in the Affordability Assistance Program(s) unless funding is no longer available.