

**PLANNING BOARD  
TOWNSHIP OF WEST ORANGE  
ESSEX COUNTY, NEW JERSEY**

***RESOLUTION***

WHEREAS, Article 9, Section 40:55D-24 of the *Municipal Land Use Law* of the State of New Jersey as applied to the Township of West Orange provides for the creation by ordinance of a Planning Board (“the Board”) serving the Township, and

WHEREAS, Section 25-46.6 of Chapter 25 of the *Revised General Ordinances of the Township of West Orange* further empowers the Board to appoint an attorney, as the Board may deem necessary; and

WHEREAS, pursuant to Section 25-46.5 of Ch Chapter 25 of the *Revised General Ordinances of the Township of West Orange* the Board having appointed Diana Powell McGovern, Esq. as Board attorney which was memorialized in a resolution on January 8, 2025; and

WHEREAS, a Complaint in Lieu of Prerogative Writs having been filed in the Superior Court of New Jersey, Essex County, Civil Part, Law Division against the Board in an action entitled 410 Main St Holdings, LLC v. Township of West Orange Planning Board, Docket No.: L-001637-25; and

WHEREAS, the Board having reviewed the complaint and voted at a regularly scheduled public meeting on March 12, 2025, after due public notice in the manner and within the time frame prescribed by the *Open Public Meetings Act* of the State of New Jersey to appoint the Planning Board attorney, Diana Powell McGovern, Esq. to defend the Board in the litigation filed by 410 Main St. Holdings, LLC; and

WHEREAS, the Board noting that the hourly rate for services provided by Attorney McGovern should be commensurate with the rate paid to the Township of West Orange Zoning Board attorney in the amount of \$195.00 per hour;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of West Orange, that Diana Powell McGovern Esq. is hereby appointed by the Board to defend the Township of West Orange Planning Board in the litigation filed by 410 Main St. Holdings, LLC (Docket No. L-001637-25) at an hourly rate of \$195.00 per hour (or at such rate as confirmed by the Council to be equal with the other land use board counsel rate.)

**Vote Action Taken by the Board on March 12, 2025:**

| <b>Board Member</b> | <b>Motion</b> | <b>Second</b> | <b>Aye</b> | <b>Nay</b> | <b>Abstain</b> | <b>Absent</b> |
|---------------------|---------------|---------------|------------|------------|----------------|---------------|
| <b>K. Alper</b>     |               |               | <b>X</b>   |            |                |               |
| <b>J. Guarino</b>   |               |               | <b>X</b>   |            |                |               |
| <b>L. Klein</b>     |               |               | <b>X</b>   |            |                |               |
| <b>S. McCartney</b> |               | <b>X</b>      | <b>X</b>   |            |                |               |
| <b>C. Morgan</b>    |               |               | <b>X</b>   |            |                |               |
| <b>S. Scarpa</b>    |               |               | <b>X</b>   |            |                |               |
| <b>P. Smeraldo</b>  |               |               | <b>X</b>   |            |                |               |
| <b>W. Wilkes</b>    |               |               | <b>X</b>   |            |                |               |
| <b>J. Cardoza</b>   |               |               | <b>X</b>   |            |                |               |
| <b>L. Kapferer</b>  |               |               | <b>X</b>   |            |                |               |
| <b>R. Bagoff</b>    | <b>X</b>      |               | <b>X</b>   |            |                |               |

**Vote on Memorialization on March 19, 2025:**

| <b>Board Member</b> | <b>Motion</b> | <b>Second</b> | <b>Aye</b> | <b>Nay</b> | <b>Abstain</b> | <b>Absent</b> |
|---------------------|---------------|---------------|------------|------------|----------------|---------------|
| <b>K. Alper</b>     |               |               |            |            |                |               |
| <b>J. Guarino</b>   |               |               |            |            |                |               |
| <b>L. Klein</b>     |               |               |            |            |                |               |
| <b>S. McCartney</b> |               |               |            |            |                |               |
| <b>C. Morgan</b>    |               |               |            |            |                |               |
| <b>S. Scarpa</b>    |               |               |            |            |                |               |
| <b>P. Smeraldo</b>  |               |               |            |            |                |               |
| <b>W. Wilkes</b>    |               |               |            |            |                |               |
| <b>J. Cardoza</b>   |               |               |            |            |                |               |
| <b>L. Kapferer</b>  |               |               |            |            |                |               |
| <b>R. Bagoff</b>    |               |               |            |            |                |               |