

**CLOSED SESSION MINUTES  
TOWNSHIP COUNCIL – TOWNSHIP OF OCEAN  
(SECTION 8 RESOLUTION)**

**OCTOBER 13, 2009**

**OAKHURST, NEW JERSEY**

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**Present:** Mayor Larkin  
Deputy Mayor Hiers, Councilmember(s) Garofalo, Schepiga  
**Others:** Martin Arbus, Esq., Township Attorney  
Andrew Brannen, Township Manager  
Vincent Buttiglieri, Township Clerk  
**Absent:** Councilmember(s) Siciliano

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**Subject:** Personnel – Police Department  
**Action:** Andrew Brannen, Township Manager, reviewed the current staffing levels of the Police Department and the need to shift personnel between the various divisions. Mr. Brannen believes that the Township needs to review its position regarding the staffing levels in the Department once the Township knows the future of the Loch Arbour Agreement, the state of the Township’s budget and the arbitrator’s ruling. All concurred with the current staffing levels and will wait to make any final determination on any future increases.

**Subject:** Litigation – COAH  
**Action:** Mr. Brannen introduced Mary Beth Lonergan, PP, AICP, and Jeff Surenian, Esq., Special COAH Counsel to discuss the Township’s position relative to COAH.

Mr. Surenian gave a brief synopsis of his background as it relates to COAH, as well as the history of Mount Laurel and the rationale behind each of the three rounds.

Mr. Surenian explained that based on the 3<sup>rd</sup> Round of COAH, two items were established: Builders Remedy and Compliance Repose. An explanation of both was given. Currently, the rules established in the 3<sup>rd</sup> Round are being challenged before the Appellate Division of the Courts.

Mr. Surenian went on to discuss the various options with regard to assisting the Township in negating any potential problems that may arise from the lack of affordable housing located in the Township. The three options are:

- Comply
- Do Not Comply - which will result in a Judge appointing a Master Planner that will look at the Township and determine what a fair number would be for affordable housing units.
- Comply Under Protest – by where the Township develops and adopts a housing plan and requests a “stay” be granted that will insulate the Township from any potential lawsuits. The Appellate division will decide what is and is not a fair number for the Township.

Mary Beth Lonergan, the Township’s COAH Planner distributed a memo summarizing the Township’s obligation, as it currently stands, and what the various components are. She also went on to explain what she believes is the “real” number of affordable units the Township is obligated to have. Based on her experience, Ms. Lonergan believes that the Township number is really 658 and not 1,258, as COAH had determined. Ms. Lonergan also explained how, and where, she believes the Township could realize those number of units and what the breakdown is between the various affordable components.

Ms. Lonergan also stated that she believes the Township should be allowed a vacant land exemption which would take our Prior Round Obligation from 832 units down to 325 units. Ms. Lonergan also thinks that the Township already has 52 units that would qualify toward our obligation.

Ms. Lonergan also went on to explain the two ways the Township would be able to fulfill the balance of its obligation. They are: Inclusionary Zoning and Set-Aside.

For Inclusionary Zoning, 80% of the constructed units will be market value and 20% will be affordable. The problem with that, as the rules stand today, is that you never reduce the balance owed because as new units are developed the Township's obligation is increased. The second option is through Set-Aside Projects, but the drawback to that option is that the Township would need to fund any shortfall in the financing of these units, which could become very costly.

After much discussion and many questions regarding the options available to the Township, it was determined that Mr. Surenian will work with the Township to develop an Immunity Agreement that will potentially insulate the Township from any lawsuits related to affordable housing. He will also prepare any appropriate resolution related to these items discussed.

**Subject:** Contract – Local 701 and SOA

**Action:** Mr. Brannen discussed the employee health benefit contribution for 2010 based on the policy that was established by where the employees would contribute a percentage towards the cost of the premium based on a 3% payment in 2009, a 6% payment in 2010 and a 9% payment for 2011. It was determined that the Township should proceed with this, as originally proposed.

**Subject:** Litigation – Legal Services

**Action:** Martin Arbus, Esq., Township Attorney, reported that a lawsuit has been filed against him, David Krenkel, Esq., and the Township of Ocean regarding a number of legal issues including the validity of Mr. Krenkel covering for Mr. Arbus, the legality of the process utilized for the reassessment of Township properties and the legality of the process utilized for entering into and conducting Closed Sessions. Mr. Arbus informed the Council that he has filed a Motion to Dismiss the case against himself and Mr. Krenkel, which if granted, would allow Mr. Arbus to defend the Township against the other claims. If his motion should be denied, the Township will need to secure conflict attorneys to represent all parties in this lawsuit.

One Item (Contract – Land Sale) was not discussed at this meeting.

Respectfully submitted,

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Vincent Buttiglieri, RMC/CMC  
Township Clerk