

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

NOVEMBER 3, 2009

OAKHURST, NEW JERSEY

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

Also present were: Jeffrey Surenian, Esq. from Surenian and Associates
Michael Jedziniak, Esq. from Surenian and Associates
Mary Beth Lonergan from Clarke Caton and Hintz
Sanford Brown, Esq., Township Planning Board Attorney

Subject: Litigation – COAH

Action: Jeffrey Surenian, Esq., gave a brief overview of the status of the Township's Affordable Housing issues. He explained the following:

- There currently exists three (3) lawsuits:
 - BVB 11 Associates, LLC
 - AvalonBay Communities, Inc.
 - Martelli at Wayside, LLCA Judge could award multiple Builder Remedies to the litigants absed on certain facts.
- There are certain principles that the Township could rely on to be successful in this type of litigation, which Mr. Surenian explained.
- Mr. Surenian explained that the Plaintiff must prove that they were the “catalyst for change” in order to be declared victorious in this lawsuit and the Township will try and prove that one or all litigants should be disqualified for a variety of reasons.
- Mr. Surenian reported that he had prepared a Consent Order that he would be submitting on behalf of the Township.
- One item Mr. Surenian discussed pertained to the fact that one of the litigants had received certain approvals without ever discussing a Mount Laurel component and therefore, should be disqualified

Further discussion occurred with regard to whether citizen group(s) could mobilize their communities against any and all of these litigants and would that benefit the Township in this litigation.

Discussion occurred with regard to forming a Subcommittee to deal with COAH issues. It was determined that, if the Township desired, representatives could come from the Governing Body and the Planning Board.

Respectfully submitted,

Vincent Buttiglieri, RMC/CMC
Township Clerk