

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

OCTOBER 28, 2010

OAKHURST, NEW JERSEY

Present: Mayor Larkin
Deputy Mayor Hiers, Councilmember(s) Schepiga, Siciliano

Absent: Councilmember Garofalo

Others: Martin Arbus, Esq., Township Attorney
Andrew Brannen, Township Manager
Vincent Buttiglieri, Township Clerk

Jeffrey Surenian, Esq., Township COAH Attorney
Mary Beth Lonergan, Clarke, Caton, Hintz

Subject: Litigation – COAH

Action: Martin Arbus, Township Attorney, and Jeffrey Surenian, Esq. discussed the status of the current litigation. They reported, as follows:

1. The Court invalidated the parts of the revised third round rules that use growth share methodology for determining the prospective need for affordable housing. The Court ordered COAH to adopt new third round rules.

Previously, the Township's COAH obligation consisted of a total of 1,258 units, consisting of 52 rehab share units, 873 prior cycle share units and a growth share of 333 units. As a result of the Appellate decision, the 333 units is no longer part of the Township's obligation.

2. The Township's obligation will now be determined by what will be referred to as the "realistic development potential" and is determined by identifying all possible land with maximum density (8 units per acre). Once that is determined, the Township has a choice to meet on how they wish to meet that required number: zoning for high density housing or another alternative to meet the required number of affordable units.
3. Mr. Surenian stated that no matter what the number is, it appears that the Township will need to have properties that have 100% set aside.

Mr. Arbus and Mr. Surenian now focused the discussion on how all of this impacts the current litigation the Township is involved in. Both feel that regardless of what the number is, it is imperative that the Township needs to commence the development of a plan.

Mr. Surenian stated that since the Township has not previously developed a Plan, there was no chance that the Court would grant a "stay" with this litigation.

Discussion was held with regard to the proposed legislation that the Township was waiting for. According to Mr. Surenian, the assembly Bill, A3447 is much more "builder friendly" than the original Senate Bill, S1. This does not bode well for the Township.

Discussion also occurred with regard to whether the Township would be eligible for any vacant land adjustment, which both Mr. Surenian and Mary Beth Lonergan did not think was an option at this point.

Both Mr. Arbus and Mr. Surenian reiterated that according to Judge Kapalko, a Plan needed to be developed immediately.

It is apparent that the Township is going to be assigned a court-appointed Master that will oversee the Township's progress with regard to identifying potential sites for low and moderate housing.

Mr. Surenian counseled the Township that it needed to authorize Mary Beth Lonergan of Clarke, Caton, Hintz to commence with the development of the Plan. Also, Mr. Surenian stated that the Plan should also include how much vacant land was available in the Township.

Ms. Lonergan informed the Governing Body that it will take approximately four months to finalize a Plan that will be all inclusive.

Mr. Surenian also encouraged the Township to adopt the Fee Ordinance, as required.

Discussion also occurred with regard to whether the Township should partner with other municipalities and petition the Supreme Court to acknowledge that the Township has, indeed, met its affordable housing obligation with the already-existing affordable units

Mr. Arbus discussed the status of the three pending lawsuits related to this issue and wanted to gage whether the Governing Body felt it would be a good course of action to file a motion to have the BVB lawsuit thrown out for failure to negotiate with the Township. Mr. Surenian stated that he concurred that this would be a valid argument with regard to this case.

Mayor Larkin thanked all the parties for sharing their expertise with the Governing Body and stated that he knows the Township is being represented by qualified professionals who will look out for the Township's best interests.

Mr. Arbus will continue to bring any updates to the Governing Body.

At this juncture, Ms. Wilensky, Mr. Surenian and Ms. Lonergan left the meeting.

Subject: Contract – Purchase of Real Property

Action: Andrew Brannen, Township Manager, discussed the option of the Township purchasing Block 140, Lot 108, the Budget Motel, from K & D Associates. After discussion, the Governing Body decided against purchasing said property and decided to move forward with the resolution to revise the Addendum to the Developer's Agreement, as noted on Resolution #10-179a.

Respectfully submitted,

Vincent Buttiglieri, RMC/CMC
Township Clerk