

Affordable Housing Board Meeting
Lawrence Township, Municipal building

November 18, 2010

The following are the minutes of the Affordable Housing Board meeting, which was held on Thursday, November 18, 2010, in the Community Development Conference Room, located in the Lawrence Township Municipal Building.

Statement of Proper Notice

Adequate notice of the regular meeting of the Lawrence Township Affordable Housing Board has been provided by filing an annual meeting schedule with the Municipal Clerk, and by filing the agenda with the Municipal Clerk, posting prominently in the Municipal Building, and mailing to the Trenton Times, the Trentonian and the Lawrence Ledger.

The roll was called as follows at 7:30 p.m.:

Present: Chairman Kevin VanHise, Theresa Birch, Charles Conover (left meeting at 7:35), and Vice-Chairperson Barbara Lavine

Absent: Rachel Cotrino, James Kownacki, Council Liaison, Christopher Pangaldi,

Excused Absence:

Also Present: Andrew Link, Principal Planner/Business Advocate

Approval of Minutes:

The July 15, 2010 minutes were approved as submitted.

Public Comment:

None

Overview of Affordable Housing in New Jersey

Chairman VanHise said that nothing new has happened at the State level since the Board's last meeting. The Assembly bill (A-3447) is in the process of being revised. It has received opposition from developers, municipalities, and affordable housing advocates. The bill would reinstate the 2-1/2 cent non-residential developer fee. This is considered an unfair tax by the non-residential developers because they see no relationship between non-residential construction and housing need. Municipalities are unhappy with the bill because it doesn't provide definitive protection from builder's remedy suits. Affordable Housing advocates oppose the bill because they believe it will not create enough affordable units.

The Senate bill (S-1) was written to provide a clear response to the problems of providing affordable housing. Chairman VanHise reported that many attorneys believe that its very simplicity and compliance mechanisms made the bill unconstitutional in light of the established case law. It intentionally does not address the many issues of affordable housing. The thinking behind the bill was that as soon as the State was to go down the path of explicit rule making we would end up with another COAH.

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While the recent Appellate Division decision invalidated the growth share methodology, significant portions of COAH's rules and gave COAH until the spring to adopt new rules, the Appellate Division did not provide clarity with its decision on what happens until the new rules are adopted. For example, they did not grant a blanket stay. Each municipality is left to its own devices on how to proceed. Some towns that were in the process of sub-certification are moving forward with the process so that they meet the COAH deadlines and do not lose the ground that they have already gained. However, they are put in the position of trying to comply with rules that have been struck down by the court.

With respect to Lawrence Township, the Township is probably in as good of a position as possible. The court upheld the first and second round methodologies. Since the Township was compliant with those rounds (as well as the invalidated third round) we will retain the credits from the earlier rounds. The municipalities that are in the most trouble are those that have done nothing and those whose third round plans did not contain concrete plans for the creation of units.

Chairman VanHise said that there are and will be law suits brought by developers to challenge the rules. He said that developers often consider the suits to be an effective way to enhance their development opportunities. However, with the Township's compliance with its affordable housing obligations, it is unlikely that Lawrence Township would be a successful target of a builders remedy lawsuit. Rather, the industry would more likely select a town that has done less to comply so as to maximize their chances of their success.

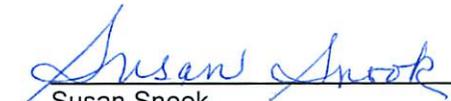
Chairman VanHise said that there is a desire to bring the matter before the state Supreme Court to revisit the Mount Laurel decisions. The problem is finding the right case that can be heard by that court. Mount Laurel I said that towns cannot use their zoning power to exclude classes of people, especially those of limited means. Chairman VanHise said that there is generally no objection to this holding. Mount Laurel II created affirmative obligations to construct affordable housing and this is where the controversy lies. With the invalidation of COAH's rules and methodology, the collapse of the economy, and now the changes and involvement of all three branches of the State government, the issue has become very complicated. Ultimately, with the numerous, conflicting challenges and policies being advanced, it is likely that the Court will need to, or be forced to, re-examine not just the compliance rules, but the Mount Laurel doctrine as a whole to establish the State's ultimate affordable housing policy.

Other Business:

The Board approved the 2011 meeting schedule.

The meeting was adjourned at 8:19 p.m.

The next meeting will be held on December 16, 2010.


Susan Snook
Secretary

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