

Affordable Housing Board Meeting
Lawrence Township, Municipal building

December, 2011

The following are the minutes of the Affordable Housing Board meeting, which was held on Thursday, December 15, 2011, 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 7:28 p.m.:

Present: Susan McCloskey, Kevin Van Hise, Chairperson, Jean Washington, William John Capell, John Masso

Absent: Theresa Birch, James Kownacki, Council Liaison

Also Present: J. Andrew Link, Principal Planner, Susan Snook, Secretary

Approval of Minutes:

The September 15, 2011 minutes were approved as submitted by unanimous vote.

Approval of 2012 Meeting Schedule:

The 2012 meeting schedule was approved.

Public Comment:

None

Status of Changes at State Level:

Chairperson VanHise stated that there has been nothing much going on since September. Chairperson VanHise gave a brief discussion on the Department of Community Affairs (DCA) issuing interim guidelines on how they can resolve things and move things faster. They were challenged in Court and the Appellate Division invalidated all the interim procedures and forced the Department of Community Affairs go back rules and those rules were introduced and they are in the comment period and to be adopted after the New Year.

There are no changes in the rules; it is mainly making it easier for the municipality, developers and interested parties to approach Community Affairs with issues for site relief or plan and amendments. The Legislature has not done anything since S-1 died back in the summer, and the Governor's office is just working through DCA for new procedural rules. The Supreme Court is going to have to weigh in at some point.

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The last couple months, the DCA started making noises about capturing Affordable Housing Trust Funds. In 2008 when the new non-residential development law was adopted, it basically put a 4-year time cap on monies that came into the Affordable Housing Trust Fund. So you had 4 years to commit or expend those funds. The four year period will be ending next summer on July 18th so the DCA is making noises that those funds will be in jeopardy.

So a lot of the Towns are approaching DCA with spending plans. Lawrence was approved in the third round petition; so a lot of Towns are looking for ways to deplete those trust funds. Other than that, there have not been any other changes.

Mr. Link asked if there is any reason to believe that they are not serious about taking the funds in July if we haven't committed them? Chairperson VanHise stated that without coming out and saying it, it might be a scare tactic that no body has been doing a lot of things; so this is a way to jump start the process. State is looking to do so. Practical perspective, it puts a lot of money into the hands of the State; so it is an incentive for the State for use elsewhere. The money that will be taken from the individual municipalities would have to be spent in the County.

Some towns are making calculated gambles. The Fair Housing Act states a municipality does not need to expend municipal funds to build affordable housing opportunities, we collected the developer fees; we have no opportunity to expend them; let the State take them; then they are required to build the houses in the housing region; but let the state build that obligation; so if the State takes the trust fund monies and they build the units which they are required to do; are they just building your obligation. Because the State itself does not have an obligation, in a practical respect, that is a gamble for a municipality to take because if you are wrong, then you are not going to have those funds and still have an obligation. No one has gone down that route; but there was talk about it.

COAH is the signatory on the escrow accounts; so COAH could come in at anytime without the municipalities' authority and take the money out of the trust fund because they are the signatory which is the requirement of COAH's rules.

Jean Washington asked what is the amount that Lawrence Township has. Mr. Link stated we have about 1.5 million. Ms. Washington asked how many homes that would build? Chairperson VanHise stated it would depend on what the calculation is; if you have to go out and buy the land; and by the time you buy the land you may only have enough to build a couple units. There was no requirement for the third round, we did not need to go out and construct any units. Mr. Link stated that there are eight (8) units the Township had to come up with. A question came up asking do we have a plan to hold the 1.5 for 4 years. Mr. Link stated we need to account for it; however, that has not been done yet.

Sue McCloskey asked if the money was strictly for building new units or can they use it to refurbish old units. Mr. Link stated yes it can be used for refurbishment. You need to put a program in place; it would be very complicated; how the money is going out; would it be considered a loan or grant. If it is a loan with no payments on it until you sell it; if you change the program 10 years into it, then you have old units, then it becomes a problem in administration those types of program.

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One of the things a Town can do if you have to build eight units; look around for a site and drop monies on sites. It is tough; don't spend the trust fund because if the new rules come out and the obligation goes to forty as opposed to eight, you are going to need that money to go a lot further. If the Township obligation turns out to have more units than we need, and we get credits under the fourth round, then there is not an urgency to do it and that is the problem with the complete uncertainty of the rule process. Mr. Link asked the new rules that were going to be finalized in January, this is not the re-working of the growth sharing, these rules are still up in the air and we don't know what our obligation is going to be, that still needs to be addressed.

The proposed rules that are circulating right now are procedural, it dealt with the executive consolidation act was used to abolish COAH, it basically says if you have an independent agency and for administrative efficiencies you are merging into another State department, the Governor has the ability to do so. COAH itself was an independent agency created by legislation so it was basically the arm of DCA, however, it wasn't exactly in the chain of command of the State it was independent authority. The Governor tried to get rid of it at one point; the Advocacy Group sued and stated that the legislature adopted a Statute to create COAH. The Governor found this act in the books, that no one heard of, it comes with all the rules it becomes a part of the State aid, all rules remain the same, so that was step 1 – all consolidated. All COAH rules exist in its entirety and now reads the Department of Community Affairs. It now becomes a problem because if a town wants to spend the money because they found a site, they would have to go petition COAH and you would have to do that by motion, the motion rules state you file a motion, you figure out what the hearing date will be of the COAH Board and then back up all of the dates. However, there is no COAH Board, so right now you can't meet the first requirement of the rule, so just forced to file a motion with DCA and but DCA does not have the juridistical powers; it only has administrative powers. So the new rules are the municipality does not have to file a motion, you file a letter. The Court would make the ruling, if the Court does not make the ruling it leaves everything up in the air.

Now is a good time for the commercial development because they do not have to pay for affordable housing.

Other Business:

Ms. Washington asked about the procedure in receiving new leases for Heritage Village. Mr. Link stated that they have their own administration. It is affordable housing, however, it was done under special tax credit funding. They accept their own applications as opposed to say Avalon Run, the Township takes application for people who are interested in Avalon Run and would be approved if income eligible and we forward them to Avalon Run and they go through their application process to see if they qualify as tenants.

With Heritage Village, we do not refer people. Ms. Washington stated that a tenant was not notified in time for her renewal of lease. Mr. Link stated that a standard policy is clear. Ms. Washington stated that it is not clear here. Mr. Link stated that it does not pertain to COAH's rules or DCA's rules. It all has to do with how it was financed and set-up.

Chairperson VanHise stated there should be a provision in the lease about renewals. Ms. Washington will look at her lease. If it is broader questions, then Ms. Washington will inform Mr. Link and he will check into it.

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Mr. Capell asked if there is anything the Board could be doing? Chairperson VanHise stated until we get some type of direction from the Court with what is going on with the plans, not a lot of we can do. Chairperson VanHise said one thing we might want to consider going into the new year is when the ordinance that created this committee was set up, when the Townships did not have a director, the Board members then would review the applications; the problem is it took too long to get the information reviewed because the Board only met once a month. So the ordinance gives the Board members a lot of power to do things; we just do not do any more for practical reality. COAH rules recognized that so the Townships have gone the extra step to hire people to review the applications.

So this Board is in an assistance capacity rather than actually being an administrative arm of the Township. We might want to request ordinance amendments to change quorum requirements; and to help the Township with amending codes.

The meeting was adjourned at 7:56 p.m. The next meeting will be held on January 19, 2012.

Susan Snook
Secretary

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