

TOWNSHIP OF OCEAN
PLANNING BOARD
REGULAR MEETING
November 6, 2008

Meeting began at 7:40 PM

The meeting of the Ocean Township Planning Board was held on the above date and time; Vice-Chairman Avellino presided and called the meeting to order.

ROLL CALL

Members Present: Ralph Avellino Richard Reilly Gordon VonSchmidt
 James Eckert Rita Sweeney Craig James
 Robert Knowles Dennis Tredy

Members Absent: Vince Anepete, Lee Eagles, Daniel VanPelt.

Pledge of Allegiance

STATEMENT: Pursuant to the provisions of the New Jersey Open Public Meetings Act, sending copies of the notice of the meeting properly provided adequate notice of the meeting to the Times-Beacon and the Atlantic City Press. Notice was posted on the bulletin board in the Administration Building.

Vice-Chairman Avellino asked for a motion to approve the minutes of the October 2, 2008 regular meeting. Mr. Tredy made a motion to approve. Mr. Reilly seconded the motion. All in favor: (aye) Tredy, Reilly, Knowles, James, Avellino.

Vice-Chairman Avellino asked for a motion to approve the vouchers. Mr. Tredy made a motion to approve the vouchers. Mrs. Sweeney seconded the motion. All in favor: (aye) Tredy, Sweeney, Eckert, Knowles, Reilly, VonSchmidt, James, Avellino.

Vice-Chairman Avellino stated that the correspondence is available in the board office for review at any time.

BOARD COMMENTS

Review of Ordinance 2008-23 and Revised Zoning Map.

Vice-Chairman Avellino stated that the members had received a copy of the map in their packets. Vice-Chairman Avellino stated that he did not see much of a difference in the zoning map. He asked for any comments from the board.

Mr. Yost stated that this particular ordinance was basically to adopt changes to the maps which were prepared by T&M Associates and Mr. Slachetka last February. Mr. Yost suggested that Mr. Slachetka be sworn in so he could give the board an overview of this particular ordinance.

Mr. Slachetka of T&M Associates was sworn in by Mr. Yost.

Mr. Slachetka: I wasn't here to specifically address that but I was involved with the preparation of the map, so I can answer any questions you may have. We had prepared those zoning maps to

reflect all the amendments that had taken place I guess at the point when we had originally prepared them back in February of this year. Included in those revisions to the map, there is identification of the various Redevelopment Plan areas that the governing body had adopted and incorporated into the zoning plan of the municipality. As you are aware, if the Redevelopment Plan supersedes the provisions of the local ordinance in any way, shape or form, the area governed by that Redevelopment Plan has to be identified on the zone map. However, the map that you have in front of you, my understanding is not a fundamental alteration of the zone plan of the municipality and incorporates a lot of the zone boundaries that had previously been adopted by the governing body based on the recommendation that the Planning Board had made in the Master Plan Re-Examination Report. So it really is a codification of the zone plan plus Redevelopment Plan and it has to be adopted by ordinance. At some point we had prepared the map, the map had never been adopted by ordinance and this is to address that issue.

Mr. Yost: This is a housekeeping matter.

Mr. Slachetka: Basically it is a housekeeping matter. It doesn't reflect any new proposed zone changes that the board has not reviewed previously or adopted or recommended to be adopted to the governing body.

Vice-Chairman Avellino: So basically there is not that much difference.

Mr. Slachetka: We have provided electronic versions to the township both in PDF format and GIS format so that they can be reviewed by the Planning Office and the Township Clerk's office.

Mr. Knowles: What's the procedure for a change to amend it?

Mr. Slachetka: It will vary depending upon one important factor. If a zone change was recommended by the Planning Board in its Master Plan Re-Examination report, that zone change can be adopted by the governing body and it's done by ordinance. That ordinance has to be referred to the Planning Board for your review and comment as to consistency with the Master Plan. If it was part of the Master Plan Re-Examination Report, you do not need any special notice beyond that required for ordinance adoption. However, anybody can propose a zone change or the governing body can request a zone change and refer that proposed zone change to the Planning Board. If it's not part of the Master Plan, there must be notice of that proposed change to property owners.

Mr. Knowles: Can the Planning Board recommend an amendment to the zoning?

Mr. Slachetka: Yes it can. It can make those recommendations as part of a Master Plan, it can make recommendations as part of the Master Plan Re-Examination Report, it could make those recommendations as part of a Special Planning Report to the governing body. The governing body obviously has to formally initiate the process by crafting the ordinance and introducing it for first reading and then referring it back over to you. If it's consistent with your recommendations, you'd recommend its approval.

Mr. Knowles: An adoption of this would mean what now for?

Mr. Slachetka: Really the adoption of the zoning map allows that to be referred to as the official zoning map of the township. Again, there are no zone boundary or zone changes that are being

recommended that have not been previously adopted by the governing body and have previously been reviewed by the Planning Board and recommended for approval. Correct me if I'm wrong Wayne, I'm not aware of anything that is new on this map that has not been previously adopted or changed in the zone plan of the municipality. With the exception of the Redevelopment Plans, but again those Redevelopment Plans have been through this process where the Planning Board has reviewed and recommended those adoptions.

Mr. Knowles: Okay that being said, I have a couple of concerns on the map and if any one would like to look, it regards the WD and BC areas. We put together, the township with the DEP, the Crystal Bay Peninsula which was designated for conservation and recreation. (Mr. Knowles pointed out where this can be found on the map.) That is marked a Residential-1 area.

Mr. Slachetka: That is correct. Now I don't know what the recommendation was but again, for making that a park or recreation facility. You can have a park or recreation facility within a zoned district. It does not have to have a special zone attached to it specifically. I don't know in this instance whether there was a requirement for the designation to have a special designation whether to convert it to BC or some other designation. It could, if you look at the zone map within the various zone districts, there are probably a variety of parks and open space areas reserved both privately and publically. This just represents the zoning designation for that parcel. It doesn't represent the purpose of the parcel or how that parcel is used.

Mr. Knowles: The reason for my question is it makes me nervous that that could resort to a residential area.

Mr. Slachetka: If it's reserved and again I'm not familiar with the specific aspects of that particular property, but if it has been reserved and dedicated. Is it township owned?

Mr. Knowles: Yes.

Mr. Slachetka: If its township owned, and it appears on the Recreation and Open Space Inventory of the township as a recreation and open space property, then it doesn't matter what it's zoned for, it cannot be used for anything else without getting a formal approval from the DEP and the State House Commission for its change of use.

Mr. Knowles: Okay.

Mr. Slachetka: There may be other easements or contractual requirements that reserve that property specifically for open space purposes.

Mr. Knowles: I do understand that with the town owning it, I understand what you said. There is another spot that I have a concern with that is not owned by the town, it's owned by an association. At the end of Bonita Road, there is a beach with a pavilion on it. (Mr. Knowles explained where this is property is located on the zoning map.) It is under the auspices of Green Acres. The association in my area there had applied for it and on our agreement with them; it was done for conservation recreation. Which constitutes a problem that because it's privately owned; if it were sold it could come into a residential area. We're trying to make the coastline of our township either BC or WD. I wouldn't want to propose anything without speaking to the Redevelopment Board about this. I don't want to go in that direction but I just wanted to find out information that would help me go get the answers that I need to have and show a concern of

what I'd like to see done. As part of the Environmental Commission, we discussed it too. We are interested in preserving as much land on the coast as we can. Right now we are probably the largest area of any county in NJ with the amount of land that we have preserved on the coast. So whenever the opportunity arises, it has been the interest of the Environmental Commission to make that a BC area logically to keep access to the bay for people to use. Richard, you're here, so you know my concerns. Maybe sometime I could talk or get input from the rest of our board here.

Mr. Tredy: I understand what you are saying. I also understand what Stan has been saying about if its government owned. Stan, how does that reflect if it's owned by an association?

Mr. Tredy and Mr. Knowles verified that it is owned by the Barnegat Beach Civic Association.

Mr. Slachetka: You also said something about Green Acres?

Mr. Knowles: Yes what we did – they pay all the taxes on the property and they have for several years.

Mr. Slachetka: If that is the case, then I'm certain that there must be if it's on a Green Acres list of properties and Green Acres is the one that identifies and you have the Recreation and Open Space Inventory, you can't use that for any other purpose then the purpose that Green Acres funded it for. It's kind of unusual. I'm not a total expert on open space preservation issues, but typically Green Acres funds public projects but it may in fact, there may be some provisions that allow Green Acres to step in and acquire or fund preservation of privately owned land by associations. If there are some requirements and again, not being familiar with the provisions of any agreements that are in place with Green Acres and the Association, I'm almost certain that there probably would be some kind of provision, a contractual arrangement that would be preserved and reserved through deed restriction or other mechanisms for open space purposes.

Mr. Yost: It sounds like it would be some type of an environmental easement if the DEP is paying the taxes, there is some quid pro quo going on.

Mr. Slachetka: I would think so; yes something along those lines, a deed restriction or an easement or some similar type of arrangement. Again, the zoning doesn't necessarily affect that and would not change that. But you could always as we talked about the Planning Board could make recommendations or even the Environmental Commission could make a recommendation to the governing body that says "hey we have certain parcels we think should be in a different zone designation".

Mr. Knowles: I just had concern with it because from what you had said earlier, it seems to me that it would be very important for that to be placed on the Open Space Inventory.

Mr. Slachetka: The ROSI.

Mr. Knowles: I didn't know if a public place could be put on that.

Mr. Slachetka: I know CMX has prepared an Open Space and Recreation Plan for the township and it would be worthwhile to take a look at those maps and see if it's identified. There should be a copy at the township office; the Township Clerk should have a copy of that as well. That

was prepared on behalf of the township. Actually, you should have adopted that, if it's a Recreation and Open Space element of the Master Plan, it's adopted by you as a Planning Board. So I think you should check into that to see if it was formally adopted as a plan element of the Master Plan.

Mr. Knowles: Okay.

Mr. Yost: So where we are procedurally as I understand it, is this ordinance that the board is reviewing and you're talking about now Stan was given a first reading by the Township Committee and my understanding from talking with the board secretary which I confirmed in a discussion with Dick Reilly that it is scheduled for a second reading next week and there is some type of a time concern involved with getting the second reading.

Mr. Reilly: I'm not sure exactly what the particulars are.

Mr. Yost: Something the committee needed or wanted by the end of the year.

Mr. Reilly: Yes, they wanted it done before the end of the year.

Mr. Knowles: Stan, it would be appropriate for me to recommend that change at any time. It doesn't matter on readings and finalization of things.

Mr. Yost: You don't have to do it. There are always reasons to do something and not to do it. There are two ways to do this. Since apparently the committee is interested, and I don't know particularly what the nature of the deadline is, I assume it's something, we've got the affordable housing component that's moving along, we have the Town Center, I'm assuming without direct knowledge that there is some deadline that's effected.

Mr. Knowles: I don't want to interfere with that, I just was wondering to get my interest.

Mr. Yost: You can always come back and amend it again. In fact, that's what this is. It is an amendment to bring things up to date. The Master Plan evolves constantly. You can change an ordinance at any time. So, and I guess, what Stan is talking about is there are many different ways to restrict the use of a property. It doesn't have to be just the zoning. It can be through purchase, it can be through condemnation, it can be through dedication, there could be an easement. There are other ways to effectuate concerns that the Environmental Commission may have.

Mr. Knowles: Okay.

Mr. Slachetka: Any change in the zone boundaries would require that that zone change be adopted in and of itself by an ordinance so there would need to be a new ordinance that would institute that zone change so we couldn't tweak this. It either is adopted as is, or not because this is basically the zone plan that's in existence within the township.

Mr. Yost: Zoning for one particular property might not be a smart thing to do anyway because it can be characterized as a spot zone and the taking of the property rights. There would have to be analysis done. In other words, you can't go and just zone one parcel. It can't be a section.

There would have to be some kind of a study made by one of the professionals either somebody at the request of the committee to look at the zone to see if it should be changed.

Vice-Chairman Avellino asked if there were any other questions.

Hearing none, Vice-Chairman Avellino asked for a motion to approve Ordinance 2008-23 and zoning map.

Mr. Tredy: In regards to Ordinance 2008-23, I would recommend and make a motion to adopt that ordinance and recommend to the Township Committee to adopt it because it's consistent with our Master Plan.

Mrs. Sweeney seconded the motion.

All in favor: (aye) Tredy, Sweeney, Eckert, Knowles, Reilly, VonSchmidt, James, Avellino.

Mr. Yost: I was asked by the board secretary in anticipation of the possibility and even probability the board would act on this tonight, to draft a written ordinance that I had made copies and gave them to the board secretary. I'd like to pass those around so the board could look at those and see if they can approve the resolution. Basically it incorporates the language from the ordinance and incorporates the ordinance by references and attachment and basically refers it back to the committee for second reading.

The board secretary passed around copies of the resolution to the board.

Mr. Knowles: These districts are in the zone ordinance; these areas are in the zone ordinance?

Mr. Slachetka: This represents your current zone plan.

Mr. Knowles: I mean so I could find out what a WD is and what the limitations...

Mr. Slachetka: In the codified zoning ordinance there would be a description of each of the districts and the requirements in each of those districts.

Mr. Tredy made a motion to approve the resolution. Rita Sweeney seconded the motion. All in favor: (aye) Tredy, Sweeney, Eckert, Knowles, Reilly, VonSchmidt, James, Avellino.

Mr. Reilly: Thank you.

OLD BUSINESS

Vice-Chairman Avellino confirmed that there was no old business to discuss.

NEW BUSINESS

Workshop presentation by Stanley Slachetka of T&M Associates regarding Third Round Rules for COAH.

Mr. Slachetka had previously been sworn in.

Mr. Slachetka circulated two hand-outs for his presentation to the board.

Mr. Slachetka: This is being classified as a workshop session and not a formal public hearing on any plan. It is in anticipation of what the board is going to have to do in the near future in adopting a new Housing Element and Fair Share Plan as part of its Master Plan. You previous adopted was the most recent version of the Housing Element and Fair Share Plan in 2005. As part of the plan endorsement process, one of the things the township had to do was adopt a Housing Element and Fair Share Plan and submit that to COAH for its review. That was done. There were some initial reports that were issued on that 2005 Fair Share Plan. The township went through mediation. COAH never completed its review of the township's Housing Element and Fair Share Plan. At the point in which it was being reviewed by COAH, there was litigation that was instituted by a variety of entities and that litigation went to the Appellate Division of the New Jersey Court System and the Appellate Division ruled that the COAH's Third Round Regulations or the previous adopted Third Round Regulations which were adopted by COAH in 2004 were in various parts not legal. Therefore, COAH had to go back and rewrite its Third Round Regulations. That had taken some time to do that. New regulations were proposed in the beginning of 2008. There was another round of review and comment on those proposed regulations. COAH adopted those proposed regulations in May and then proposed a series of new amendments to those regulations in response to some of the comments it received when it put out its original rule proposal in January and it finally adopted those amendments on September 22, 2008. Based on the rules that were adopted in May, the amendments that were adopted in September and legislation that was enacted by the New Jersey Legislature and signed into law by the Governor in July, which made further statutory changes to the Fair Housing Act impacted COAH's regulations specifically in a variety of different areas including the elimination of Regional Contribution Agreements as an approved way of satisfying a municipalities obligation. All those changes require the township to adopt a new Housing Element and Fair Share Plan that addresses the new Growth Share formulas and numbers adopted by COAH and the implementation mechanisms that were approved by COAH as part of their adopted regulations. Because the township is under COAH's jurisdiction, the township is required by COAH to submit a revised plan by December 31, 2008. We had an uncertain playing field until just recently. The governing body has now authorized moving forward with the adoption of a plan and getting that enacted and sent over to COAH by the December 31, 2008 deadline. There was also an appeal to that December 31, 2008 deadline by the League of Municipalities that went to COAH. COAH denied that appeal of an extension and the League of Municipalities then went to court to appeal that decision by COAH and that was denied as well. Now everyone knows we have to meet this December 31, 2008 deadline. So the reason why I am here tonight is to give you a heads up in anticipation of what you need to do and to schedule a public hearing on a proposed new Housing Element and Fair Share Plan. I am going to tell you a few things. First of which, I'll review what your obligation is. What's a little different from the last plan as to this plan and discuss some of the proposed mechanisms to address that number. In the context of that, I'll talk to you about what the various parameters are such as how many rental units you have to provide, what's the maximum number of senior units you can provide, what are the opportunities for rental bonus credits or bonus credits in the plan. The purpose of this workshop is not to discuss the specific plan tonight, but to outline and provide a framework so that when you get the plan to review, you'll have a better understanding of that plan.

Mr. Slachetka asked if there were any questions to this point regarding the process or procedure or what the Planning Board's responsibility are with respect to the Housing Element and Fair Share Plan and the Master Plan.

Mr. Slachetka explained his hand out sheets.

Mr. Slachetka: The Rehabilitation Obligation is 11 units. Obligation going back to the prior cycles (1st and 2nd rounds) of COAH regulations of 236 units and then a Growth Share Obligation that has identified and assigned to the township by COAH based upon projected and estimated growth and development of both residential and non-residential that either has occurred or is anticipated to occur between 2004 and 2018 in the township. Basically those are the three elements of the townships and all municipalities affordable housing need. Rehabilitation Obligation which is to address the rehabilitation needs or to rehabilitate existing units within the township that are occupied by low and moderate income households that are in housing units that are considered sub-standard by certain census criteria of COAH.

The Prior Cycle in the first two rounds, COAH specifically assigned and allocated an obligation for affordable housing to each and every municipality in the state. First which, based on a state-wide calculation of the affordable housing needs, during those time periods in which those regulations were in effect, and then they broke that down by sub-regions within the state. Within those regions they divvied up even further and allocated it to municipalities. Basically that number has been assigned to the township. They recalibrated that number based on the 2000 census data. That number really hasn't changed from your prior plan and when you adopted the plan in 2005, it was basically the same number.

The last piece is the Growth Share Obligation. That was one of the big changes from the prior plan because the prior Growth Share Obligation was calculated based upon an evaluation of municipality of its anticipated growth. But the ratios that correspond to each of the residential growth and non residential growth changed in the new regulations and actually increased. Previously it was one affordable housing unit for every 8 new market rate units, now its one affordable housing unit for every 5 new market rate units that have occurred in the town. Previously it was one new affordable housing unit for every 25 new jobs, now it is one new affordable housing unit for every 16 new jobs that either have occurred or will occur in the township through 2018. We took a look at these numbers and the first thing that struck us was in terms of Growth Share Obligation was that the projection of housing growth and jobs. COAH projects that the township will grow by 458 housing units between 2004 and 2018. They anticipate new jobs approximately 750 within the township within that time frame. Given what actually has occurred within the township, given the US Homes development and what is anticipated will occur in some parts of the Town Center, that we think that is a very low estimate that COAH has made. Therefore, what we are suggesting to the township is that the township initially accepts COAH's numbers. Some municipalities are challenging COAH's numbers because they may be fully developed communities and COAH has assigned a high number to them. I don't think that is the case here in the township and I actually think these numbers are conservative. Ultimately, the township is going to be required to address an obligation that corresponds to the actual growth that occurs in the township. So once we receive certification by COAH, every two years, the township is going to be required to look at its actual growth and then adjust its plan accordingly. So if there is more growth than has been anticipated or projected, that means you'll probably have to figure out ways to add new affordable units to the plan. Concurrently, if the growth is slower than what is projected, then the township can either keep the plan the way it is or change it to reduce down the number of affordable units that are being provided. With this Growth Share, it's more of a dynamic process. So the number I'm telling you today, might not necessarily be the same number that we're dealing with a year or

two from now. The other thing that is important to know is these affordable housing units do not have to be provided for right away. The plan, once adopted, will carry you through 2018. Through that 10-year time period, from 2008 to 2018, is the time period in which you fully implement the plan. You may not even have that plan fully implemented by 2018, we don't know. There may be other rules and regulations that get adopted by COAH that changes the way you address this. So it's an ongoing and evolving obligation that the township has. What we have to do is at this point in time, do the best that we possibly can to anticipate what the amount of growth is going to be in the township and create a plan that provides a realistic opportunity to provide affordable housing in accordance with COAH standards that is provided as that growth occurs.

Mr. Slachetka asked if there were any questions at this point.

Mr. Tredy: In speaking of Rehabilitation Obligation, how do you track that? I bought a house and I'm rebuilding it. Does that count as rehabilitation?

Mr. Slachetka: It would only count if you qualified as a low or moderate income household in terms of your income level and the house that you are in was considered substandard by various code standards. If you had a house where the major heating system was in poor condition, or you had structural problems with your roof or another major structural component of your house, then you could be considered as having a unit that was in need of rehabilitation pursuant to COAH standards. These units are based on statistical measures and based on census data that in part is based on survey data that is used to compile at the census level. So there is a possibility that there may not actually be those 11 units in the town.

Mr. Yost: To focus on the big picture too from a legal standpoint, why is it important that we get certification from COAH? The reason it is important is the Mt. Laurel case and the string of cases that came down that interpreted Mt. Laurel but didn't impose an affordable housing obligation on all the municipalities in New Jersey and if you don't get certification from COAH, there is what they call a Builder's Remedy under that case. That means that a developer can come in and impose their affordable housing remedy upon the township. It'll take jurisdiction and ability to control that away from the town. That's why it's so important to follow this and get the COAH certification. There is actually a case that is still pending – the Shoreline Case – in the Appellate Division in the sense that they objected to our plan, appealed and COAH kept jurisdiction and said "okay we're going to work with the township and give the township more time to meet its affordable housing obligation". But if we were unable to do that at some point, we would lose the jurisdictional protection of COAH and we could be subjected to a Builders Remedy in the Shoreline Case.

Mr. Slachetka: There are definitely sharks circling the water at this point.

Mr. Yost: It's important to keep in perspective why some of the crunching of these numbers are so important to the township because ultimately if it's not done properly and certification from COAH is not obtained, we lose jurisdiction and the ability to plan in our own town.

Mr. Slachetka: Getting back on to rehabilitation, very simply put, we don't have to address all 11 units. You just have to have a program in place that provides an opportunity to rehabilitate units if people come forward and request that level of rehabilitation. You actually already have a program in place and have a provider that actually is working with the township and has a

contract with the township. OTHRP – Ocean Township Housing Rehabilitation Program that's your on-going rehabilitation program. Basically the plan will be to continue that program and carry it in the future. Do those units exist? Maybe not. Could there be more units that are in need of rehabilitation? Maybe. As long as you have a program that is acceptable to COAH, and it's an on-going program, you're okay.

Mr. Knowles: Can people apply for this?

Mr. Slachetka: Yes, they can. In fact, the township doesn't go out and seek people, but they advertise and make it available to the people who would qualify. If someone comes in, has qualified, has the right income level and agrees to taking a loan or putting in a 6-10 year (depending on the nature of the unit) lien on their property to say that it will be paid, then the township can get credit for that unit.

Mr. Knowles: How about a house that has fire damage? Would they be able to apply for that if they fit within?

Mr. Slachetka: Again, that household has to be income qualified. They have to be qualified as either a low or moderate income household. And then the existing structure has to be below code. You have to do some rehabilitation to bring it up to code and at address at least one major structural system or infrastructure system in the house to meet COAH's criteria.

Mr. VonSchmidt: What happened with the credits? A few years ago credits went back and forth to different town for low income housing?

Mr. Slachetka: Previously you could transfer up to 50% of your obligation to another community in your region that was willing to accept that money to create low to moderate income housing in that town. That would get you credit for that. In fact, actually Ocean had two RCA's one proposed with Neptune Township in Monmouth County.

Mr. VonSchmidt: I thought that went through?

Mr. Slachetka: No, never was formally approved by COAH. And then when the new legislation 8500 was signed into law by the Governor, that eliminated the RCA method. The RCA's have always been criticized by housing advocates as recycling the housing needs back into the urban areas. I always thought the RCA program was a great program and a great part of the COAH process, but the legislature ultimately didn't agree with that. The RCA's have been eliminated. So therefore, that's another reason why we have to look at different limitation mechanisms. I think we're still in pretty good shape because of the opportunities that present themselves in the Town Center to be able to create affordable housing in the Town Center.

Mr. Slachetka asked if there were any more questions about the Rehabilitation Obligation before going over New Construction Obligation.

Mr. Slachetka: There are sub-elements of this need. First you have your obligation, 375 new units of affordable housing that need to be created within the township. At least have a plan in place to create those through 2018. Within that, there are other standards that the town has to meet. First of which, at least 25% of the units have to be rental units. They can't be all for sale units. In looking at the table on the second page of the memo, 236 were from your prior cycle so

from that 59 of those units would have to be rental units. Concurrently, for the 139 in the Cycle Three Growth Share, 35 of those units have to be rental units or a total of 94 units have to be rental units. At least 50% of those rental units have to be non-age restricted units. You can use senior rentals and age restricted units to address your rental obligation but only up to 50% of your rental obligation which is about 47 units. Ultimately what we're going to be doing without getting too confused about all these different numbers, is the plan that we're going to present to you will best optimize your use of available credits and proposed housing so that we can take advantage and maximize the amount of bonus credits that the town can receive. Also make sure that we meet all the other requirements that COAH has established with regards to minimum rental requirements and the like. On age restricted units, no more than 25% of your obligation either first and second round or third round obligation can be age restricted. That comes out to, because it's a maximum, 93 units instead of 94. As it's currently configured and based on a Growth Share of 139, no more than 93 of those can be age restricted. One of the projects that we're looking at to provide credit that was in your last plan is a 100 unit age restricted affordable project that would be constructed in association with the properties owned by Coastal Developers which developed the Shoprite. There is a tract of land behind or to the west of the Shoprite that has always been planned for in your Town Center Plan as being age restricted multi-family residential. They are going to be doing a tax credit project that allows them to do that. As it stands now, only 93 of those 100 units or so can be taken credit for. However, as I mentioned, this is kind of a dynamic process and your obligation may go up. As your obligation goes up, then your senior cap goes up. These numbers will fluctuate. If you see a plan at some point in the future, may have slightly different numbers and it's only because things change a little bit. The order of magnitude is pretty much going to stay the same. Along with the minimum rental requirements, there are opportunities for the township to receive certain bonus credits. Within COAH's regulations, there are a variety of different bonuses that are provided for. However COAH does say that you cannot use bonus credits to address more than 25% of your obligation. Again, when you take a look at the first and second round and then the third round, you are limited to a maximum of 93 bonus credits. What that means is you have an obligation of 375. If you structure the plan in such a way as to achieve those 93 rental bonus credits, it really means that you only have to provide in actuality 282 affordable housing units. If you do it the right way, those 282 affordable housing units can give you 375 units of credit. One of the primary ways we are going to try to do this and maximize your bonus credits is through the use of rental affordable housing. In the first and second round, you can get rental bonus credits for any rental unit you provide up to your Rental Obligation. In COAH's new regulations for the Growth Share, you get rental bonus credits for every rental unit you provide above and beyond your obligation. It's a different rule, but without getting into all the details, what we are going to try to do is have a plan in place that will have rental units that will go beyond what the obligation is in Cycle 3 and up to that in Cycle 1 and 2 so that we'll be able to get rental bonus credits for those. The family rentals for non age restricted rentals are more valuable because they give you two-for-one rental bonus credit. If I have a project that has 20 non age restricted rental units, remember at least 50% of your rental obligation has to be those non age restricted units, if I go above and beyond my rental obligation, and meet half the rental obligation with senior rentals, another half with non age restricted rentals, in Round 3, if I go beyond those 35 rental units that I've acquired as part of the plan, every unit beyond that number 35, I get a two-for-one. So for example, if I build a 50 unit family rental project, 35 of those units could get applied to the Rental Obligation, and those remaining 15 units, I get 30 credits for those 15 units. The idea here is within the Town Center Plan component, is to ensure that we have sufficient rental units both to meet our obligation and also to maximize our rental bonus capabilities so we don't have to provide as many actual units as possible.

Mr. Knowles: It only applies based on the salary of the people right?

Mr. Slachetka: The affordability of the unit is based on two things. It's based on the income level of the household and the size of the household. Each year COAH calculates the median income in each of these regions. Any household that is earning 80% or less of the median income then you are considered a moderate income household. If you are earning 50% or less, you are considered a low income household. If you are earning 30% or less then the median income, then you are considered very low income household. They change each year very slightly. Typically we're seeing the moderate income households for a family of three earning somewhere around \$70,000 is considered a moderate income household in many of the regions in the state of New Jersey.

Mr. VonSchmidt: It's not based on what the unit is rented for? It's based on the income of the people renting it.

Mr. Slachetka: Actually once you establish the income level of the household, the rent is based on a formula that basically says you shouldn't be providing more than about 30% of your total gross annual income towards shelter. The house, if it's for sale, and the rent for the rental unit is based on that formula, give or take any payments that you may or may not be making for utilities in that rent. That is how the rents are established. Plus within a specific project, there has to be a range of rents and a range of affordability of the housing units. So it's not just if I just rent out a unit at this price in my project, I'm okay as long as it allows someone who is earning 80% or less of the regional median income and that's it, that's all I have to do. You have to provide a range of rental prices. Bottom line is your income by that 30% standard and whatever the median income is in the region. So that basically determines what the rents are. Some of the ones for moderate income households can be over \$1,000 a month. Somebody at the upper end of the scale of moderate, it's not that significantly different from the market rates. But you do have to provide that range, you have to address the requirements for the low and based on that 8500 at least 13% of the units have to address the needs of households earning 30% or less. There are ways to do that. Group homes or other types of special needs housing can address that component of your plan. There are little sub pieces that you have to keep addressing with this. All these numbers shift and change because they are all percentages based on what happens with your Growth Share number.

Mr. Knowles: So towns really will start to develop strategies for this and the first thing that would come to my mind would be to build a shopping center and put as many units above it to cover the cost for the taxes and payment to the town, cover the school thing, things like that when our turn comes.

Mr. Slachetka: You are going to be doing some mixed use developments which not all the units need to be affordable units. You have a percentage. Typically it's around 20% give or take depending on the nature of the project. The other thing to remember is that this need is generated by both residential development that occurs in the town and non-residential development. Because of the statutory changes in 8500 that before you either have require payment in lieu of construction or some other construction of the unit for these non-residential, what this legislature and the Governor has established now is that there is a uniform and universal assessment that is made on all new non residential development that is not exempted in some way of 2.5% of the equalized assessed value of that new development or expansion of

development. We have a development fee ordinance here in Ocean Township and that's going to have to be modified and I've already talked to the township about that to accommodate the 2.5%. Otherwise, that 2.5% goes to a big state kitty somewhere that gets redistributed to urban aid municipalities around the state to create affordable housing. That is one other part of the plan. I think that it's important to note that the one opportunity that you do have here is through the Town Center process, you actually have the opportunity to set-aside a percentage of the anticipated residential development that is going to occur in the Town Center for affordable housing.

Mr. Knowles: Up north I know a particular area where a bunch of townhouses were built. On one side were all the people that had the higher incomes and then they segregated the units on the same property with the lower incomes. Are there new laws for segregation of things like that?

Mr. Slachetka: There are not laws and COAH does not mandate, it encourages that the units be distributed within the development area. We've been looking at the projects that have been coming forth before the Redevelopment Agency in township and we've been very clear. We want to make sure that these units are constructed and distributed throughout the developments versus being isolated and congregated in one area. There are some limitations to that because based on financing, in some instances particularly if the residential development or the development has certain financing requirements, low income tax credits or the market units are for sale and the affordable units are rental units, you can't mix the rental units in a variety of different buildings with for sale units in a practical sort of way. You have to have some flexibility to allow the development to address those practical financing realities. It's important to design and locate those affordable units so they are not isolated, that they are part of the community in buildings that are not that different from or any different from the other buildings within the development. It's an important concern that you don't want to create these isolated pockets. There may be other projects like the age restricted senior project where it is one building that going to be age restricted, but that's that nature of the financing of that structure. There are other opportunities that mix it in. The MSC development that has two affordable housing units in it but those units are part of second story with the other residential units. Mixed use buildings provide a good opportunity to distribute those affordable units in the development without calling them out as being affordable units. Just to really quickly wrap this up, on the second page of the memo, I list the compliance mechanisms we have on the prior plan. We're going to include all those pretty much as is. There may be one or two changes. I don't know what's going to happen to the Zell site because that is outside the center and I think the Township Committee has been looking at trying to emphasize putting the new affordable units within the center versus outside. That hasn't been formally decided as of yet. There are some things that have been in place and are already part of agreements like that Edgemont transfer, they made a payment in lieu of construction as part of the Redevelopment Plan and the Redeveloper Agreement. That is going to be used to subsidize the creation of new housing rental units within the Town Center. We talked about the 100 units being part of the Waretown Town Center. We have two units at the MSC site. There are a couple of other projects we've been using the rental bonus credits as part of that. The RCA's we can't use anymore. Basically we're going to use some of the compliance mechanisms from the prior plan. We're going to emphasize as much as we can when it comes to the new affordable housing units within the Town Center and the various developments that are associated with parts of the Town Center. We're going to try to maximize the bonus credits to apply the maximum number of bonus credits that we can and then, where possible, look at a couple of places where we could have a municipally sponsored provide opportunities for non-profit to come in and do affordable housing, particularly

those types of affordable housing that addresses very low income households to meet that 13% requirement including the potential for a group home, or some other type of facility that meets the special needs. But again, with the emphasis trying to get all those facilities and create the opportunities within the new Town Center development rather than looking at other neighborhoods within the community.

Mr. Tredy: (referring to the handout) Item #4 that is like the projects in Newark?

Mr. Slachetka: Basically what it is is that they call it municipally sponsored in COAH regulations but basically if a township owned a parcel of land in the Town Center, what they would do is allocate a portion of that through either purchase or sale or conveyance or long term lease that parcel and then the non-profit entity that creates small scale affordable housing projects, a group home or a special needs housing where they might be able to do duplexes or another small scale type of development and they would own and operate those units. The township would be “sponsoring” that by providing the opportunity for that non-profit to use municipally owned land to create those affordable units. The benefit of that is you don’t need to do it as part of an inclusionary development. So it lowers down your need to create the commensurate market rate units to create those affordable units. These would be small scale selected projects as versus a large scale development. The township would not build, own or operate the affordable units at most they would facilitate it to allow the use of their municipally owned property.

Mr. Tredy: What is the percentage for extra low income?

Mr. Slachetka: 30% or less than the median income within the region. That’s very low. Actually a group home, the reason why we have those municipally sponsored in the group homes is those would be the kinds of projects that would target that population. Otherwise it would have to be created as part of overall inclusionary developments so that we would mandate or require one of the developers or property owners to do that. A minimum that we’ll be looking at in the Town Center areas is new residential developments in particular at least 20% of those units for us to be able to achieve these objectives 20% of those units should be affordable units. The new standard is 1 per 5, so we have to recognize that. When you look at the total number of units that would be anticipated in the Town Center and the opportunity to take care of bonus credits, I think we’ll be in pretty good shape. The next time I come here and we have the public hearing on this, we’ll be talking about exact numbers of units and what is part of the plan.

Mr. Tredy: Just to explain a little more, if there were a project and it was condominiums and you wanted to create 20 of the units to be moderate or low income units. If some of the units were three bedroom and some were two? If the two bedrooms would rent for a lower price – would that qualify for moderate? And if it were a one bedroom, would that qualify as a low?

Mr. Slachetka: That’s a very good question. It has two parts. First, overall, at least 50% of the units created have to be addressing low income. That includes the very low. So if your plan calls for 200 units, at least 100 units have to be addressing the needs of low income households. 50% or below. Up to 50% can be addressing moderate income and that’s the 80%. 50% of the median income. It has to be a 50/50 split between low and moderate overall in your plan. If you have a group home, that’s all considered all low income. Then maybe that might allow another project to be all moderate income, we don’t know. If you look at the plan and look at your

obligation of 375 units, at least 50% of those 375 units have to address the needs of low income households.

Mr. Tredy: Not every project. For every 5 units you are only required to provide 1.

Mr. Slachetka: That 20% say you have a 10 unit and I say that 2 of those units have to be affordable units, one of those units has to be a moderate income unit or at least 1 of those units has to be a low income unit and the other can be a moderate income unit. To answer the second part of your question is that there is in certain types of inclusionary projects where you are providing 20%, at least 20% of the units in that project have to be 3 bedroom units unless it's a special type of a project like a senior citizen project or like a group home, or accessory apartment project. If I've got 10 affordable units, at least 2 of those affordable units have to be 3 bedroom units, unless you get a waiver and COAH usually doesn't give that waiver. Up to 20% can be 1 bedroom units of those, the rest falls into the 2 bedroom range most of the time. So it's 2/1/3.

Mr. Tredy: They have everything covered.

Mr. Slachetka: And their covering even more. I'm just touching the tip of the iceberg.

Mr. McVicar: Who is going to keep track of all of these units?

Mr. Slachetka: Somebody has to administer the program ultimately and there also needs to be a Housing Liaison identified at the township level. Some township employee, a representative of the township is required to basically kind of keep track of the numbers and to report on an annual basis to COAH. Some projects will be administered by the providers, non-profit or whoever is running the age restricted senior facility, they would operate that facility and be required to ensure that the units were marketed to the region. They would have to ensure that the people occupying those units were lower and moderate income households. Township wide there may be a requirement or need to retain the services of an Affordable Housing Administrator who would be responsible for township wide ensuring that all these units are sold, resold, rented, re-rented to appropriate households at the appropriate marketing activity took place based on COAH standards. So that is something that the township has to decide. Who is going to administer the program at the local level.

Mr. McVicar: There could be an affordable housing unit constructed in the township without the township getting credit for it.

Mr. Slachetka: Absolutely. So they have to be deed restricted and there has to be the mechanisms to maintain the affordability of those units over time and to ensure that the unit is going to an appropriately qualified low and moderate income household and that the unit is marketed. In some developments that is done and it's the responsibility of the developer. Rental projects, obviously it's the owner or operator of that project who is required to do that. Somewhere along the line, someone at the township level is going to have to ensure that all that is taking place correctly in accordance with COAH regulations.

Vice-Chairman Avellino: What is the time limitation to achieve the COAH final numbers?

Mr. Slachetka: All you have to do is ensure there is a realistic opportunity within your zoning plan and Redevelopment Plans and Town Center plans for these things to happen. Except in

those instances where you have a component of the plan that COAH requires a time frame on, such as if a municipally sponsored project, you have to identify a provider and that provider has to provide a Performa and there has to be certain performance in actually getting the project constructed and put in place. For the most part, just providing the opportunity for that to happen through your zoning and through your plans is all that COAH needs you to do.

Vice-Chairman Avellino: It may never happen.

Mr. Slachetka: Not all of it may ever happen, some portion of it will happen and how it happens and when it happens will take probably a long time.

Vice-Chairman Avellino: We just have to provide for the way of doing it.

Mr. Slachetka: Yes. Basically with the exception of your Regional Contribution Agreements that you had in your last plan, your plan really is not changing that much. The plan that we will be talking about at the public hearing is basically the same plan you had in 2005. The units are going to be provided in the Town Center as part as the overall project. 90% of the units are going to be provided in some way shape or form within the Town Center.

Vice-Chairman Avellino: The reason I ask that question, the way the economy is, it may take 10 years to get back to where we were in 2005 as far as achieving it.

Mr. Slachetka: You're right. The state's program for developing affordable housing is predicated for the most part of the private development sector in providing the opportunity to provide affordable units.

Vice-Chairman Avellino asked the board if there were any other questions.

Mr. Slachetka: What we'll do is because this is going to be a Master Plan, the first meeting in December, that will be the date of the Public Hearing and what we will do is have the plan prepared and notice would have to be prepared and published and you're basically adopting it as part of your Master Plan as you did in 2005 when you adopted the first Housing Element and Fair Share Plan.

Mr. Knowles made a motion to adjourn.

Vice-Chairman Avellino first opened the meeting to the public comment.

PUBLIC COMMENT OPEN

Seeing none.

PUBLIC COMMENT CLOSED

Mr. Tredy thanked Mr. Slachetka for doing a fantastic job.

Mr. Yost asked before the board adjourned that he would like to reference the article he passed out at the beginning of the meeting. About two months some of the members have brought Mr.

Yost a question to what extent are the board members allowed to participate at the Redevelopment Agency meeting. There seemed to be a difference of opinion at that time.

Mr. Yost: Five members of the Seaside Park Board of Adjustment were disqualified because they had attended and apparently participated to some extent council meetings where the same application was discussed. When you sit in quasi-judicial capacity as the board does, your judges. If you're voting on something, you shouldn't be testifying for or against that application in another proceeding. I don't have the record in front of me, so I don't know if they were sitting quietly. I'm a little more comfortable with that. But the problem is if you are testifying you are definitely going to create a conflict for yourself in some other forum if it's the same application. And even asking questions could get pretty dicey because depending on the nature of the question, how many times have we seen an applicant say they just have a couple of questions and then they start testifying. It's hard not to do. Just as a way of heightening your sensitivity to this, I think on most applications it probably never is going to come up because they aren't scrutinized to that degree but if you get a hot potato I want you to know that you risk, if you are participating and talking for or against an application in another forum, you risk developing a conflict where you are not going to be allowed to vote, or shouldn't be allowed to vote without poisoning the board's decision if the same application comes up in front of you for a vote.

Mr. Reilly: I have a question in that regard. Even if you sit and just listen, is that not an inference that you are formulating an opinion based upon what is occurring?

Mr. Yost: That is an interesting question and as I say, I don't have the transcript here and I think these are pretty fact specific, but I think the more passive you are the safer you are and I guess a question may come up as for you Mr. Reilly where you actually sit on both boards. I can imagine a scenario where if you took a strong position in the Redevelopment Agency on a matter that you may have disqualified or should disqualify yourself when it came in front of the Board of Adjustment. It's kind of fact specific. I think it's an interesting question.

Mr. VonSchmidt: I would tend to believe that as long as you are not participating. You're almost getting to the level of sequestering someone. And they can't expect us as a board to sequester ourselves. We are not going to not read the paper. We are not going not read public minutes.

Mr. Yost: You're in the community. Some municipalities have ordinances where you can appeal before the board of adjustment or Planning Board to the council. I think under those circumstances let's say where Mr. Reilly was sitting on Planning Board and they voted down an application and there was an appeal to the committee or the council, I think under that circumstance, you would be disqualified under conflict of interest from participating in the appeal because you'd be asked to pass judgment on your own prior decision. It's a little more neutral with the Redevelopment Agency because there is almost a parallelism that you have. It's not like anyone is going to appeal from the Redevelopment Agency to the Planning Board. I just want to sensitize the board members so that if you are there and you are lobbying let's say against something, if it's a non-controversial application then nothing is going to come of it because it's never going to become an issue. But if you have an aggressive plans council on a very hot potato application, this is what a good lawyer will try and do to you with the transcript if he thinks you're going to vote against him. When he comes in front of your board he may try to knock you out. I wanted to sensitize you to that because I know people felt strongly about they wanted to also participate with the Redevelopment Agency. Just think about it.

Mr. Reilly: I still question if you are sitting there listening to the proceedings, you're unintentionally formulating an opinion and then you sit in the Planning Board where you are suppose to be hearing it in essence for the first time, you've come pre-conceived.

Mr. Yost: I'd have to think about that Mr. Reilly. I hadn't focused on that. Maybe the safe thing to do if you really have strong preconceived opinions, maybe the safe thing to do if you had a hot application would be to recues yourself.

Mr. Reilly: But you wouldn't know that until you got there.

Mr. Yost: These things are fact specific. I don't see a lot of controversy at least we haven't seen it yet. These seem to be win/win scenarios where we're more...

Mr. Reilly: I think it's something more inclined when something starts to go sour and then the attorney is looking for every avenue he can find.

Mr. Yost: It's probably more of a problem for a Board of Adjustment and I know some of you do sit on the Board of Adjustment as well. But I'm just saying, you have to be sensitive. If you are going to be called upon to vote on something, you can't be taking a public position for or against, or you are listening to your own appeal in essence.

Mr. Tredy seconded the motion to adjourn. All in favor: (aye).

Meeting ended at 9:09 PM.

Respectfully submitted,

Beth Laramée