

**HAMPTON TOWNSHIP COMMITTEE
SPECIAL MEETING
MINUTES
NOVEMBER 22, 2016**

THE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION AT THE NEXT REGULARLY SCHEDULED MEETING.

FLAG SALUTE: Mayor Philip Yetter at 6:05 PM.

ROLL CALL: Present: Deputy Mayor T. Dooley, Committeeman Keith Gourlay, Committeeman David Hansen, Committeeman Scott MacKenzie and Mayor P. Yetter. **Also Present:** Township Administrator Eileen Klose and Planning Board Attorney Robert Morgenstern.

STATEMENT – Mayor Philip Yetter stated that the meeting was being held in compliance with the provisions of P.L. 1975, Ch. 231, Secs. 4 & 13 of the Sunshine Law and that adequate notice of the meeting has been posted in the New Jersey Herald being the Sunday and Daily editions as to time, place, and date, and is posted in the usual location of posted notices in the municipal building.

**DISCUSSION
AFFORDABLE HOUSING AND FAIR SHARE AGREEMENT**

Mr. Jeffrey Kantowitz, Esq. and the owners of 15 Route 206 LLC, Mr. Steve Martin and his son, were present to discuss an Agreement between the Township of Hampton and 15 Route 206 LLC regarding the Affordable Housing Lawsuit.

Attorney R. Morgenstern stated that he and Mr. Kantowitz had several telephone conversations during the day to resolve recommendations that Mr. Morgenstern sent to Mr. Kantowitz in a letter dated November 21, 2016. R. Morgenstern stated that they resolved eleven of the thirteen points outlined in his letter.

Mayor P. Yetter stated that the Township Committee doesn't know what was resolved and is at a disadvantage because they have not had an opportunity to discuss these matters with the Planning Board or their Attorney.

R. Morgenstern stated that Mr. Kantowitz is not agreeing with his comment on item #10 which states that the Zoning Ordinance would be effective for 30 years and could not be changed. Mr. Morgenstern stated his opinion that this is too long to bind the township ordinances. Mr. Kantowitz and his client also would not agree to change the language stating that the Zoning Ordinance would be binding on the Township. Also #6 is not agreed to, which is the set-aside for Affordable Housing. Mr. Morgenstern stated that Planner Fred Heyer stated that 20% should be the set-aside and Mr. Kantowitz wants a 15% set aside. Mr. Kantowitz also wants the Zoning Ordinance which he attached to the Agreement to be included in the settlement.

Mr. Morgenstern stated that Fair Share Housing gave him an Agreement at 4:45 P.M. on this date and he believes it is favorable to both the Township and the Developers involved in the Affordable Housing Lawsuit. He stated his opinion that this matter should be settled because the township and the developers will lose the 30% reduction in the calculation of affordable units if an agreement is not reached with Fair Share Housing by November 23, 2016.

Mr. Kantowitz stated that the length of time that the Zoning Ordinance is in place is going to be an issue. He stated that 30 years is appropriate and 10 years is not long enough. He argued the rational for a 20% set-aside for rental units verses a 15% set aside. He said that the Zoning Ordinances are going to be an issue because he said his client would not agree to something if he doesn't know what his rights are relative to Zoning requirements.

Mayor P. Yetter stated that it must be agreeable to both parties and the Township has not had the time to review these Zoning Amendments with the Planning Board. He suggested a basic agreement with additional time to work these issues out.

Mr. Kantowitz stated that Fair Share will give the township until Monday November 28, 2016.

Mayor Yetter stated that it is impossible to make that happen over a Holiday Weekend.

Deputy Mayor T. Dooley stated that there has to be a level of trust. He stated that he understands why Mr. Kantowitz would develop an agreement to benefit his client, and although he understands that, he believes that the Agreement is being jammed down the Township Committee's throat at this juncture. T. Dooley stated that after meeting with his client over the past two weeks, the sub-committee agreed that the developers would get the Zoning that they want with the agreed number of affordable units. He stated that asking the Township to commit to all of the Zone changes without proper review is showing a lack of trust towards the township.

Mr. Steve Martin stated that he thought that many of these issues were discussed and agreed upon at the prior meetings.

Mayor P. Yetter stated that getting everyone together before Monday, November 28th is impossible with everyone's schedules.

Mr. Morgenstern stated that the 30% penalty that will be imposed by Fair Share Housing would adversely affect the Martins as well as the Township because the Martins will have to increase their obligation of affordable units. He stated that the Fair Share Agreement that he received today is very favorable and it is in everyone's best interest to come to an agreement. He stated that the Martins wanted a mixed use overlay zone and that is what the Township proposed. He said his client has all the Zoning Uses that he is seeking. He said that insisting on the absolute standards is unreasonable in the timeframe allowed.

Township Administrator E. Klose stated that it is important to note that all of these Zoning changing are tied into the Affordable Housing issue but that the zoning is something the Martins would like to accomplish for their own future expansion of their commercial property and its development. She stated that throughout this process the Township Committee has not disregarded the need to meet with the Martins in order to hash out the details, it has been a fluid situation with numbers changing on a monthly basis since the beginning of Fair Share's demands on municipalities regarding their housing obligations. She went on to say that the Township Committee is being squeezed at this meeting to commit to absolute details without regard for their need to review what it means for the future development of the township. She stated that she has worked with them for twenty-eight years and respects them as very trustworthy individuals and has never seen them behave differently.

Deputy Mayor T. Dooley stated that he can be trusted at his word and believes that of the rest of the Committee as well. He stated that in light of the fact that the Martins are receiving the zoning uses that they are seeking, an agreement should be reached as a matter of trust.

R. Morgenstern stated that an agreement should be reached.

Mr. Kantowitz stated his reasoning for asking for a thirty-year commitment on the Zoning. He stated that being firm on this matter is in the best interest of his client.

Deputy Mayor T. Dooley stated that he could not agree to the Ordinance as written until the Planning Board has an opportunity to review it along with the Township's professionals. He asked, "If your client will receive the uses that he needs to provide the affordable housing required on his property, would he be willing to reach an agreement with the understanding that the zoning standards would be worked out at a later time?"

Mr. Kantowitz stated that he would have to check with a Planner to see if this is in his client's best interest.

R. Morgenstern stated that there is a conflict between the Zoning Ordinance and the Agreement related to the percent of set-aside as outlined by the township's Planner Fred Heyer.

Township Administrator E. Klose stated that the Township Committee is simply asking Mr. Martin to commit to the Fair Sharing Housing Agreement received on this date the same way Pio Costa Enterprises who is receiving 107 Affordable Units has committed to do. Mr. Pio Costa's Attorney gave a verbal commitment to Mr. Morgenstern to settle in accordance with the Fair Share Agreement and seems comfortable with working out the details of the zoning with the Township at a later time.

Mr. Morgenstern stated that the Township Committee has been consistent throughout this process. He suggested that Mr. Martin agree in principle so that both parties can accept the Fair Share Housing Agreement presented at this meeting, which is very favorable to the Developers and to the Township, with one-hundred percent of the units being subject to a durational adjustment, and to agree to negotiate the zoning. He stated that Mr. Martin is getting everything he wants in the agreement and that only the standards are left to be discussed.

Mr. Kantowitz stated that he has to hold firm on the thirty-year commitment of the zoning.

Committeeman Keith Gourlay stated that the State of New Jersey frequently changes regulations and for him to try to look into a crystal ball for the future would be irresponsible. He stated that he is not comfortable putting the responsibility of a thirty-year commitment on other people who might be sitting in his seat at some time in the future.

R. Morgenstern made a suggestion stating that the parties could consider agreeing to a fifteen-year commitment to the zoning and it could be reviewed after that time with the proviso of keeping with the "spirit" of the Agreement.

Committeeman D. Hansen stated his opinion that the Township should stay with a ten-year agreement in accordance with the expiration of the Affordable Housing Third Round expiration of FY 2025.

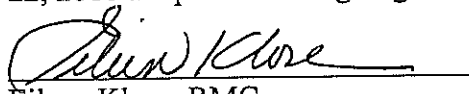
Committeeman Scott MacKenzie said that he is in agreement with Committeeman K. Gourlay and Deputy Mayor T. Dooley regarding a thirty-year commitment. He stated that the Township wants the Martins to be successful and there needs to be some trust regarding this matter.

EXECUTIVE SESSION - To Discuss Pending Litigation

A MOTION was made by Committeeman D. Hansen and seconded by Committeeman T. Dooley, with all members present in favor, to approve the following Resolution.

**HAMPTON TOWNSHIP COMMITTEE
RESOLUTION FOR EXECUTIVE SESSION**

BE IT RESOLVED BY THE HAMPTON TOWNSHIP COMMITTEE to go into Executive Session pursuant to the following exception of the Open Public Meetings Act: N.J.S.A. 10:14-12 for the purpose of discussing pending litigation matters at 7:13 P.M. The matters discussed in Executive Session may be made public at the appropriate time. I hereby certify that the Hampton Township Committee at its meeting on November 22, 2016 adopted the foregoing Resolution.


Eileen Klose, RMC
Township Administrator

A MOTION was made by Committeeman S. MacKenzie and seconded by Deputy Mayor T. Dooley, with all members in favor, to go back in to regular session at 7:27 P.M.

R. Morgenstern stated that the Township Committee discussed the duration of the Zoning and are willing to extend the zoning to fifteen years with the possibility of an extension at that time. He stated that the Planning Board has to have the opportunity to review and approve the Zoning Ordinance. He stated that the permitted uses are guaranteed, but the standards are not.

Mr. Kantowitz stated that he wouldn't advise his client to agree to the fifteen years until they speak with their Planner, Mr. Bernard. He stated that he would want language that would state that if an agreement can't be reached with 30-45 days, then the thirty-percent discount would be eliminated.

Township Administrator E. Klose asked why that would be part of the language.

Mr. Kantowitz bluntly stated that if it's not part of that agreement, the township has no incentive to negotiate with his client.

Mr. Morgenstern stated that his client would be hurt worse without that thirty percent discount because Mr. Martin would then have to provide more affordable units.

Mr. Kantowitz stated that although that's a risk, he would argue for a larger number of units for the township and make arguments for other properties in the township that would be suitable for those units.

Mr. Morgenstern stated that the Township has the right to zone their property and the other sizeable properties have no water or sewer capacity. He stated his opinion that the chances of Mr. Kantowitz winning this argument is a slim possibility and that he would most likely lose.

ADJOURNMENT

A MOTION was made by Committeeman S. MacKenzie and seconded by Committeeman D. Hansen, with all members in favor to adjourn the meeting at 7:53 P.M.

Respectfully submitted,



Eileen Klose, RMC
Hampton Township Administrator