

TOWNSHIP OF WASHINGTON  
BERGEN COUNTY, NEW JERSEY

REGULAR MEETING MINUTES  
February 27, 2017

The Regular Meeting of the Township Council of the Township of Washington was held at 7:30 p.m. in the Council Meeting Room of the Municipal Complex, 350 Pascack Road, Township of Washington, New Jersey.

Council President Robert Bruno called the meeting at 7:32 p.m. by reading the following statement

OPEN PUBLIC MEETING STATEMENT

The regularly scheduled Public Meeting of February 27, 2017 of the Township of Washington Township Council. Adequate notice of the meeting was given in accordance with the Open Public Meetings Act by the Township Clerk to at least two (2) newspapers in January and this notice has been posted on the Township Bulletin Board and on the Township Web Site.

Please notify the Municipal Clerk for any disability requirements necessary for attendance at Mayor and Council meetings. The fire exits are located through the double doors to your right and through the door on your left. Please silence all cell phones

ROLL CALL

Council Members Peter Calamari, Steve Cascio, Thomas Sears, Michael Ullman and Council President Robert Bruno. Also present: Janet Sobkowicz, Mayor; Ken Poller, Attorney; Mary Anne Groh, Administrator and Susan Witkowski, Township Clerk.

APPROVAL OF MINUTES

A motion was made by Councilman Cascio, seconded by Councilman Sears to approve the following minutes:

November 28, 2016 Public & Conference Meeting  
December 5, 2016 Public & Conference Meeting  
February 6, 2017 Closed Session

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.  
Nays: None.

Council President Bruno—Council President Bruno stated the November minutes indicated a Committee for Memorial Field was to be formed, and in the December 5<sup>th</sup> minutes, there was a discussion of Captain Hackbarth coming in to do a presentation, to date both items have not been done. These issues are several months old and Council President Bruno would like to have them move forward. Mayor Sobkowicz needs a list from Council President Bruno of the items he would like Captain Hackbarth to cover. Memorial Field Committee has been formed, people have been notified but there has been no meeting.

GENERAL PUBLIC DISCUSSION

A motion was made by Councilman Cascio, seconded by Councilman Sears to open the general public discussion.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.  
Nays: None.

Council President Bruno – Council President Bruno stated there will be a General Public Discussion, and there will also be time set aside for an Affordable Housing Discussion/COAH.

George Toole, 452 Prospect Avenue – Mr. Toole would like to know what has occurred since the last meeting regarding the sewerage back-up at Prospect Avenue. Mayor Sobkowicz stated the Administrator and herself met with the engineer last week, and all the original plans were reviewed. The engineer did make a few immediate observations looking at the plan and will be putting a report together. A sewer camera will be used on the entire line since it does affect other areas. Old Ordinances were reviewed and there is funding in those old ordinances to take care of the issue as well as to put money in the new budget so we are prepared to handle whatever the camera finds along with other issues. The engineer's written report will be given sometime this week, along with the camera and a manhole will also be opened up. She will touch base with Mr. Toole and Mr. Napoli as soon as she receives the report.

Tony Napoli, 447 Prospect Avenue – Mr. Napoli thanked the Mayor for her phone call and the maintenance reports from 4/2010 through current. The reports indicated that out of 83 months, maintenance was done for 17 months. He feels these reports should be done monthly and there should be more details noted on the reports. Reports and timelines will be shared with the residents of the area. Mr. Napoli asked if a document exists that would show where his sewer line feeds into the line that is at the end of his cul-de-sac. Administrator Groh stated she believes that is part of the sewer map and Mr. Statile does have that. They are public records and can be made available to the homeowners in that area to know the routes. Mr. Toole stated his whole basement is still a mess, and he doesn't want to start construction until repairs are made.

Anthony Conti, 490 Ridgewood Boulevard North – Mr. Conti stated at the last meeting the Swim Club President offered the Swim Club property as a location to put a 30 foot salt shed, which would be located behind his home. He would like to know if the Board is seriously considering this option. Council President Bruno stated the discussion is still open, but he has not looked at exactly where it would be located. He stated no decision has been made. Mr. Conti stated at one time the Health Department issued warning to the Swim Club since they were using the location as an illegal transfer station and he did ask for various utilities to get involved. He doesn't know if the ground/soil was ever tested, and would ask that be done if a salt shed is going to be put there. He would like to know if the Township is to rent the location, if a 1099 will be given, since the location will now be a rental property. He currently is not a member of the Swim Club, but is a bond holder. He stated he has spoken to many neighbors and he is here to find out if this has been discussed and is considering. As a bond holder, and not having been notified of the offer, he would like to rescind the President's offer. He spoke of the homeowners that would be affected with regard to parking for five months, and also the impact for those going to Gardner Field. He stated if the Board chooses to move forward with this, he would like to see the soil tested by the DEP, EPA, Parkway Commission, SUEZ Water and anything else that has been on that property. He does have photos of when, as stated by the Township, the property was being used as an illegal transfer station, since there were several dumpsters and garbage was being moved from one dumpster to another.

Kurt Ahrens, 713 Tulane Court – Mr. Ahrens asked if anything is going on with the JCC property. Mayor Sobkowicz stated there is a new leasing agent/real estate agent, Cushman & Wakefield. She is meeting with them tomorrow at 4:30 p.m. Councilman Cascio and herself did meet with a prospective buyer last week, and she will meet with anyone who is interested in the property. Mr. Ahrens asked if the property has potential for a public auction. Mayor Sobkowicz replied not an auction, someone would have to come in and make an offer to them. The property is currently assessed at 17 million dollars and the sale price she believes is considerably less. Mr. Poller stated the Township doesn't have authority to control the sale. The owner of the property would come and propose something in general terms but then they would have to go

before the Planning or Zoning Board. The Council is not here to say yay or nay on any particular use. A developer would find out what people are interested in. Mr. Poller is not aware of any transaction.

Stephen Tekirian, 273 Colonial Boulevard – Mr. Tekirian stated he would like to speak about the parking by the high school students in his neighborhood. He counted twenty five (25) cars parked on Colonial Boulevard. He stated last year it was a small issue, but at this time it is a larger issue. He spoke of the hazards with vehicles trying to pass, children playing, a quality of life issue along with being a nuisance. Colonial Boulevard is a residential street, and not a parking lot for the students. Mayor Sobkowicz spoke of the situation last year on Beech Street, and it was limited to 2 hour parking. The Police Chief did conduct a study, which was given to Council, and the average number of vehicles ranged from 20 to 29 vehicles every day. Summons have been issued and Council will discuss if they are willing to do what was done last year. It is a public street and parking is allowed there as long as there is not a sign. The Police Chief has made several recommendations, including signs and the high school building lots for students to park. Mayor Sobkowicz explained the Ordinance that is in place controls parking for various streets, and this street can be added if Council wishes. Once down, signs can be purchased and marked appropriately. Mr. Tekirian spoke of students parking in the area, then getting picked up by friends because they don't want to walk, which adds to the traffic.

Daniel D'Agostino, 71 Salem Road & Nick Donato, 67 Salem Road – Mr. D'Agostino stated they are separate homeowners building two homes on Salem Road. He stated he is looking to get a Road Opening Permit and has been told by the Engineering Department that a permit cannot be permitted until April 2<sup>nd</sup>. He has written a letter to Council requesting that road opening. He is a licensed architect in the State of New Jersey. The reason roads are not opened between November and April is due to the freeze and thaw cycle of the road, and also when asphalt companies are closed. They are both asking special permission to open up the road. He stated there have been numerous delays and he cannot afford another one. Council President Bruno stated Council did receive a letter from the Township Engineer, Mr. Statile, and he has many comments and stipulations that we are just seeing now. He feels Council needs to go through it to understand exactly what it means. The utility company did perform an opening. A conversation followed on the various fees paid. Mr. D'Agostino stated he would like to understand the timeline. Mayor Sobkowicz replied Council would have to waive it. Mr. D'Agostino was advised to follow-up with Mrs. Witkowski or Council President Bruno via email.

Julianne Lipnick, 184 Finnerty Place – Ms. Lipnick stated she has sent the Mayor and Council a detailed letter asking for a reprieve on the interest to her taxes from November. She stated herself and Councilman Calamari did have a detailed conversation on this subject since he was concerned this would set a precedent. She would like to know if Council had come to any decision. She did ask the Finance Clerk to provide what the bank sent her to see what the error was, and the Finance Clerk stated she didn't know what to send her. For seven (7) weeks her account indicated that the amount was paid. She stated she would know within four (4) days if there are insufficient funds. Mayor Sobkowicz stated it is a bad precedent to waive interest if a payment is late. Ms. Finnerty stated the payment was not late, it was an online payment and it continued to state paid. She received a letter December 23<sup>rd</sup> from November 10<sup>th</sup> for insufficient funds, funds were available. She stated if there was a digit error, notification would occur within four business days. Mr. Poller stated Council does have the authority to waive interest, and it is within the prerogative of Council to do so. A resolution would need to be drafted. Council President Bruno stated many things were taken off the agenda due to affordable housing, we will have it back on at the next meeting. Mayor Sobkowicz asked if interest is accruing now. Ms. Finnerty replied yes it is, she

also received a bill last week. She stated if she made an error, she would give five days, but beyond that it doesn't take seven weeks for a municipality to notify of a problem with a payment. Council President Bruno stated if there are any documents, please provide them for the next meeting and it will be put on the agenda. Councilman Calamari stated there was mistake on Ms. Finnerty's place and not to send a precedent, the Township can charge \$10.00 of interest and have that resolution done at the next meeting. Mayor Sobkowicz stated then it can be cancelled out. Ms. Finnerty replied that is fair, she will forward the check to the Finance Clerk.

Ray Bernroth, 838 Crest Place – Mr. Bernroth stated he hasn't been here quite a while due to health problems and he is glad to see the place is full.

Toni Plantamura, 808 Robinwood Court – Ms. Plantamura asked if Councilman Calamari reached out to the high school regarding the turf issue. Councilman Calamari replied since the last meeting he has sent two emails, left a voice mail and has not heard anything. He will be paying an in person visit this week. She asked who is on the Memorial Field Committee. Mayor Sobkowicz we do have people on the Committee, but we have not had a meeting. Ms. Plantamura asked will Police Officers be stationed at Washington Avenue to issue summons for motorists that go over the double yellow line. Mayor Sobkowicz stated she spoke with the Chief and he will be reaching out to the County to help us out. Ms. Plantamura would like to see some activity on this issue. She spoke of the various articles she has read about traffic conditions at Exit 168, Montvale widening roads due to the Wegmen's, which will be 140,000 square feet along with a 28 acre retail complex and the amount of development that is going on just north of us. She stated according to the Mayor Ghassali, the Mayor of Montvale, the borough wants to construct a new northbound ramp from the Garden State Parkway from Summit Avenue. He stated that the ramp would alleviate traffic in his town and benefit the town. She spoke of the inconvenience in the Township with regard to traffic. She also spoke of the large complex going up in Park Ridge, which would include 450 affordable housing units for the gap period that existed between 1999 and 2015. She spoke of the diminishing quality of life in New Jersey and COAH being collectively argued years ago. Councilman Ullman asked if the issue of the vehicles crossing the double yellow line in the area of Washington Avenue be made a priority since it has been discussed multiple times. Mayor Sobkowicz stated this subject will be on the list for Captain Hackbarth to discuss. Councilman Ullman stated he would like some data on what an officer witnessed. Councilman Sears stated we have had multiple complaints year after year, this needs to be a priority for the life and safety of this community. Council President Bruno stated there are multiple cars going over the line, and driving onto oncoming traffic. He will send an email to Captain Hackbarth, and call also. Councilman Cascio stated this is occurring due to the intersection being inadequate. He stated the intersection needs to be a priority, and instead of putting aside money for ten (10) roads that money should be put towards the intersection.

Mary Ann Ozment, 960 Adams Place – Mrs. Ozment asked why there was salt mixture on her street, since the temperature was 60's. Administrator Groh replied she will look into. She asked if the COAH discussion is mandatory. Mr. Poller replied no, it is not mandatory. What is being done tonight is basically a presentation to the public to advise them where things are in terms of COAH and there will also be a question and answer period. Mrs. Ozment asked when is the calendar coming out since three weeks ago we were told it was at the printers. Mayor Sobkowicz stated she has proofed another one, she doesn't know the exact date it is coming out but it is at the printers. Mrs. Ozment would like to know who is on the Memorial Field Committee. Mayor Sobkowicz stated she does have a list. Mrs. Ozment asked will those meeting be public. Mr. Poller replied it is not a board or agency that will be covered by OPMA. He will have to find out who is on the committee, investigatory committees are

generally not handled as open public meetings. Administrator Groh stated she would like to follow-up on Mrs. Lipnick's inquiry earlier. She did send an email on January 4<sup>th</sup> with a document attached, which she has now circulated to Council.

Vincent Santaite, 570 Pascack Road – Mr. Santaite asked if there is any monies in the budget put aside for handicap ramps on Pascack Road or if the County will be doing anything. Mayor Sobkowicz stated we do have a grant for ramps, but she is not sure of the location. Administrator Groh stated we have received a grant, which is a non-matching grant from the CBDG for \$40,000.00, and the plan was to do Ridgewood Boulevard North, and there is extra money along with extra money increased with improving the curbs and the sidewalks at Pascack Road in front of Memorial Field. She will bring it to the attention of the engineer. Councilman Cascio stated this was brought up a few years ago and the County is responsible to perform that work. Some of the ramps red matting was not installed correctly so they will have to redo some of those. Almost every corner of Pascack doesn't have the handicap accessible configuration. Administrator Groh stated there was a proposed agreement from the County to all the municipalities to agree to do certain things if a County road is paved, one of which is to have handicap ramps. There are a group of administrators who are in talks with the County to make the contract more clear who is responsible for what.

A motion was made by Councilman Cascio, seconded by Councilman Ullman to close the general public discussion.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

#### INDIVIDUAL RESOLUTIONS

No. 17-141 Budget Transfer – A summary was prepared by Mr. Poller months ago, and given to Council which shows the total number which was spent in this line item, \$102,000, \$79,000 was budgeted. The total hours were inserted and there are four categories. Administrator Groh stated those have all been paid, the budget originally was \$79,000 and in 2016 a transfer of \$102,000 was approved, therefore all of the bills have been paid. On the next page, \$14,996.78 is in addition to the \$102,000, they are bills for services rendered through the end of the year that have not been covered by the \$102,000. Council President Bruno stated that T&M has gone way over budget in terms of what Council thought was originally going to be spent. Mr. Poller stated there is no way to budget exactly what the cost of litigation will be, particularly what parties and procedures are going to be involved. He stated projecting the budget for legal work is different since there are many unknowns. This is not a regular normal litigation since there are many other people involved in the lawsuit, such as the Township Planner, Court Master, intervenors and many others. Mr. Poller stated he has done this many years, and the Township has had litigation, sometimes you try to anticipate what it is going to be and sometimes the Township gets sued and the proceedings are more involved and you cannot calculate exactly what it is going to be. He did say to make it \$100,000, and he was a lot closer. In his opinion the \$79,000 is irrelevant, since he feels it should not have ever been a real number. He spoke of this litigation being complex, and there being at least three hundred (300) municipalities involved. There was an outside counsel for an appeal that was taken, which was unexpected, amounted about \$5,000, and it was handled. He spoke of his number of \$100,000 not being that far off, and he feels it is time to pay the bills and stop focusing on the \$79,000 number. Council President Bruno stated he is focusing on a line item that was poorly budgeted. Mr. Poller stated he disagrees, it was not poorly budgeted. Council President Bruno stated he is hoping that the next year's budget, Mr. Poller goes through it with a fine tooth comb, approves whatever is submitted and is it itemized so Council understands what 2017 looks like. Mr. Poller stated someone asks him what

he thinks the budget should be, he gives the anticipated number of what he can anticipate to the administration and that is the last involvement he has with that number. The Mayor, Administrator and other financial persons work on the budget, then Council works on the budget. Mr. Poller stated he gave the original number of \$100,000 last year. Council President Bruno stated last year, the number that was budgeted was \$70,000, the Mayor recommended \$79,000, and that is what Council went with. Three meetings later, Administrator Groh came back with a new number at \$100,000, but the Mayor kept the recommendation of \$79,000. Council President Bruno asked if the \$70,000 number that was recommended last year, was given by Mr. Poller. Mr. Poller replied no, people look at the budget and if a budget number may be too high, they may lower the number in good faith and look at last year's expenditures. Mr. Poller gave a number of what the budget should this year, he hopes it will cover the anticipated items and he is also hopes the number that he gave is left in the budget. The \$14,996.78 is the final 2016 number since the Township has already started incurring 2017. Councilman Ullman stated Hawkins did work in February of last year and submitted an invoice seven months later. Administrator Groh stated they waited to bill until they did the BAN sale. She stated it was non-related to Capital, all the other costs that they billed us for related to Capital and charged to the Capital Line, this had to do with retirement of assets and things of that nature.

A motion was made by Councilman Ullman, seconded by Councilman Calamari to approve Resolution No. 17-141, Budget Transfer.

Ayes: Councilmen Calamari, Sears, Ullman, Bruno.

Nays: Councilmen Cascio.

Resolution No. 17-141: Budget Transfer

WHEREAS N.J.S.A 40A:4-58 provides that if it should become necessary during the last two (2) months of the fiscal year, to expend for any of the purposes specified in the budget an amount in excess of the sums appropriated therefor and there shall be an excess in an appropriation over and above the amount deemed to be necessary to fulfill another purpose, the governing body may by resolution adopted by not less than 2/3 votes of the full membership thereof, transfer the amount of such excess to those appropriations deemed to be insufficient;

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Washington that the Deputy Treasurer be and is hereby authorized to make the following transfers in the 2016 Budget Appropriations:

<u>Account</u>	<u>From</u>	<u>To</u>
Law - Tax Appeals Appraisers	\$10,000.00	
Resurfacing Memorial Field	4,996.78	
Law - O/E Prof Services		\$14,996.78

CONSENT AGENDA

The following resolutions were part of the Consent Agenda and were made available to the Governing Body and the Public prior to the meeting.

Administrator Groh, as per Councilman's Ullman request explained Resolution No. 17-150. During the project there was milling work that was done at Ridgewood Boulevard East, the street that goes into the Swim Club. The milling company did some damage to the sewer clean out and the Township had to pay some monies for that and that amount was deducted. This resolution is officially allowing us to deduct this; in addition to a few minor adjustments. Councilman Cascio asked with regard to Resolution No. 17-149, the shared services, are the residents still being charged \$10.00. Mayor Sobkowitz replied yes. Councilman Cascio hopes that the Township has enough money to cover the shared services there. He stated we are lucky enough to have our sister city as a community center, and many kids do not

realize it is available. He stated many parents do not think about their kids going to the center on a Friday night in September, and he hoping he we can revise that Ordinance to include any Township of Washington resident with the Township funding that for our children. Mayor Sobkowicz stated we cannot waive it, it is in the ordinance. Councilman Cascio stated we can go back and change it any time. Mayor Sobkowicz stated every program has a fee attached to it. With this program for \$10.00 they get to go every Friday night, except if it happens to be closed. The Township did pay for a special function the other night, and also pay the salary of the person that goes there every Friday night to watch them. There are expenses for the program, and it is worth it to be able to send your child there. This does help with accountability and liability issues. The children sign in and the Mayor does ask for those sheets periodically. This will be visited during the budget process.

The Consent Agenda was presented and adopted on a motion by Councilman Sears, seconded by Councilman Cascio.

Ayes: Councilmen Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

#### Resolution No. 17-142: Waste Water Collection System Operator

WHEREAS, N.J.A.C. 7:10A-1 et seq. requires that the owner of a Waste Water Collection System be licensed by the New Jersey Department of Environmental Protection ("NJDEP") and that the system be operated by a NJDEP-licensed operator; and

WHEREAS, the Township is the owner of a NJDEP-licensed Waste Water Collection System; and

WHEREAS, Keith Durie is an NJDEP-licensed operator and is willing to serve as the Township's NJDEP-licensed operator for an annual amount of \$2,500 from March 1, 2017 through December 31, 2017; and

WHEREAS, the Chief Financial Officer has certified that funds are available in the Temporary Budget in the line item for DMF Other Expenses for the prorated amount of \$2,083.33.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Washington hereby awards a professional service contract to Keith Durie as the NJDEP-licensed operator of record of the Township's Waste Water Collection System without competitive bidding as a professional service under the provisions of the Local Public Contracts Law for the year 2017, effective March 1, 2017 at an annual compensation of \$2,500.00 to be paid semi-annually on June 30, 2017 and December 31, 2017, and that said Licensed Municipal Waste Water Collection System Operator is hereby obligated to serve a copy of all reports on the Township Department of Municipal Facilities and the Township Clerk.

#### Resolution No. 17-143: Authorization Refund of Escrow Balance, Block 449 Lot 5, 331 Beech Street

WHEREAS, Thomas Orlando posted escrow monies for engineering work done on premises known as Block 4409 Lot 5, 331 Beech Street; and

WHEREAS, the project falls within the guideline where neither a Certificate of Occupancy nor a Certificate of Acceptance is needed; and

WHEREAS, outstanding invoices due the Township Engineer as per his letter dated December 5, 2016 have been satisfied; and

NOW, THEREFORE, BE IT RESOLVED, that the Township Treasurer of the Township of Washington is authorized to refund the balance of the escrow money in the amount of \$412.00 to the above.

Resolution No. 17-144: Authorization Refund of Escrow Balance, Block 4215 Lot 11, 540 Mountain Avenue

WHEREAS, James & Mary Kurpiel posted escrow monies for engineering work done on premises known as Block 4215 Lot 11, 540 Mountain Avenue; and

WHEREAS, the project falls within the guideline where neither a Certificate of Occupancy nor a Certificate of Acceptance is needed; and

WHEREAS, outstanding invoices due the Township Engineer as per his letter dated December 5, 2016 have been satisfied; and

NOW, THEREFORE, BE IT RESOLVED, that the Township Treasurer of the Township of Washington is authorized to refund the balance of the escrow money in the amount of \$559.00 the above.

Resolution No. 17-145: Authorization Refund of Escrow Balance, Block 2501 Lot 4.04, 37 Julia Court

WHEREAS, Denise Huacuz posted escrow monies for engineering & soil movement and posted a \$6000.00 Performance Bond for work on premises known as Block 2501 Lot 4.04, 37 Julia Court; and

WHEREAS, the Construction Code Official has issued approval dated September 6, 2016, C.O. No.15-334 and C.O. No. 15-334+A; and

WHEREAS, outstanding invoices due the Township Engineer as per his letter dated August 4, 2016 have been satisfied; and

NOW, THEREFORE, BE IT RESOLVED, that the Township Treasurer of the Township of Washington is authorized to refund the balance of the escrow money and the Performance Bond in the amount of \$8,409.66 to the above.

Resolution No. 17-146: Authorization Refund of Escrow Balance, Block 4211 Lot 2, 37 546 Calvin Way

WHEREAS, Eric & Dana Arosemowicz posted escrow monies for engineering work done on premises known as Block 4211 Lot 2, 546 Calvin Street; and

WHEREAS, the project falls within the guideline where neither a Certificate of Occupancy nor a Certificate of Acceptance is needed; and

WHEREAS, outstanding invoices due the Township Engineer as per his letter dated September 29, 2016 have been satisfied; and

NOW, THEREFORE, BE IT RESOLVED, that the Township Treasurer of the Township of Washington is authorized to refund the balance of the escrow money in the amount of \$510.00 to the above.

Resolution No. 17-147: Authorization Overpayment of taxes, Block 2408, Lot 1, 33 Reagan Way

WHEREAS, an overpayment for the 1st Quarter 2017 property taxes was received from two parties, Wells Fargo and Donald F. & Barbara M. DeRosa, occupants of Block 2408, Lot 1, Qualifier C633B, 33 Reagan Way, and;

WHEREAS, under the N.J.S.A. 54:3-27.2, tax overpayments shall be refunded to the payer, and;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Washington, New Jersey, that the Tax Collector be authorized to issue a refund to:

Wells Fargo Home Mortgage  
Attn: Financial Support  
1 Home Campus  
MAC X2303-04D  
Des Moines, IA 50328

Amount of Refund: \$2293.00

Resolution No. 17-148: Authorization motion of consent Chief Financial Officer

BE IT RESOLVED by the Township Council of the Township of Washington, County of Bergen, New Jersey that the Mayor, having advanced for appointment as the temporary Chief Financial Officer of the Township of Washington, and the Township Council having consented thereto, Denise Marabello is hereby appointed the Chief Financial Officer of the Township of Washington on a part-time basis for a term expiring March 31, 2017.

Resolution No. 17-149: Authorize Mayor to enter into shared Service/Interlocal Agreement with Borough of Westwood for Teen Night Program

BE IT RESOLVED by the Township Council of the Township of Washington, County of Bergen, State of New Jersey that the Council hereby authorizes the Mayor to execute the attached Shared Services Agreement referable to the Teen Center.

Resolution No. 17-150: Authorize Decrease Change Order No. 3, D&L Paving Contractor for 2016 Road Improvement

WHEREAS by Resolution dated June 13, 2016, the Township Council accepted the base bid of \$634,117.29 by D&L Paving Contractors, Inc. and authorized the Mayor to execute a contract for the 2016 Road Improvement Program; and

WHEREAS by Resolution dated August 15, 2016, the Township Council approved Change Order No. 1 in the amount of \$93,786.14 in order to undertake certain work beyond the base bid; and

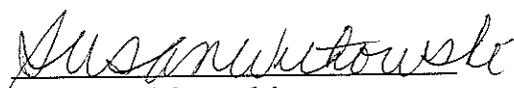
WHEREAS by Resolution dated January 23, 2017, the Township Council approved Change Order No. 2 in the amount of \$4,394.29; and

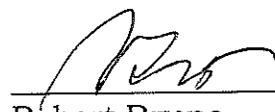
WHEREAS a further Change Order is necessary to reduce the contract to account for certain charges incurred by the Township in connection with the Contract and for a final adjustment of quantities in the amount of (\$4,851.45); and

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of Washington that the attached Change Order No. 3 is hereby approved; and

IT IS FURTHER RESOLVED that the Administrator and Town Engineer are hereby authorized to execute the attached Change Order on behalf of the Township of Washington.

Time Noted: 8:55 p.m.

  
Susan Witkowski  
Township Clerk

  
Robert Bruno  
Council President

Approved: May 22, 2017



TOWNSHIP OF WASHINGTON  
BERGEN COUNTY, NEW JERSEY

CONFERENCE MEETING MINUTES

February 27, 2017

Members present: Robert Bruno, Peter Calamari, Steve Cascio, Tom Sears, Michael Ullman. Also present: Janet Sobkowicz, Mayor; Mary Anne Groh, Administrator; Ken Poller, Attorney and Susan Witkowski, Township Clerk; Stanley C. Slachetka, T&M Associates, Township Planner.

Administration

Staffing – Administrator Groh has a number of people that she has flagged for interviews. Resumes are still coming in, and the administration is trying to budget appropriately for personnel. Ms. Morrone's trial period will be extended.

Council Minutes – Mayor Sobkowicz stated Cornelia can have four more hours this week.

PRESENTATION

Affordable Housing – Stanley C. Slachetka, T&M Associates, Township Planner

Attorney Poller stated this has been ongoing litigation on since July of 2015. The Affordable Housing issue is something that is presented and is in front of every single municipality in the State of New Jersey. No municipality is exempt and it covers all 567 municipalities. Attorney Poller gave an overview of Mount Laurel. He stated we will talk about how Washington Township has responded to Mount Laurel over the years, which brings us to where we are today, and also talk about where we are moving forward. He stated he will try and give an overview of the terms which are used, along with the Mount Laurel situation. Mr. Slachetka will speak about possible resolutions that we will be looking at. Mount Laurel started in the 1960's, when it was a rural community and being zoned. At that time the plan for the zoning took away a lot of the low-income housing that was in the town. A development was proposed for a garden apartment complex and denied, and the mayor was quoted as saying that anyone that could not afford to live here should leave town. The first Mount Laurel was started in 1975. The Supreme Court banned the idea of exclusionary zoning, that is where a town would zone a parcel large enough so upper income would live there and not build housing for low income families. The Supreme Court came out with a concept of every municipality having an obligation to provide affordable housing for the housing region, no numbers or specifics, just a general constitutional requirement. Then came the Builders Remedy which states if a builder comes to town and could show the Court that the town is not zoned for low income housing according to its constitutional obligation, that it should be able to build a project, much more dense than the zoning in the town, or that area, as long as they put a set aside for low income housing. Builders were ready and did come in and take parcels of land that were zoned for five or, six units per acre and then propose something for ten, fifteen or twenty units. The Zoning Ordinance would get thrown out and you are subject to this Builder's Remedy, the builder would get rewarded for coming into Court and building this much more dense project. In 1985 the legislature passed a Fair Housing Act and with that created the Council on Affordable Housing, which is COAH. The Supreme Court found that statute was constitutional and towns that had been in Court were now able to go before this COAH Board and give plans on how they would meet their affordable housing obligations. In 1986 COAH came out with their first round

of rules, and in 1994 they came out with their second round of rules. The rules would be how much a municipality might be required to provide in terms of affordable housing. In the third round COAH came out with regulations which were being challenged, and it was a back and forth situation for a long period of time. COAH didn't put out any rules that were enforceable from 1999 until 2015, which is called the "gap period." With the housing market in terms of affordability and requirements of municipalities in flux, towns took different approaches. Some towns tried to build affordable units, some tried to promote affordable zoning and some decided to ignore it. In March 2015, the Mount Laurel IV case came to the Supreme Court again. At that point in time Governor Christie was trying to outlaw COAH and do away with the whole concept. The Supreme Court basically said COAH is not working, these regulations are not working and the whole thing about affordability is not working in terms of getting low income housing built. The entire approach was revised and they basically said we are now going to have all of these cases decided by the Courts. They established vicinages, few counties in groups, and different judges were put in charge of the COAH applications. The Court tried not to punish those towns that in good faith were trying to comply with COAH. A short period of time was provided in which towns could file what is called "Declaratory Judgement Action." The "Declaratory Judgment" is saying to the Court that a town is trying to comply with COAH, but we need protection from the Court so that no builder comes in and makes us put something somewhere that we don't want to, let us submit a plan to you and if it is fair, the plan can be enacted and we can be protected against these lawsuits. From March of 2015 to July of 2015 many suits were started by municipalities and the big issue was how many units are to be assigned to each town for affordable housing, which then became a number situation. Township of Washington has been involved in two other Mount Laurel suits before this one, one was in 1998 there was a suit by Stonybrook Construction Corporation for a project on Ridgewood Road, and that suit ultimately resulted in Washington Grande being built. As a result of that lawsuit, the developer had to pay Township of Washington \$360,000 which would be used towards the township's affordable housing obligations going forward. There were no on-site affordable units built on that project. In March of 1999, there was another Mount Laurel lawsuit, started by an owner by the name of Viviano, which was a piece of property off of Van Emburgh Avenue. That was litigated, Mr. Slachetka from T&M Associates was the planner for the Township at the time. After litigating that issue for a while, there was a resolution that was entered into. It is important to understand because that is part of what the Township's compliance has been over the years. In that lawsuit, the developer was given permission to build 48 single family homes and 25 townhouses, no low income units in that development. Instead what was entered into was a plan in which the Township got credit for some group homes and for some things that were in the Township already. In addition, the Township was able, under the law at the time, to pay to another community monies for them to build low income units, those were called "RCA Regional Contribution Agreements." The money that was received from Stonybrook Construction was given to Bayonne, and Bayonne wound up building units and the Township received a "Judgement of Repose." A Judgement of Repose basically says the town has done enough for its affordable housing obligation and is now protected against Builders Remedies. Fast forward to the Supreme Court in 2015, the Township is now involved in its third Mount Laurel lawsuit, still with no low income housing in the Township. During this time the Township has moved forward with the VFW property, entered into an agreement with Habitat for Humanity for the building of four affordable units, two of them Seniors and two of them Veteran preferences. That was one of things the Township had done towards its affordable housing obligation, and as a result the Court did treat the Township as an "in compliance" so to speak municipality trying to comply with its Mount Laurel obligation. In the lawsuit, the Court appointed a Special Master. The Special Master is a planner who was selected by the Court who oversees the plan and development of the Township. Our Court appointed Special Court

Master is Mary Beth Lonergan, who worked at COAH, as did Mr. Slachetka. From July of 2015 until this Saturday, February 25<sup>th</sup>, we have been negotiating with the Fair Share Housing Center, which is the lead agency for affordable housing throughout the State, and with the Special Court Master to come up with a plan to resolve the Township's affordable housing obligations. The number of affordable housing units per municipality becomes the most important thing. There is recognition that communities which are fully developed might be treated or are treated differently than undeveloped communities, but just because a town is built up, it doesn't exempt you from having an affordable housing obligation. There are zoning techniques which are imposed on municipalities to encourage the building of low income housing. An interested party can intervene in the lawsuit that the Township brought by saying they have a piece of property that they want to develop and have ideas for affordable housing. In Washington Township there is a piece of property up off of Van Emburgh, north of Fillmore Drive, towards the Hillsdale border, which we will call Franklin Court. There have been negotiations with them about development on their site. The development of that site is a component of the negotiation with the Fair Share Housing Center, and the overall resolution of the Fair Share Housing and Declaratory Judgement Action. Basically, the idea is the Township is trying to meet its obligation, not in terms of putting housing where it should be put or getting hit with excessive numbers, but satisfying its obligation. To do that, the Township has to satisfy the Fair Share Housing Center, the Special Master, and a judge who will listen to what is being proposed and sign off whether it is fair or not under its obligations. The Council has been involved with this, as well as Mr. Slachetka.

Mr. Slachetka, the Township Planner, stated he will focus on the key aspects of the settlement agreement, basically the structure and components of the Township's plan. The Township has been engaged in this going back through the late 1990's into the early 2000's, when the Township's most recent plan, before this one, was approved by the Court. There are various rounds, COAH numbers and the Affordable Housing numbers that have been issued by COAH that establishes the obligations of municipalities. As part of this current round, it is the Courts that are determining these numbers. There is not a systematic determination of the numbers, there are sort of Ad-Hoc aspect to it, because each County, each vicinages, has its own individual judges that are reviewing these cases, so there is some level of variation between these various vicinages. There is also some variation due to the fact that a lot of these numbers are being settled due to negotiations with the Fair Share Housing Center. The Fair Share Housing Center is a non-profit organization, it is not a governmental agency or entity. They Center is a long time advocacy group for low and moderate income households throughout the State, and that is why they have been basically given a universal seat at the table by the Courts. All of these negotiated settlements are the negotiation between Fair Share Housing Center and the Municipality, along with other parties that sometimes get involved in the process. There are three pieces of the number puzzle, the first of which is what is called the Townships Rehabilitation Share or the Township's Rehabilitation Obligation, and that is an obligation to have an ongoing effort to rehabilitate existing dwelling units that are currently occupied by low and moderate households that may be below code or substandard. In Washington Township, that Rehabilitation Obligation is at zero that is determined by census data and demographics. The Township does not have a Rehabilitation Share or an obligation to have that program. The second piece of the obligation is called the Prior Round Obligation. We had a plan and settlement with the Courts back in the early 2000's to address that prior round obligation. That prior round obligation is identified as 85 new affordable housing units, which was established by COAH a long time ago, and it has been maintained through all of the various iterations of discussions of the numbers, that prior round, cycle one and cycle two number is 85. The third part of the obligation is what is called a Prospective Need, although that is somewhat of a misnomer, because it includes the obligation from 1995 moving

forward to 2025. There is a piece of it that relates to obligation which occurred the last point which COAH had issued out numbers and the present time, as well as the present time moving forward to 2025, collective that is called Prospective Need, which has been the number everyone has been arguing about. For the purposes of the Settlement Agreement, the Township does not accept a specific methodology or approach, the Fair Share Housing Center has presented their methodology and approach for calculating that number. There are advocacy groups for municipalities that have proposed other numbers, which is still being battled out in the Courts. To get to the point where we have a settlement with the Fair Share Housing Center, the Township agreed to a Third Round Prospective need of 267 affordable units, which in addition to the prior 85. For decades now the Township has been recognized as being a relatively built out municipality, essentially the Township has been built out substantially since probably the late 1950's into the mid 1960's. The Township is not considered a growing municipality. As part of that, both under COAH and what has been permitted under the Courts, is a recognition of the fact, that the Township has limited capacity to accept new development and if you have limited capacity to accept new development, then you have limited capacity to accept or to address an ongoing affordable housing obligation. The most recent plan that was approved by the Court in the early 2000's the Court recognized that, so while the obligation at that time was 85 new units, we were able to adjust that obligation downward, what is called a Vacant Land Adjustment, to get down to 24 units, that is called a Realistic Development Potential, along with that an unmet need of 61 units. The group homes provide towards the need, as well rental bonus credits up to a certain limit. The Regional Contribution Agreement also fully addressed those 24 units, there was a Vacant Land Adjustment, and there was a Development Fee Ordinance which at that time was the acceptable mechanism to address the unmet need and that was what was approved by the Courts. Moving forward into this new obligation and the Settlement Agreement, the Prospective Need is established at 267 units, the factors that led to the ability to take a Vacant Land Adjustment in the prior round still is in place now. As a result of that, we updated the Vacant Land Adjustment Analysis. We went out and looked at all potentially developable properties that are vacant, factored in environmental constraints, looked at some under-utilized properties within the Township and we recalculated the realistic development potential or the Township's number and proposed that number to be 11. Twenty-four was satisfied, that doesn't get reduced any further than it was in the prior round. Moving forward the Township's capacity to accept new affordable units was recalculated at eleven and that was proposed to the Court, Special Court Master and the Fair Share Housing Center. The Special Court Master came out for a site visit, looked at all the sites and had questions about certain sites, that she wanted to be satisfied could be excluded and we went to those sites. The Special Court Master affirmed through her analysis and her review that the vacant land adjustment was done correctly and we were able to reduce down that obligation. As part of the requirements for vacant land adjustment municipalities, the municipality has to look at ways to capture opportunities for affordable housing up and above the eleven units. The VFW site was credit worthy towards the obligation. That was something the Township did prospectively that is saying they knew that they had to address affordable housing even above and beyond where they were in the last round. In claiming vacant adjustments, mechanisms have to be put in to create opportunities for affordable housing. One of the ways that is recognized by the courts and COAH is overlay districts, meaning areas that might have a large commercial or industrial property, or some other type of underutilized property or property that was not a residential property, that if in fact provided the appropriate zoning, may potentially develop for a multi-family residential or mixed-use with multi-family component and then allow for a set-aside, or a portion of those to be affordable units. We did not propose that initially, but that was part of the analysis that the Special Court Master indicated that is to look at a few properties as potential overlay districts. One of them being the YMHA site,

because at that point in time it was available and the other was the Stone Mill Garden site. It is situated within a residential area and even though it is a nursery now, it does have the potential if it sold and then that being developed since it is sitting in a residential zone. Those are the two properties that the Special Court Master, Ms. Lonergan highlighted to us to propose an appropriate overlay. With the overlays, the underlying zoning is in place meaning if someone comes in and wants to use the YHMA site for something that is permitted and it is in a non-residential district, they are able to that. It is same thing with Stone Mill Gardens, they can continue to operate the nurse, but they can also come in and develop that site for a standard residential use that is permitted in a single family zone. With the overlay, we would be allowing them as an option on both sites, to do a multi-family residential development. The final piece of the ability to capture opportunities for affordable housing is that there would a mandatory requirement if the Zoning Board of Adjustment, the Planning Board or if the governing body rezoned an area to provide for multi-family residential development or if the zoning board granted a use variance, there would be a requirement that there would be set aside for affordable housing. At this time nothing is permitted or proposed in that regard, but if in fact that took place, there would be an approval by the zoning or planning board or governing body requiring this set aside. Fair Share Housing has agreed to come down on their proposed number, the Special Court Master reviewed all of these pieces and components, and stated she wanted the overlays as part of the Township's implementation, but did accept what was proposed in terms of density and set asides. At the same time, the Franklin Court property owners came and proposed a multi-family residential development and stated they were going to provide affordable housing. They did come in initially with a pretty outrageous development, which was close to the existing residential properties and high number. Through the negotiations, we were able to negotiate that downward and require certain design standards that would require them to move the development back, create buffers and make it more compatible and less obtrusive with the surrounding residential neighborhood. As part of that it restricted a pretty substantial amount of the current track which is steep slopes and wetlands areas for preservation purposes. They also had a portion of their site that was eligible for development of single family residential that is part of the overall approval, but they would have been able to do that anyway. It is now 44 units, 7 affordable units on-site, 3 low-income, 3 moderate and one very-low income, which is a very important component of the Township's obligation. They would also be making a monetary contribution to the Township for the purposes of creating affordable housing or at least providing incentives for affordable housing in other sections of the municipality. The idea was to make sure everything was compatible, and they have agreed to those components. There are two settlement agreements, one with the Fair Share Housing Center, which basically takes all the numbers and states the obligation, along with other information and regulatory requirements. There is also a second agreement which is a separate agreement, and actually the main part of the overall agreement, which is with the developers of Franklin Court. The plan that the Township had in place before was recognized in the same plan, moving forward the Township is still eligible for vacant land adjustment, which reduces down their immediate obligation, except that the Township has to put in place the mechanism to potentially capture the opportunities for affordable housing. There is control over the development and the form of development that is taking place in these overlay areas and as part of the settlement agreement for the property on Van Emburgh.

Attorney Poller stated it is important for people to understand that these numbers are a little bit staggering, but people should be aware when the various suits were started, there were about 230 plus municipalities that got together and formed a consortium. The purpose of the consortium was to fight against the numbers that were being advanced by the Fair Share Housing Center, whose numbers were high. They hired experts, people who testified and

were well trained in planning and calculations. They came up with a number for Township of Washington, 433 units. The Township, with the authorization of the Mayor and Council, joined the consortium and hired another expert, well recognized in the field to come up with a report with a more realistic number. That person did a report, unfortunately, he had a medical condition, he stepped aside and Econsult Solutions was hired. Econsult represented the consortium and their number was 172 units. Even at the best scenario, if everything was going the Township's way, you were still looking at 172 units, the ultimate number that was agreed upon is on the much lower side of what might be given in terms of going to Court and litigating this. There are many towns settling, as well as fighting and at this particular point no one knows what these numbers are going to be. There was a large dispute of this period from 1999 to 2015, the time period of the Third Round rules being due and the decision of the Supreme Court that was called the "Gap Period." Municipalities were arguing that nobody should be charged any units during that period of time because COAH didn't do its job and towns didn't know what they were supposed to be doing and therefore it is not right to impose that obligation on the Municipalities. The Appellate Division did agree with the Municipalities, however, it went to the Supreme Court and they reversed it. Every Municipality is being charged with an obligation to have provided or provide affordable housing, the time period being from 1999 prospectively to 2025. The unmet need and the overlays are not to satisfy the entire unmet need of the 317 units. Those units are not being provided at those two sites, and given the very limited development capacity within the Township of Washington as long as these opportunities created are reasonable, it would not be expected of the Township to fully address the entire unmet need.

#### COMMENTS

Kurt Ahrens, 713 Tulane Court – Mr. Tulane asked if the YMHA referred to is the same as the JCC property? Attorney Poller replied yes. Mr. Tulane stated he questioned this earlier and he feels it was glossed over and residents can be looking at something like this going on. Attorney Poller stated there is nothing on the table in terms of development, the answer is no. Mr. Tulane feels the overlay is contradicting what we are talking about. Attorney Poller stated at this time the Y is on the market, and there nothing on the table in terms of development. As part of the settlement, the Special Court Master identified certain parcels of land and required overlay zones, it doesn't mean there is going to be low-income housing or development on that basis at that site, the zone stays the same. Mr. Slachetka stated if the settlement is approved, plan is adopted, approved by the Courts the Township then adopts the zoning that would implement the plan, this is an overlay option, with the underlying zoning staying in place. If anyone wanted to continue to use the JCC the way it is at this time, they would be permitted to do so. If someone wanted to come in with a multi-family residential development, pursuant to whatever overlay zone is adopted, they would be permitted to do so. That overlay also would include design standard and requirements, including buffering, screening the type of development that would be compatible and not negatively impact the neighborhood. The settlement agreement does give the benefit of control. The settlement agreement gives the Township the opportunity to create the framework, the zoning framework that protects the neighborhood. Without a Settlement Agreement, if the Y came in and stated they wanted to build affordable housing, then the control is more in their court. The Settlement Agreement protects the Township. Once the Council approves the Settlement Agreement, a Fairness Hearing will be held by the Court to make a determination that the settlements are fair to the low-moderate income households in the region. The Township have a time frame to adopt a housing plan. The Planning Board will adopt a housing plan implementing the provisions of this, and it would be part of the Master Plan, and then to adopt zoning that would be put in place, including the overlay zone and zoning for the Franklin Court property. Once the zoning is in place, if a developer decided

to come in and develop under the option for affordable housing or multi-family residential housing, they would then be subject to the provisions of the zoning district, which will protect the Township. They will also be subject to a site-plan hearing before the Planning Board. There would be public hearings on the housing plan, ordinances and on the on-site plan application. The crafting of the ordinance is important to put in place the protections that are necessary. Mayor Sobkowicz stated that is why we make ourselves available to anyone who is interested in the Y, so we can answer any questions and we know what is going on. She stated there is no bigger supporter than herself when it comes to maintaining a residential neighborhood. She spoke of her problems with fair share housing and set-asides.

Councilman Ullman asked if someone wished to come in and develop the property would it all be low income housing. Mr. Slachetka replied no. Councilman Ullman stated it would be a potentially higher density development with a portion of the units set aside for our obligation. Mr. Slachetka replied that is correct, the vast majority of those units would be market rate, not low-moderate income.

Dominic Santaite, 706 Amherst Drive – Mr. Santaite asked what is the difference between affordable housing and low-income housing. Mr. Slachetka stated for the purposes of the Mount Laurel housing or the COAH housing, low-income housing, is not public housing, that would be categorized very low-income housing 30% or below of the median income. A moderate income household is earning typically between 50% to 80% of the median income within the region, a low-income household is earning 50% or below of the median income of the region and very low-income is 30%. There is an obligation that 13% of the units have to be very-low income. In this region the qualifying numbers are reasonable, and people have to qualify to be able to afford the low-income units. Mr. Santaite asked if there is a ratio of rentals versus purchasing. Mr. Slachetka replied if it is a rental project, 15% of the units would be required to be low to moderate income, usually it is divided up, 50% moderate and 50% low. A for sale project, 20% of the units would be required to be low to moderate income. Rental housing is encouraged since it tends to be more accessible or affordable to low/moderate households rather than a for sale unit. The Township gains an opportunity to get rental bonus credits, so if it non-age restricted and geared towards families, there is an opportunity to get a two for one credit. For every affordable unit that is created, the Township would receive two units of credit towards the obligation. There is an obligation to do rental, 25% of units created have to be rental units. Mr. Santaite asked if overlays would shrink down the lot size. Mr. Slachetka replied the overlay would permit multi-family residential, which is not permitted now. The Township would want to have higher densities that would otherwise not be permitted or the option for residential where you would not have had residential. The ordinance would be very clear what the standards are and the type of housing. The Stone Hill Garden site and the Y both have some environmental constraints, since they are adjoining a C1 waterway and there is also a flood hazard area at the Y, making certain portions of the site limited to development potential, but reasonable amount of both of those sites could be developed. Mr. Santaite asked is there a fee given to new home builders that would go towards COAH to help the Township fulfill some COAH obligations. Mr. Slachetka replied there is, there will be two things, one is called the Development Fee Ordinance, which the Township had, but expired with the last court approved plan. A small percentage of the assessed value of a property that is newly developed would go into a trust fund, which part of the monies the Township can use to pay its professionals, for the purposes of working on the affordable housing plan and it also goes towards supporting the creation of affordable housing and supporting low and moderate households within the municipality to make the units more affordable. As part of the Van Emburgh settlement agreement is a Payment in Lieu Construction, which is actually a lump sum payment to assist the Township in creating actual units.

Mr. Santaite asked if there is a way the Township can create a fee to generate income that every time the Township is shy of its demands that the Township can do that same practice again. Mr. Slachetka replied the law was changed and the Regional Contribution Agreement is no longer an eligible activity. A conversation followed on the eleven units, which are being addressed in the context of the VFW site and a portion of the Van Emburgh site and the unmet need which are the overlays.

Keith Jensen, 1154 Washington Avenue – Mr. Jensen asked if there is a dollar amount that is pegged at what affordable is for a rental and what a home costs. Mr. Slachetka replied the units that are low/moderate income are deed restricted, and there are certain limits in terms of the rents that can be charged as well sale prices of homes. He stated there are formulas for calculation. Rental prices and prices for sale units will vary depending upon the bedrooms and there are ranges. The Township would engage an administrative agent, who is responsible for ensuring that low/moderate income households are occupying those units, and rented and re-rented according to those qualifications. Mr. Jensen asked if there is a published scale. Mr. Slachetka replied there is a table on the COAH website which shows the income limits for low/moderate households by region and household size. Mr. Jensen asked what would be the process of bringing an overlay area to Council's attention. Attorney Poller replied we are talking about the settlement we have and he feels this is not the proper forum to speak about what to do with other pieces of property. He feels Mr. Jensen should hire a professional and have them contact the Township through the administration's office.

Al Gillio, 746 Wayne Place – Mr. Gillio asked will the Van Emburgh site and VFW site fulfill our immediate obligation. Mr. Slachetka replied yes, it will. A conversation followed on the overlay zones and the fact that there is no immediate obligation at this time. Attorney Poller stated something will be built at Franklin Court property.

Toni Plantamura, 808 Robinwood Road – Ms. Plantamura asked are there any other States where this has been mandated. Mr. Slachetka replied there may be other cities or towns that have obligations, but not this level of involvement or complexity. Ms. Plantamura spoke of New Jersey being mandated to fill an unfunded quota and being the most densely populated State in the Country. She spoke of the cities claim eminent domains and giving private properties to redevelopers for tax credits. She stated residents pay a lot of taxes for a certain type of quality of life and she sees that slowly eroding. She spoke of the increasing of town services and what is currently occurring in Emerson.

Julie Lipnick, 184 Finnerty Place – Ms. Finnerty asked if the Township is collecting developers fees, as COAH allows, when a new home is being built or large addition to an existing home. Mayor Sobkowicz replied it is allowed on developments that are over three to four houses. Administrator Groh stated during the course of this litigation, Attorney Poller secured approval to continue collecting the fees and the Building Department is aware of it. Attorney Poller stated it is based on the ordinance that was enacted, which may be re-examined. Ms. Lipnick asked if the shopping center ever considered. Mr. Slachetka replied no, and the Special Court Master specifically said that would not be a realistic or appropriate place.

Mary Ann Ozment, 960 Adams Place – Mrs. Ozment asked if the residents have been informed of Franklin Court, as they were informed with the Viviano property, since there was a lawsuit pending. Attorney Poller replied the Viviano property was in litigation, and people were not informed what the litigation was, and the settlement was negotiated. There has not been any outreach with respect to the Franklin Court property. The property is adjacent, north of Fillmore. Mrs. Ozment asked if it is agreed to, the 44 units, until what year is

the COAH obligation satisfied. Mr. Slachetka replied until 2025, the Township will be protected with a Judgement of Repose. Attorney Poller stated he will not say there is absolutely 100% protection, and since this is a public hearing, he will not go into it, nor is it to the Township's benefit to discuss it right now. The Judgement of Repose will give the Township the protection that we can get and what is available to us.

A five minute break was taken.

Council President Bruno stated we will be going into Closed Session at this time for 30 minutes, but will come back to Open Session. Council President Bruno asked if anyone had any questions on the Conference Agenda items. Councilman Sears asked what is the status regarding the Ridgewood Maintenance Agreement. Mayor Sobkowicz stated the administration made two changes, and are awaiting signatures on behalf of Ridgewood.

Time Noted: 10:25 p.m.

RESOLUTION No. 17-151: CLOSED SESSION, FEBRUARY 27, 2017

WHEREAS, the public is invited to attend all Meetings (whether denoted public or conference sessions) of the Township Council in accordance with its general practice and the Open Public Meetings Act; and

WHEREAS, the Legislature of the State of New Jersey declared that the public has a right to attend all meetings of the public bodies at which any business affecting the public is discussed or acted upon in any way except as set forth in the Open Public Meetings Act (N.J.S.A. 10:4-12), which provides for the exclusion of the public from the portion of a meeting at which certain enumerated matters are to be discussed; and

WHEREAS, the Township Council has determined that, because of the nature of the subject matter to be discussed, the public should not be present at that portion of the meeting of the Township Council at which certain specific matters encompassed by N.J.S.A. 10:4-12 are to be discussed;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Washington that, pursuant to the express provisions of the Open Public Meetings Act, the public be excluded from the meeting or portion of the meeting (denoted as an "executive" or "closed" session) in which the following matters are to be discussed:

1. Any matter which, by express provision of federal law or State statute or rule of court shall be rendered confidential or excluded from the provision of subsection of a. of this section.

2. Any matter in which the release of information would impair a right to receive funds from the Government of the United States.

3. Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendation, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance, and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.

4. Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.

5. Any matter involving the purchase, lease or acquisition of

real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.

6. Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.

7. Any pending or anticipated litigation or contract negotiation other than in subsection b. (4) herein in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer. **Litigation, including COAH**

8. Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

9. Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act or omission for which the responding party bears responsibility.

BE IT FURTHER RESOLVED, that it is not possible as yet to fix the time when or the circumstances under which the discussion conducted in Closed Session can be disclosed to the public. It is anticipated that the subject matter under discussion will be made public when finalized.

BE IT FURTHER RESOLVED, that notice is hereby given that the Township Council may find it necessary to take action at the conclusion of the executive/closed session; that such action if taken, will occur in open session; that you are invited to stay in the Municipal Building during the executive/closed session; that the doors to the Council chambers will be opened and an announcement will be made if the Township Council will be going into open session; and you may be present during such open session.

The Township Council anticipates that an open session **will be** necessary.

The Township Council anticipates that an open session **will not be** necessary.

MOTION		SECOND		COUNCIL	AYES	NAYES	ABSTAIN	ABSENT
Bruno		Bruno		Bruno	X			
Calamari		Calamari	X	Calamari	X			
Cascio	X	Cascio		Cascio	X			
Sears		Sears		Sears	X			
Ullman		Ullman		Ullman	X			

A motion was made by Councilman Cascio, seconded by Councilman Sears re-open the Conference Session.

Ayes: Councilman Calamari, Cascio, Sears, Ullman, Bruno.

Nays: None.

Time noted: 11:08 p.m.

Attorney Poller reviewed before Council the contents of Resolution No. 17-152 which will be inserted in the minutes when approved.

A motion was made by Councilman Cascio, seconded by Councilman Sears, to approve Resolution 17-152.

Ayes: Councilmen Calamari, Cascio, Sears.

Nays: Councilmen Ullman, Bruno.

RESOLUTION NO. 17-152: RESOLUTION AUTHORIZING SETTLEMENT OF THE TOWNSHIP OF WASHINGTON'S DECLARATORY JUDGMENT ACTION INVOLVING ITS AFFORDABLE HOUSING OBLIGATIONS UNDER APPLICABLE LAW

WHEREAS, the N.J. Supreme Court rendered its decision with respect to affordable housing obligations of municipalities throughout the State of New Jersey (the "Mount Laurel doctrine") in *In re N.J.A.C. 5:96 and 5:97*, 221 N.J. 1 (2015) ("*Mount Laurel IV*"); and

WHEREAS, the Township of Washington (the "Township") filed a declaratory judgment action in the Superior Court of New Jersey (the "Superior Court") on June 29, 2015 [*In the Matter of the Application of the Township of Washington*, Superior Court of New Jersey, Law Division, Bergen County, Docket No. BER-L-6067-15, and referred to herein as the "Township D/J Action"], seeking a declaration of its current and ongoing compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with *Mount Laurel IV*; and

WHEREAS, Fair Share Housing Center ("FSHC") FSHC, is a N.J. Supreme Court-designated interested party in the Township D/J Action, and has participated therein as an adverse party on behalf of the interests advanced by FSHC; and

WHEREAS, the Superior Court appointed Mary Beth Lonergan, P.P., A.I.C.P. as Special Master (the "Special Master") to assist the Court in the process of determining the Township's affordable housing obligations in accordance with *Mount Laurel IV* and addressing actions and techniques to satisfy such obligations; and

WHEREAS, FSHC agrees that the Township, through the adoption of a Housing Element and Fair Share Plan (the "Plan") consistent with the terms of that certain negotiated Settlement Agreement between FSHC and the Township (the "FSHC Settlement Agreement"), and the implementation of the Plan and the terms of the FSHC Settlement Agreement, satisfies the Township's obligations under the Mount Laurel doctrine and the *Fair Housing Act of 1985*, N.J.S.A. 52:27D-301 et seq., for the first, second and third rounds applicable to COAH and *Mount Laurel IV*; and

WHEREAS, Franklin Court, LLC ("Franklin") is the owner and/or contract purchaser of property within the Township, which property is identified on the Township tax map as Block 1102, Lots 1.04, 2, 9 and 11 (the "Franklin Site"), on which Franklin proposed to develop multi-family housing which would include affordable housing units and other affordable housing elements as a part of said development; and

WHEREAS, the Township and Franklin have negotiated that certain Settlement Agreement between Franklin and the Township (the "Franklin Settlement Agreement") upon which basis Franklin intends to intervene in the Township D/J Action;

WHEREAS, the FSHC Settlement Agreement is predicated on execution of the Franklin Settlement Agreement, and acceptance thereof by the Superior Court at a Fairness Hearing to be conducted by the Superior Court; and

WHEREAS, the Special Master has approved the FSHC Settlement Agreement and the Franklin Settlement Agreement, and FSHC has agreed to the terms of the Franklin Settlement Agreement as well as the FSHC Settlement Agreement; and

WHEREAS, the Township Council has determined that it is in the best interests of the Township to resolve the Township D/J Action by the provisions set forth in the FSHC Settlement Agreement and the Franklin Settlement Agreement which address the Township's constitutional obligations with respect to affordable housing in accordance with the Mount Laurel doctrine as implemented by the N.J. Supreme Court;

NOW, THEREFORE, be and it is hereby resolved as follows:

1. The terms of the FSHC Settlement Agreement are hereby approved and the Mayor is hereby authorized to execute same on behalf of the Township.
2. The terms of the Franklin Court Settlement Agreement are hereby approved and the Mayor is hereby authorized to execute same on behalf of the Township.
3. In furtherance of the terms of the FSHC Settlement Agreement and the Franklin Settlement Agreement, and with the concurrence of the Special Master, the Township representatives are hereby authorized to proceed with a Fairness Hearing before the Superior Court in connection with the Township's D/J Action.

Attorney Poller stated Resolution No. 17-152 has passed. Tomorrow he will notify Fair Share Housing, Special Master and Franklin Court that the resolution has been approved and we will go forward with the Fairness Hearing. Councilman Ullman stated although he did vote no, he is not voting no against the settlement, he is in agreement with the settlement. He stated it was more of an administrative issue that he wished he had some additional time to review the documents. He does agree with the settlement as discussed.

Mr. Slachetka left the meeting at 11:13 p.m.

#### Roads

Turn Signal Exxon Station – Mayor Sobkowicz stated as long as the Zoning Board approved it and the engineer wrote it in his report, it does not have to go to DOT. The signs are legal.

#### Budget

Status of 2017 Budget – Administrator Groh stated after printing out the budget, she realized she neglected to print the budget with the notes, and she is upset since she did put a lot of time and effort into the notes. She will regenerate the notes in an excel version. Councilman Calamari and Sears feel the notes should be incorporated in to one document. Mayor Sobkowicz stated she is not running the budget again, the notes can be written in. A conversation followed on why the notes were not included, the reprinting of the budget and the delay of the budget. Council agreed to re-print the budget with the notes. Administrator Groh decided to make the requested copies of the budget complete with notes to the disapproval of the Mayor.

#### Appointments

Zoning Board Members – three regular members (resident's communications) – The following individuals submitted their names as being interested in becoming a Zoning Board Member (dates in order of receipt):

Fred Goetz, January 13<sup>th</sup>  
 Diane Grimaldi, January 23<sup>rd</sup>  
 Michael LaGratta, January 30<sup>th</sup>  
 Rick Sonntag, February 6<sup>th</sup>  
 George Mouravieff, February 9<sup>th</sup>  
 Dina Burke, February 15<sup>th</sup>

Council President Bruno asked would anyone like to have a discussion or make a motion. Councilman Calamari stated he would like to remind everyone that Fred Goetz was named in a lawsuit brought against the Township, that suit was settled out of Court, and for that reason he doesn't believe Mr. Goetz is one of the best that the Council can put on the Board, considering the other members that we have. Mayor Sobkowicz stated Mr. Goetz was actually named

in the suit. Attorney Poller did not handle the lawsuit, it was handled by the JIF and the Township did pay monies to settle. Councilman Cascio stated Mr. Goetz has vast experience, sound judgment and was a member of this body for four years. Mr. Goetz is an attorney and does a lot of Planning & Zoning in his profession, he knows the rules and that is someone Councilman Cascio wants on the board. Councilman Cascio stated the lawsuit was settled with the consent of many members on here, and that is a separate and distinct issue. Councilman Cascio stated he will nominate Mr. Goetz for a position on the Zoning Board for a term ending December 31, 2020. Councilman Calamari stated he believes most of the candidates have the qualifications that Councilman Cascio speaks of. Councilman Sears stated he objects to Mr. Goetz even applying to this organization. He stated leading up to this lawsuit was abusive, Mr. Goetz made comments about the person's origin, and there comes a point that we don't need this type of behavior on the Board. The lawsuit was settled and it does not represent this community. He stated his vote will be no. Council President Bruno asked what did the settlement document state. Councilman Calamari stated it was settled without anyone admitting guilt, if that is the correct term to use. Currently there is El Road, Northgate and Royal Orchard before the Zoning Board. Councilman Cascio stated he will make a motion to nominate Fred Goetz. Councilman Calamari feels each candidate should be discussed before anyone is nominated. Council President stated next is Diane Grimaldi, Council has her resume. He feels Ms. Grimaldi is smart, conscientious and dedicated to the Township. Councilman Sears commented on Ms. Grimaldi. He feels she doesn't have a lot of skills for the Zoning Board, but his concern is the webpage that she runs "Township Tax Group" and her comments, which he read regarding the upcoming election and Clark Field. He doesn't understand when she can sit on the Board when residents are trying to do something good for this community. He stated himself and Councilman Calamari are not doing Clark Field due to the upcoming election, they have been doing things for the last three years, such as the heart machine for the Ambulance Corps. He feels she is not suited to handle that position and make a clear decision to protect this Township. He stated the Township has many volunteers who do not look for political enhancement; we look to do something in good spirit for this Township. He stated she wants to be on the Zoning Board as a volunteer, but then puts derogatory statements against himself and Councilman Calamari. His opinion is no, he feels she doesn't have the Township's interest at heart. Councilman Ullman disagrees, Councilman Sears through his participation in Town Day, elected to completely ignore the requirements of there being no political activities, and yet "Friends of Memorial Field" had a table right in the middle and nothing was said. Councilman Sears replied nothing was ignored, there were proper forms to be filled out and those forms were not filled out, we looked at that, verified that, checked it and came back to this Council and stated those forms were not filled out. There was no denial, everyone had the right to fill out a form and meet the requirements to have a table. Council President Bruno stated we move on to Michael LaGratta who lives on Fern Street, but we have no references/experience attached. Next is Rick Sonntag, who served on the Board before for a number of years and has a certification. Councilman Ullman served with Mr. Sonntag, who was very good. George Mouravieff was on the Zoning Board, and his term expired. Dina Burke is interested in continuing, and was on the Board until her term expired. Council President Bruno stated he is doing the nominations by date of receipt of information.

A motion was made by Councilman Cascio, seconded by Councilman Ullman, to nominate Fred Goetz to the Zoning Board for a term beginning January 1, 2017 to December 31, 2020.

Ayes: Councilmen Cascio, Ullman, Bruno.  
Nays: Councilmen Calamari, Sears.

Councilman Sears stated you guys should be ashamed to nominate a person like this that brought a lawsuit to this town, embarrassed this town and you guys really should feel bad about that. To put someone on the Board that caused a female employee of this Township to bring a lawsuit is a disgrace. Council President Bruno doesn't know anything about a lawsuit, and it is being brought up in public domain, which is questionable.

A motion was made by Councilman Cascio, seconded by Councilman Ullman, to nominate Diane Grimaldi to the Zoning Board for a term beginning January 1, 2017 to December 31, 2020.

Ayes: Councilmen Cascio, Ullman, Bruno.  
Nays: Councilmen Calamari, Sears.

Council President Bruno stated in date order Michael LaGratta is next. Would anyone like to make a motion for Mr. LaGratta. (No Motion.) Next is Rick Sonntag, would anyone like to make a motion.

A motion was made by Councilman Cascio, seconded by Councilman Ullman, to nominate Rick Sonntag to the Zoning Board for a term beginning January 1, 2017 to December 31, 2018 (alternate.)

Ayes: Councilmen Cascio, Ullman, Bruno.  
Nays: Councilmen Calamari, Sears.

Councilman Calamari stated the two sitting members were not asked for anything until after some of the candidates had applied. He feels that was used as a detriment to them. Ms. Witkowski, the Township Clerk, stated she had called them the next day and asked them verbally. She did call them first that morning after, and they indicated yes. Afterwards it was decided to ask for something in writing, she did contact them to let them know.

Council President Bruno stated Ms. Witkowski did a write-up, which was given to him, it was approved and put on the website. Councilman Calamari stated that was after already some of these had come in. Council President Bruno stated that is correct.

Time noted: 11:48 p.m.



Susan Witkowski  
Township Clerk



Robert Bruno  
Council President

Approved: May 22, 2017