

**WORK SESSION
MUNICIPAL BUILDING**

**August 22, 2017
DELRAN, NJ**

Sunshine Statement: Be advised that proper notice has been given by the Township Council in accordance with the sunshine law in the following manner. Notice advertised in the Burlington County Times and Camden Courier Post on January 11, 2017 and posted on the bulletin board on the same date.

ROLL CALL: Mr. Burrell, Mr. Schwartz, Mr. O'Connell and Mr. Catrambone were present. Mrs. Kolodi was absent.

ALSO PRESENT: Mr. Paris, Mayor, Mr. Shotts, Solicitor, Mr. Long Solicitor, Mr. Hatcher, Administrator and Mrs. Dias, Deputy Clerk.

AFFORDABLE HOUSING TOWN HALL MEETING

Mr. Catrambone thanked everyone for attending tonight. We are going to discuss affordable housing in Delran as this has been a hot issue in town and throughout the state. We have our Township professionals in attendance tonight to discuss the affordable housing obligations placed on the Township. Hopefully we can mitigate some of the concerns and issues. The purpose of the meeting is to update the residents on the Delran's Mount Laurel Affordable Housing Obligation and explain what we have done to both meet our obligation and work to ensure the obligation assigned is a reasonable and achievable obligation. The Township is currently involved in litigation regarding our third round obligation and there are certain specifics we cannot discuss. He will be looking to the COAH Attorney to keep us on track. The Township has a strong history of compliance with the affordable housing obligations. Not only did we meet our first round of obligations but we exceeded our second round. Many people ask what is affordable housing. The first thing to understand is that under the NJ Constitution, each municipality must provide a reasonable opportunity for the creation of their fair share of the regional affordable housing need. This is accomplished by making adjustments to the municipalities zoning laws allowing for the creation of inclusionary developments. It is the municipality's responsibility to provide adequate zoning which in turn provides reasonable opportunity for the creation of the municipality's fair share of the regional affordable housing need. Private developers are ultimately responsible for the construction of the affordable units. Inclusionary development means that when a developer builds new residential housing a portion of that development is designed affordable and the cost is subsidies by the market rate units being constructed in the same development. Affordable housing units are meant to be indistinguishable from the market rate unit. Typically for every five homes built in an inclusionary development, one home is an affordable home. Affordable housing provided by the Mt. Laurel decision is different from the Federal Program. It is not Section 8 housing. The low to moderate income standards for affordable housing are determined on a county wide basis. Moderate income limit is set at 80% of the average income for the county. Low income limit is set at 50% of the average income for the county. The very low income limit is set at 30% of the average income for the county. Income eligibility is further scaled based on the size of the family. Mr. Catrambone stated that he printed information on the income limits for anyone that would like a copy. According to the 2017 figures, the average income for Burlington County is

\$83,200. Therefore, the moderate income limit for a family of four is \$66,550. The low income limit for a family of four is \$41,600. The very low income level is set at \$ 24,950. Mr. Catrambone stated that these numbers were higher than he expected. The type of individuals you see occupying these units are young professionals or families just starting out. In Delran Township, we have a surplus of existing affordable units, some are owned by the Township. We have spent years trying to get them occupied. He finds it interesting that the affordable housing advocates are describing the Township as a bad actor and making accusations that we are attempting to avoid our obligation to provide for the affordable housing need when we have a surplus. To him this demonstrates that the current number of units exceeds the need of this Township. We feel this is a great place to live and welcome anyone interested in living here and joining the community. If you fall within the income parameters and are interested in obtaining housing in Delran, the Mayor and Council will help you to determine if you qualify for one of the existing units. You must be income qualified by the NJ Mortgage and Housing Agency. Mr. Catrambone turned the meeting over to Brian Shotts, the Township COAH Attorney, who will speak more on the history of the Mt. Laurel Doctrine and what Delran has done to meet past and future obligations that are realistic and achievable.

Brian Shotts stated that he wanted to discuss the history of the Mt. Laurel decision and the Township's Constitution Obligation. The first consideration of the Mt. Laurel case was decided in 1975 with a second consideration in 1986. What was found at that time was that certain towns were excluding residents based on their income through their zoning laws. This case went to the Supreme Court and there was constitutional obligation added to provide affordable housing in each municipality. The first round began in 1986 and ran until 1993. The second round started from 1994 to 1999. The Township met their first round obligation and exceeded the second round. After 1999, the Council on Affordable Housing neglected to provide a constitutional methodology for the third round obligation. For years their methodology was struck down by the courts until Mount Laurel 4 which was heard in March 2015. In that case the Supreme Court determined that COAH was no longer a functioning agency and order municipalities that wanted to comply would go through the judiciary and access in order to achieve and confirm their third round obligation. Delran Township has done this by filing a declaratory judgment action in July 2015 and has been working for the past two years to comply with the constitutional obligation. The reason it has taken two years is that the Supreme Court order each municipality to comply with their constitutional obligation; however, we still do not know what our obligation will be for the third round. In essence we have been order to meet an obligation that no one is able to provide. With that, the Township has been working with the Special Master appointed by the Court and working on a vacant land adjustment. According to the state regulations the vacant land adjustment requires the Township to complete a survey of all the vacant land in the town. Properties that are not suitable for building are excluded and town is left with the area that has the potential for affordable housing development. An inclusionary development normally has a set aside of 20% for affordable units which means one in five homes is required to be an affordable unit. When conducting the vacant land survey, the property must be .8 acres or larger order to allow for .2 acres per home. With that in mind, the Township's realistic development potential is determined through the Vacant Land Adjustment. The Vacant Land Adjustment would allow the town to meet its realistic development potential

instead of its obligation which it does not have sufficient land to meet. Mr. Shotts and the Township Planner have been working with the court appointed master to achieve a vacant land adjustment that is both compliant and approved by the courts. Mr. Shotts talked about where the Township stands currently with meeting our constitutional obligation. On the other side of the court there are affordable housing advocates. They have proposed a third round methodology that municipalities across the state have not endorsed. It creates an obligation that exceeds a number that is realistically achievable by the Township. Fair Share Housing is suggesting that the Township's third round obligation is between 800-850 affordable housing units. In order to build those units, we would have to build four market rate units per affordable unit. We would end up building more homes than the number of homes we have currently in order to meet that number. That is why the Township is working with the courts to determine a number that is achievable. The Township's plan is continue to work with the Special Master and defend against the third round obligation numbers put forward by the affordable housing advocates. The Township has joined a municipal consortium with over 300 towns to pull their resources and hire an expert who has their own methodology which is much more achievable.

Mr. Catrambone asked if there is anything the Township Planner would like to share.

Malvika Apte, Township Planner, stated that Mr. Shotts has laid out the Township's plan. She will be happy to answer any questions.

Mr. Long, Township Solicitor, stated that Mr. Shotts was pretty thorough in his explanation. He has been representing Delran for many years and the numbers provided by Fair Share Housing were shocking. He doesn't want anyone to leave here thinking that those numbers are something the Township would agree to. He is here tonight to make sure that what we are trying to accomplish in the court is preserved. If he has to cut anyone off it is not out of disrespect.

Mr. Catrambone stated that before we open it up to the public he asked that all questions be addressed to him and he will direct the questions to the professionals if needed. We all understand that we have a constitutional obligation; we just want to make sure it is realistic and achievable.

PUBLIC PORTION

Mr. Burrell made a motion, seconded by Mr. O'Connell to open the meeting to the public for any questions. All were in favor, the motion was approved.

Lou Vega, 3001 Route 130, asked if the Municipal Consortium projected its fair share or has Delran accepted an achievable fair share at this this time. What was outlined was not fair and achievable.

Mr. Shotts stated that we do not have a statewide obligation yet. There has been a trial in Mercer County which has sought to determine that.

Mr. Long stated that the Township has a surplus of affordable units. What Mayor and Council feel is fair for the third round is zero but the experts are working towards what they feel is a reasonable number.

Mr. Vega stated that in 2011 there was a study completed by CME Associates that determined areas in need of redevelopment. He asked if that study was factored into the formula.

Mr. Long stated that the redevelopment and what Fair Share Housing is trying to achieve are two different issues. The Redevelopment Plan included properties that were already developed but in need of rehabilitation or redevelopment. There is very little vacant land in the Township which is all included in the discussion.

Janice Powell, 4308 Bridgeboro Road, stated that from what she has read about the Mt. Laurel decisions, the goal of affordable housing is to be intermixed among various areas of the town. With this new decision is that out the window and will they try to get as many affordable units in one space as possible.

Malvika Apte, Planner, stated that the way affordable housing happens is when a developer comes in they are required to build their fair share. Under the affordability control they supposed to be disbursed throughout the development. Ms. Apte stated that she cannot determine at this time if they will change the percentage requirement but they cannot keep the affordable units separated within a development.

Mrs. Powell asked if anyone has discussed the potential impact on the school system.

Mr. Catrambone stated that certainly this has been discussed.

Mr. Long stated that that there is absolutely an eye on the potential exposure the town will face once the number is determined either through a settlement or through a trial. The Planner, Attorney and Administration have been talking about that issue. This jurisdiction is not school related but it remains an issue. It is possible the number could be higher than this Council hopes for.

Mrs. Powell stated that there has already been land approved for development but no development has started. She asked if those properties are in the mix.

Mr. Catrambone stated that due to litigation we cannot answer that at this time.

Jack Grace, 10 Ohio State Drive, asked if Green Acres designated property is included in the vacant land remaining for potential building.

Mr. Shotts stated that Green Acres property is excluded.

Mr. Grace asked if the homes begin built would be similar to the Windgate Development built off of Hartford Road near Johnson Farms.

Mr. Catrambone stated that he is not familiar with that development.

Mr. Grace stated that he has a family member that is part of the low income program within that development. The affordable units are intermixed and cannot be told apart from the high income homes. He asked if that is the goal for Delran.

Mr. Long stated that the goal is always to disburse the units so there is no distinction between them.

Mr. Grace stated that he also has concern on the impact to the school taxes.

Al White, 33 Springcross Drive, asked why Delran was picked for this and if someone is sharing the legal costs.

Mr. Long stated that every municipality is going from the same process to determine the third obligation either through settlement or through the courts. Unfortunately, the Township has to pay their litigation costs.

Mr. White stated that he understands the concept of COAH but had a question about the income qualifications. Mr. White asked if they have equity in the home and if their income goes above the limit what affect does that have.

Mr. Shotts stated that affordable housing is subsidized by the market rate units within the development. There is a deed restriction for twenty to thirty years that only allows the home to be sold to an individual that is income certified. Also, the deed restriction sets an annual maximum resale price. Once are income certified at the time you purchase the affordable unit. If your salary goes above the maximum limit there is no impact to the homeowner but the maximum resale amount still remains in place until the deed restriction is lifted. If the property is sold after the deed restriction is lifted it can be sold at market rate but the Township would receive all profits above the maximum resale price to be placed into the Affordable Housing Trust Fund.

Jennifer Reppert, 174 Westover Court, stated that the power is within the towns. She doesn't understand why we are getting bullied by the State. The response should be a class action lawsuit filed by all municipalities against the State. Why would someone buy a market rate house when you someone can get the same affordable unit at a lower price?

Mr. Schwartz stated that we have been talking about the assumption of home ownership. He asked if that is the only option.

Mr. Shotts stated that are other options and other programs. Under the affordable housing obligation there can be both home ownership and rentals. For a house that is owned the Township would receive one credit and for each rental the Township would receive two credits.

Donald Powell, 4308 Bridgeboro Road, asked if the ratio of 1 to 5 could be increase due to the developable land.

Mr. Shotts stated that the 20% ratio comes from the Fair Housing Act. Depending on the project, the number can vary. It would not be something that could increase because the market rate units have to be able to subsidize the affordable housing units.

Mr. Powell asked if a particular piece of land a specific zoning restriction does the Mt. Laurel decision go around that restriction.

Mr. Shotts stated that the idea is still to have control of zoning restriction but it could be forced if any municipality was found to be constitutional non-compliant.

Mr. Powell asked if with the new regulations, the builder's remedy lawsuits are still on the table.

Mr. Shotts stated that is not something that is presently on the table. With the Supreme Court decision in 2015 it provided municipalities that are seeking compliance from the court would have immunity from builder's remedy suits and the Township is currently covered under immunity. The timeframe for immunity is part of the current litigation.

Linda Carnivale, 146 Castleton Road, asked if it is possible for a single individual to still qualify for affordable housing if they make under \$46,000 per year and have \$1,000,000 in the bank.

Mr. Shotts stated no, even though it is based on income the State would look at that.

Bob Gilbert, 75 Stewart Avenue, stated that it was mentioned that Delran met their first round obligation and exceed the second round. He asked if how many units were excess from the second round.

Mr. Long stated that we cannot answer the question because we don't want to publish our position or defense.

Mr. Gilbert asked if where the units are located in Delran.

Mr. Catrambone stated that there is a current inventory.

Mr. Gilbert stated that owning a home is not a guaranteed right. If you are low income, rent. If we receive more credits for rentals he would hope we look at that.

Mr. Gilbert stated that he knows that there has been development approved in Delran such as Stellwag Farms and Willowbrook. He asked if affordable housing was built into those developments.

Mr. Long stated that at this point he cannot comment on either one of those developments.

Mr. Gilbert stated that with when the Summerhill came in there were public hearings and everyone knew what was happening. Why all of a sudden are these projects being discussed in closed session.

Mr. Long stated that they are currently in litigation and also part of contract negotiations for redevelopment.

Mr. Catrambone stated that he wasn't on Council when Summerhill was development and can't answer for what was discussed in open or closed session.

Mr. Hatcher stated that both the Grande and Summerhill developments were the result of litigation and there was a settlement agreement. All discussions during the litigation were discussed in executive session. After the agreement was executed that is when the issue became public.

Mr. Gilbert asked if the Township is considering building a high rise rental development at either the Stellwag and Willowbrook development to alleviate the affordable housing problem.

Mr. Long stated that there is no anticipation of building a high rise apartment complex.

Mr. Gilbert stated that Holy Cross is selling a big piece of land and asked if Council was aware of that.

Mr. Long stated that is also part of the litigation and cannot be discussed. He cannot speak for the property owner as to what is taking place with the sale of the property.

Mr. Shotts stated that so everyone is aware there is a limit to the number of credits that the Township can receive from rental units.

Mr. Gilbert asked if there is any idea when a decision will be made.

Mr. Catrambone stated we do not have an idea but our professionals are working hard to get a resolution.

Mr. Gilbert stated that when Stellwag was re-zoned residential that affordable housing would be an issue. We were not in as much hot water before that.

Mr. Catrambone stated that there was a redevelopment plan negotiated with the builder to limit the impact to the Township. It was not a rezoning it was a redevelopment plan.

Mike Bohn, 802 Colby Avenue, asked if age restricted units for low to moderate units work the same way.

Mr. Shotts stated that you can have age restricted affordable units but again there is a cap on how many you can receive credit for.

Mr. Bohn stated that back in 2000 when he was on Council, Delran sent their affordable housing obligation to Burlington City or Burlington Township. He asked if that option is still available.

Mr. Catrambone stated that is no longer an option.

Mr. Bohn stated that he doesn't advocate any building in Delran but if you have to build more homes he feels it should be kept in one area and not all over town. There is plenty of space at Hunter's Glen and he feels we should reach out to them.

Jeff Bodnar, 115 Kathleen Avenue, asked that the Township spend some money in the court room for speakers so that the residents can hear better. Mr. Bodnar asked Council to explain the differences Delran is facing compared to Moorestown. He feels that Moorestown pays to push off their obligation onto other towns.

Mr. Long stated that under the RCA program, towns could redirect their obligations to other town for payment. They are not allowed anymore. Moorestown is currently in litigation along with everyone else.

Mr. Hatcher stated that before the program was struck down Delran Township participated in the RCA program and sent forty-one credits to Burlington City. Also when the Grande was being developed there was originally going to be seventy-five low income units and they switched to moderate units. They also paid for additional fourteen units to be sent to Burlington City.

Mr. Bodnar stated that he is not against affordable housing but what bothers him is that the Township has allowed any building. Our school taxes have been going up and will continue as long as we allow new building. Mr. Bodnar stated that it is a little confusing to him how the builder makes money on the development with the affordable units. He asked if typically the market rate units are priced higher to offset the affordable units.

Mr. Long stated that is generally the concept.

Mr. Bodnar stated that if we have to build affordable units make them age restricted that way it limits the impact to the school.

Lou Vega, 3001 Route 130, stated that with regards to taking advantage of caps and bonuses, he believes there are additional bonuses for rentals that are rented to disabled veterans. He stated that he would imagine if possible, that it makes sense to work with rentals so that the balance is minimized as to the cost and the benefit.

Mr. Schwartz asked if someone wanted to read the litigation documents could we make that available.

Mr. Long stated yes, those are public documents.

Mr. Catrambone stated that we received some said news that Senator Jim Whelan has passed away and we send our condolences to his family.

Mr. O'Connell made a motion to close the meeting to the public, seconded by Mr. Burrell. All were in favor, the motion was approved.

Mr. Schwartz made a motion to adjourn the meeting, seconded by Mr. O'Connell. All were in favor, the meeting was adjourned.

Respectfully submitted,

Jamey Eggers, Township Clerk