

Affordable Housing Board Meeting  
Lawrence Township, Municipal building

September 15, 2011

The following are the minutes of the Affordable Housing Board meeting, which was held on Thursday, September 15, 2011, in the Community Development Conference Room, located in the Lawrence Township Municipal Building.

**Statement of Proper Notice**

Adequate notice of the regular meeting of the Lawrence Township Affordable Housing Board has been provided by filing an annual meeting schedule with the Municipal Clerk, and by filing the agenda with the Municipal Clerk, posting prominently in the Municipal Building, and mailing to the Trenton Times, the Trentonian and the Lawrence Ledger.

The roll was called as follows at 7:30 p.m.:

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

Absent: James Kownacki, Council Liaison

Also Present: Lean Rosati (Public), J. Andrew Link, Principal Planner, Susan Snook, Secretary

**Welcome New Members**

Chairperson VanHise welcomed the new members William John Capell and John Masso and introduced himself as the Chairperson of the Committee.

He made a short statement about the Board monitoring the changes in the Affordable Housing at the State level.

**Approval of Minutes:**

The March 17, 2011 minutes were approved as submitted by unanimous vote.

**Public Comment:**

None

**Status of Changes at State Level:**

Chairperson VanHise stated that there have been a couple of big developments in the past couple of months at the State level. Chairperson VanHise stated that back in June the Governor did administrative consolidation where he abolished COAH, so as of 2 – 2 ½ weeks ago, at the end of August, the Council on Affordable Housing was officially disbanded and is now a part of the Department of Community Affairs.

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In theory this means that they have gone over to DCA. All the rules remain in place all the certifications and processes still remain in place. This is just the first step for the Governor to consolidate the functions and do away with the COAH Board and will allow new rule making procedures, probably in the next couple of months which means we may become very busy because of the court challenges and a lot of challenges to the different rules and of course talking about the economy.

The Governor does have people working on new rules and the municipalities have been active in that and so have the Associations. The only immediate change is that COAH is no longer.

The only other thing that has occurred is that the Non-Residential Development Fee Act has been suspended again and is now in a moratorium for a couple more years. It is retroactive in that developers that have paid the fee are entitled to a refund. Sooner or later the Supreme Court will have to face the issues.

Mr. Link asked a question regarding COAH's supposed requirement to form new rules before they were abolished? Chairperson VanHise stated that out of all of the groups that sued, the only one who did not win was COAH because substantial portions of the rules and regulations were invalidated for different reasons. However, the only group that did not then take an appeal over the decision was COAH. The other groups, including Fair Share, advocacy groups, municipalities and developers, all said that the Court's ruling was wrong but for different reasons, so they all agreed that the Supreme Court should hear the appeals, but for differing reasons. Part of the Appellate Division's decision was that COAH had to make new rules. However, based on all of the appeals, COAH requested a stay, arguing that if the Court upholds the decision, then that means the rules have to go in one direction; if you say for all those various reasons the Appellate Division got it wrong, then that would mean that the rules themselves would be upheld, negating the reason to change them. One problem with the uncertainty now is the suspension of the non-residential development fees and its impact on the growth share methodology; if non-residential developers are not paying the fee and there is no reimbursement from the State, the Fair Housing Act provides that municipalities are not required to pay for affordable housing and therefore, such an obligation would be in doubt, which is one-half of share of the gross share provision.

Chairperson VanHise stated one proposal for the new rules might mimic S-1, which is the legislation that was adopted by the Legislature but never signed by the Governor. Under that proposal, prior round obligations would be wiped out and the municipal obligation would be a percentage of new housing going forward.

Chairperson VanHise stated that for the new members he works for a firm that does a lot of municipal consultant work and Affordable Housing is one of the big issues he deals with. Mr. Capell asked Chairperson VanHise what is the basis of litigation that you are dealing with in the top five percent - ten percent? Chairperson VanHise responded a little bit of everything because the affordable housing is such a large mandate form of municipalities, it's impacts, it only zoning challenges, so there are various challenges by the developers, land owners on municipal zoning ordinances, some are direct challenges to the affordable housing plans prompted by the municipalities.

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The latest thing being seen now is a lot of the developers are suing Town's individually on Mt. Laurel claims saying a town that has protection from COAH should no longer be immune from the law suit. The developer arguments center around the idea that COAH has not actively carried out its responsibilities in the last five (5) years and therefore, the certification was an empty process and therefore, COAH should be divested of jurisdiction and Court action should proceed. While we are not aware that any such action has been successful to date, the Courts are only now beginning to see them and it will be interesting to track what the ultimate dispositions are, especially as the issue touches on a lot of the aspects of municipal government.

**Other Business:**

None

The meeting was adjourned at 7:40 p.m. The next meeting will be held on October 20, 2011.

  
Susan Snook  
Secretary

SJS

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