

TOWNSHIP OF DENVILLE  
PLANNING BOARD  
SPECIAL MEETING MINUTES  
March 22, 2016

The Planning Board of the Township of Denville held a special meeting on Wednesday, March 22, 2016. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place and commenced at 7:30 p.m. Vice Chairperson Kuntz presided.

**Secretary Probasco read Notice of Public Meeting.**

**Roll Call:**       **Present** – Vice Chr. Kuntz, Louis Maffei, Sue Filauro, Kurt Schmitt, Stephanie Lyden, Mayor Thomas Andes, Peter Nienstadt  
                      **Absent** – Chr. Buie, Mark London  
                      **Professionals present** – Edward J. Buzak, Esq., John Ruschke, PE, Jason Kasler, PP, Paula DeBona, Esq., Steven Ward, Business Administrator

**Secretary Probasco read Resolution of Closed Session.**

**CLOSED SESSION**

The Board entered closed session at approximately 7:40 p.m. to discuss the pending litigation entitled *In the Matter of the Application of the Township of Denville for Declaratory Judgment*, Superior Court of New Jersey, Law Division, Morris County, Docket No. MRS-L-1641-15 relating to Affordable Housing.

The board re-entered open session at 8:41 pm.

**Edward J. Buzak, Esq.** provided a summary of the resolution accepting the 2016 Housing Element and Fair Share Plan.

Motion to adopt the resolution was made by Mayor Andes, seconded by Mbr. Lyden and unanimously approved by all members able to vote.

**ROLL CALL**   Ayes:   Andes, Lyden, Kuntz, Nienstadt, Filauro, Maffei, Schmitt

**Mayor Andes** read a statement regarding the proposed amendment to the Housing Element and Fair Share Plan into the record. Statement follows:

*I would like to make a statement regarding affordable housing and the current state we have found ourselves in requiring a vote this evening on a proposed conceptual amendment to the Housing Element and Fair Share Plan of the Township's Master Plan.*

*I recognize the Township, along with all other municipalities in the State of New Jersey, have a legal obligation to facilitate the construction of affordable housing. Furthermore, the Township of Denville has been proactive in meeting its affordable housing obligation during the previous rounds and presently has a slight surplus of affordable units going into the current round, based upon calculations that our expert made which will run between 2015 and 2025. This expert is being shared by 285 municipalities as a cost-savings to all. Our policy of insisting upon inclusionary development, which require larger developers to build the affordable units onsite has ensured both the availability of affordable housing throughout various neighborhoods in our community and has assisted us in achieving the surplus obligation we currently possess.*

*However, due to the inability of our elected officials in Trenton to perform their duties, the current round of determining each municipality's affordable housing obligation for the next 10 years has been thrust into the court system, where a judge will make the determination as to each municipality's affordable obligation. Besides tying up the already overburdened court system with this monumental task, the process is established in such a manner that has necessitated much of the discussions and determinations as to which properties are to be included or not included in*

*the Housing Element and Fair Share Plan of the Master Plan to be held in executive session. This is largely due to the fact that the process is proceeding forward as litigation and with many developers and a State-wide affordable housing advocacy group involved in the litigation against the Township as "interveners." Therefore, the discussions have remained confidential in order to protect the interests of the Township.*

*As you all know, I am a strong proponent of open government and ensuring public comment is considered as part of important policy decisions. An essential element of the planning process and determining where our required affordable units should be placed needs to involve community outreach and public hearings. However, due to the State's ineffectiveness, many of these planning steps are required to be skipped over. In my opinion, it is frustrating and maddening that the process is proceeding in this manner. However, in order to maintain our immunity and protect the Township from what could be potentially devastating 'builders remedy lawsuits,' the Township is required to proceed forward in this manner as are hundreds of other municipalities across the State.*

*Tonight the Planning Board and the Township Council will be voting to approve a conceptual amendment to the Housing Element and Fair Share Plan that I proposed to them. Frankly, I think I can safely say that neither I nor anyone on the Township Council or Planning Board is pleased with the process in which we have been thrust. However, based upon the relevant facts, the plan was crafted in such a manner to have the least negative impact on the community. I must reiterate, it is not my desire to proceed in this disjointed and uncoordinated process, but we must comply with the Court's requirements so that we maintain our protection from the so called "builder's remedy" lawsuit which would strip us of whatever control over the process we currently possess. The plan seeks to accommodate our affordable housing obligations into the future in the most positive manner possible without jeopardizing the character of the community based upon the limited timeframe afforded to the Township throughout the process. I need to make this very clear, that failure to comply with the court's order will most certain result in builders remedy lawsuits and developments that will be out of our control and that will undoubtedly change our community's character.*

#### **ADJOURNMENT AT 8:49 PM**

Denean Probasco, Board Secretary

Date Approved: April 13, 2016