

MINUTES OF SPECIAL MEETING  
DUMONT MAYOR AND COUNCIL  
NOVEMBER 22, 2016 7:00PM  
DUMONT SENIOR CENTER, 39 DUMONT AVENUE, DUMONT

The meeting was called to order by Mayor Kelly at 7:02 p.m. Minutes are being taken by hand by the Borough Attorney in the absence of the Borough Clerk, Sue Connelly, who was on vacation for the Thanksgiving Holiday.

Roll call was called by Mayor Kelly. Council member Correa was present by phone. Council members Di Paolo, Hayes, Morrell, Riquelme were present and Councilwoman Zamechansky was absent. Mayor Kelly was present.

Agenda was moved for adoption as presented by Councilman Morrell, seconded by Councilman Riquelme. Members approved on a voice vote with no opposition. Mayor Kelly made a brief statement explaining the basis for the Declaratory Judgment Settlement, with figures that were discussed at the October 24, 2016 Court mediation and explained that the final settlement was subject to further discussion and that the settlement terms were being discussed this evening. Councilwoman Correa asked about the timing of the action and whether it was appropriate to be acting at this point. Councilman Riquelme encouraged the Council to proceed to achieve finality on the issue. Councilman Di Paolo explained the terms and conditions and definitions of obligation versus unmet need. He discussed the expert credibility findings of prior court decisions and explained how the obligation is calculated with respect to credits. He also mentioned the gap period soft floor in the proposed settlement and the fact that the unmet need agreement is a hard capped ceiling. Councilman Hayes did mention that he attended the Affordable Housing Seminar at the New Jersey League of Municipalities and discussed overlay zoning as a reasonable opportunity for affordable housing and also mentioned that it will achieve finality on the issue for Dumont for the first time. Councilman Morrell mentioned that the vote is not binding and that the settlement is subject to further negotiation and discussion. Councilman Di Paolo explained how unmet need is allocated by region and that the numbers will be assigned based on unmet need after all voluntary settlements are adopted. He also explained the concept of overlay and how it can be anticipated to function in Dumont.

Mayor Kelly asked for a motion to open to the public for comment on the Resolution, which motion was made by Councilman Hayes and seconded by Councilman Di Paolo and approved by acclamation.

Daria McCabe asked whether the DeAngelo's units are included in the calculation and it was explained that they are included in the realistic development potential and as credits toward the Borough's obligation.

Lili Binny asked about how the mediation was conducted and discussed overlay zoning. She accused the attorney and the governing body of misleading the public and asked how many meetings were called to discuss the settlement. Lynne Vietri asked about the height of the senior center building and asked how many apartments would have to be built in order to fulfill the obligation outlined in the settlement.

Bruce DeLyon objected to the Borough Attorney taking the minutes and claimed it is a conflict of interest and cowardly of the governing body. He also questioned the timing of the notice of the meeting, the publication and the meeting time being two nights before Thanksgiving. He also objected to news coverage of the settlement agreement resolution having appeared in the online edition of the Record earlier in the day. He mentioned that the vote was illegitimate since two of six council members were absent from the meeting. He also indicated that he doesn't see the need for settlement at this time and asked about whether a school census and enrollment study was conducted.

John Sansone mentioned that the 83 unit unmet need appears to be a fair number and asked what the downside to continued litigation would be.

Chief Michael Conner stood and asked when he could discuss the municipal complex question and was advised that there will be another public portion at the end of the meeting.

Andrew LaBruno discussed downtown redevelopment and the overlay zone and asked about how the new development would be administered and monitored.

Tim Hickey, a member of the Planning Board, indicated that he dissents from the use of overlay zoning to achieve a settlement of the affordable housing litigation.

William Bocchichio is the Chairman of the Journal Land Use Board and discussed the mediation and the nature of the Fair Share Housing Center. He mentioned a negotiation of the affordable housing figures at the mediation which he had attended. The Borough Attorney explained how the figures were arrived at. Chairman Bocchichio also explained the process for the approval of the project of 85 West Madison Avenue and referenced the "top of the shops" initiative that was originally discussed in 1985 and indicated that the overlay zoning that's being discussed would be very similar to that concept.

Tom Kelly discussed the Police Chief's opportunity to be heard and brought up legislative bills introduced but not yet acted upon in the Assembly and Senate to address the affordable housing issue. He also discussed the e-consult expert witness's credibility as appears in certain court decisions. He commented on calculations of unmet need and prior cycle credits. He encouraged the Council to undertake further litigation and investigate different mechanisms to establish the affordable housing obligation and he accused the governing body of behind closed door decision making and corruption.

Carl Manna stated that decisions of this magnitude need further consideration. He mentioned that he had discussions with Council members about the settlement terms and brought up the terms and conditions of the draft settlement agreement. Councilman Hayes explained that there is not a final document under consideration tonight, but simply the unmet need figures were being established pursuant to the mediation.

Further conversation of the details of the draft agreement took place by and among the Council and there were questions of the Fair Share Housing Center's standing to bring the action.

Judy Parker was asking about the overlay zoning details and a 42-foot height limitation.

Matthew Balin asked about lobbying in support of municipalities, who are the lobbyists who are advocating for municipalities and what are neighboring towns doing to address their issues? He expressed frustration with the state of the law and the reaction of the courts. In response, Councilman Di Paolo read an excerpt of the South Brunswick decision on the credibility of experts who testified in that trial. Mr. Balin questioned the duration of the repose and encouraged the governing body to consult with citizen advocates for further guidance and more transparency.

Chris Sheridan asked why the settlement agreement wasn't distributed to the public and whether the overlay zone map was finalized. He questioned whether the settlement includes all terms and conditions of the agreement and whether the resolution language was accurate. He was advised that the settlement agreement is not finalized and while the resolution incorporates the agreement by reference that it is subject to further negotiation and was not a final document and that the overlay zone and zoning ordinance would be subject to further discussion and negotiation as well as needing further Council action to be finalized.

Maryann Russini reacted to Councilman Di Paolo's comment about changing the town and questioned the attorney on his discussions with the court and suggested that more building department personnel should be hired.

Linda Fusco mentioned that she left messages for the Mayor and Council and commented how the Mayor and Council have not done their homework and should have met more frequently to get facts on the affordable housing issue.

Mary Ryan Liggio has listened and doesn't see how the Council can proceed. Mentioned her frustration with the government status quo and encouraged the postponement of the vote.

Karen Valido discussed the tax implications of overlay zoning and brought up the concept of PILOTs in overlay zones. She was advised that there will be no tax abatement anticipated in the overlay zones. She has not seen any representatives from the Borough at Board of Education meetings and there were discussions of the DeAngelo's PILOT and transfer of ownership and validity of the PILOT moving forward.

There being no further comments or questions from the public, there was a motion to close the meeting to the public by Councilman Morrell which was seconded by Councilman Hayes. At that point, a motion to table the resolution was made by Councilwoman Correa and second was not heard, so the motion was not considered.

At that point a motion to adopt the resolution agreeing to settle the affordable housing declaratory judgment litigation was made by Councilman Morrell and seconded by Councilman Riquelme, as amended and subject to further negotiation.

On a roll call vote, Councilwoman Correa voted no, Councilmen Di Paolo, Hayes, Morrell and Riquelme voted yes. Councilwoman Zamechansky was absent so the motion carried four to one. A motion to open the meeting to the public for general comment and questions was made by Councilman Morrell, seconded by Councilman Hayes.

Police Chief Michael Conner stepped to the microphone and mentioned that he is attempting to boost morale within the Police Department. He questioned the acquisition of property in Bergenfield and is seeking to enlighten the Mayor and Council on the nature of shared services for a municipal complex. He mentioned the environmental considerations of the gas station and if building a complex for \$11 Million Dollars, why not spend less to build a complex alone? He questions the proportional cost of construction and ongoing operation of a joint municipal complex and the cost of utilities. He questioned the function of a joint dispatch center and suggested the sharing of services on a smaller scale to start. Councilman Di Paolo replied that no plan to disband or consolidate any departments if there are shared facilities are anticipated, and no work force reduction is anticipated, and he mentioned that local control and the many layers of government in New Jersey with home rule as driving factors in the high cost of property taxes.

Chief Conner continued that he pays property taxes in Dumont for the services and quality of life that Dumont affords and is not in favor of sharing our municipal facility with Bergenfield. He indicated that the Bergenfield Police Department is accredited and is a civil service department whereas the Dumont Police Department is not accredited and is a chief's association department.

Councilwoman Correa offered the opinion that Dumont should remain as an independent governmental unit and police force.

Karen Valido questioned whether there is any connection between the fact that the Borough Attorney is the Bergenfield prosecutor and indicated that she went to meetings where discussions of the Borough Hall parking was discussed in Bergenfield.

Bruce DeLyon mentioned that he is pursuing an ethics charge against the Mayor arising out of his exercising of discretion over public comment at council meetings, and questioned whether any action was contemplated after closed session this evening. It was indicated that no action was anticipated. Mr. DeLyon stated that he would be confirming that the notice of this evening's meeting was proper and questioned the credibility of the minutes being taken by the Borough Attorney.

Tom Gorman asked questions of the Borough Administrator regarding his daughter's house and was advised that the issues are being addressed. He indicated that those issues must include consultation with the Dumont Shade Tree Commission and

continued that no meeting has taken place yet with regard to those issues. He asked about the ordinance regarding road opening. He was advised that revisions had to be made to it prior to introduction. He had a question for Councilman Di Paolo on construction of the joint building and discussion of the property required to be purchased in order to effectuate that project. He asked about comparable sales. Councilman Di Paolo mentioned that the original estimates of building costs of \$23.6MM were preliminary and based on a 63,000 sq. ft. building but that the architect believes that a building of much smaller size would be adequate, perhaps as little as 40,000 sq. feet and that the lower building cost could result in savings of \$2.5-\$5MM for the Borough of Dumont. Mr. Gorman asked why would we build a building for the past and indicated that the Borough Hall at 50 Washington Avenue with a Police station at Brook Street would be a likely option. He also asked if there were any cost estimates to renovate the 50 Washington Avenue building. Mayor Kelly indicated that the architect, John Cappazzi is updating his review of the possibility of renovation. Mr. Gorman mentioned that he had asked the Mayor six to eight months ago to convene a committee to offer advice on the municipal complex and had a question about who was the puppeteer pulling the strings, is it the Mayor or the Attorney?

Mayann Russini indicated that she has no faith in the Mayor and Council knowing what is in store in the Bergenfield decision and stated that the Roosevelt Avenue drainage project is being mismanaged and questioned whether the Mayor and Council visited the job site. She indicated that parking is impossible during construction and calls the conduct of the Mayor and Council a disgrace for disregarding public sentiment on issues.

Judy Parker discouraged the Borough from acquiring the gas station property in Bergenfield adjacent to the current Bergenfield municipal complex.

Lynn Vietri asked about the process and procedure for the declaratory judgment hearing, asked who may testify and whether citizens can offer an expert to testify and also whether Judge Meehan will be the judge to hear the motion on the fairness hearing.

Councilwoman Correa questioned the cost of the Roosevelt Avenue Project and the status of the CSX crossing at Madison Avenue and questioned the liability of the Borough for the dangerous railroad crossing. The Borough Attorney indicated that CSX is on actual notice of the condition and that the Borough could not be held liable for any damages that were incurred due to the dangerous crossing since it is not the owner and did not undertake the improvements. It was further indicated that the Borough could close the crossing on a temporary basis in the event of an emergency or a dangerous condition at the Police Chief's discretion but that would be a temporary condition only.

Lili Binney questioned the status of the resolution through Councilman Hayes and asked the Borough Attorney's opinion as to information provided to the Mayor and Council prior to the vote. She also asked whether it was disrespectful to absent Council members to proceed in their absence and questioned whether the Court would have ruled for fair share housing center after Dumont had acted in good faith in pursuing settlement of the Landmark litigation. She commented on whether the outcome would be different

if a Special Litigation Counsel were retained from the outset and she concluded by asserting the community's dissatisfaction with the handling of the affordable housing issue.

Dan Roell asked about police input into the new Police Department and municipal complex and asked whether any members of the governing body had property interests located in the B2 district. All Council members, the Mayor and the Borough Attorney, as well as the Administrator, indicated that they had no property ownership interest in that district. Mr. Roell commented on meeting start times and urged punctuality in starting at the advertised times.

Matthew Balin was seeking comprehensive project reports at each meeting with the status of all ongoing projects and feels the public should be kept better informed. He thinks Tom Kelly should be included in the negotiation process with regard to affordable housing issues.

Michael Sullivan questioned the discussion of the municipal building. He asked why the Borough did not condemn the DeAngelo's property and take it through eminent domain. He commented on the conduct of the affordable housing litigation and stated that Dumont receives nothing from the housing litigation and that he is dissatisfied with the government's actions.

Tom Kelly offered the opinion that the procedure for the adoption of the amended resolution this evening was improper and unenforceable. He suggested that the Long Hill Township settlement would be a good template for Dumont. He mentioned that he contacted Assemblywoman Holly Schepisi and indicated that she was proposing legislation to allow a one year planning period prior to implementation of any affordable housing settlements. Mr. Kelly criticized the adoption of the resolution of settlement and discussed the Borough Hall's options and abatement costs. He indicated that he has reviewed the sq. footage figures in the architectural plans and usage by the respective municipalities and he commented on the parking proposals and construction issues.

Chris Sheridan questioned the RSC architect's feasibility report and asked where the information was derived from. He questioned the project goals, specifically, referencing a 'new image' and the value and need for a transit village and what that was. He asked how many out of town cars park in Dumont to take the buses through town to NYC each day and he asked for an estimate of the costs for property acquisition. It was indicated that the estimated costs for property acquisition to build a joint complex in Bergenfield would be between \$1.8MM and \$2MM.

There being no further comments, a motion to close the meeting to the public was made by Councilman Hayes, and seconded by Councilman Morrell. There being no further business to come before the Mayor and Council and public, a resolution was offered to go to close session moved by Councilman Riquelme, seconded by Councilman Di Paolo and on a roll call vote, five votes in the affirmative, none in the negative, were cast. When the governing body returned to open session, a motion to adjourn the meeting

was made by Councilman Hayes and seconded by Councilman Di Paolo and the meeting adjourned at 11:40 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. Paster", written in a cursive style.

Gregg F. Paster-Borough Attorney