

CALL TO ORDER

Special Meeting of the Mayor and Borough Council held on June 1, 2017 was called to order by Council President Dan Buchanan at 6:00 P.M. followed by a salute to the flag.

STATEMENT OF NOTICE OF PUBLICATION

Municipal Clerk Farbaniec announced that this Special Meeting has been advertised and posted in accordance with Open Public Meetings Act Chapter 231, P.L. 1975 by advertising in the Home News Tribune, notifying the Star Ledger and the Sentinel Publishing Co., posting on the bulletin board and filing with the Municipal Clerk.

ROLL CALL

- Roll Call: Councilpersons Buchanan, Grillo,
Lembo, Novak
- Absent: Mayor Kennedy O'Brien
Councilpersons Kilpatrick & Melendez
- Others Present: Municipal Clerk Farbaniec
Business Admin. Frankel
Borough Attorney DuPont
Lawrence Sachs, Esq., COAH Counsel
John Leoncavallo, Municipal Planner

Council President Buchanan asked Larry Sachs the COAH attorney for an update on today's court hearing.

- Mr. Sachs said that those in attendance were:
- Dan Frankel, Business Admin.
- John Leoncavallo, Planner
- Fair Share Housing
- Kaplan Organization
- Betsie McKenzie, Special Master

He said that they advised the Judge that the borough introduced the ordinances on first reading on May 22nd for compliance with Fair Share. He also advised them that the second reading and adoption has been scheduled for June 26th. He said that the Judge agreed to a hearing on July 6th. He said that on July 6th the borough will have to basically have the ordinances adopted. He will fashion a remedy to deal with the settlement agreement. Mr. Sachs said that the Kaplan Organization and Fair Share people basically wanted him to adopt the ordinances now, retroactively, subject to the council meeting on the 26th. He said they argued against that, stating that the borough needs time to get this done if they can. They wanted a Special Hearing Officer appointed in anticipation of the projects going before the Planning Board. He said that we objected to that on the merit that the Municipal Land Use Law decides how quickly the a Planning Board application gets heard and what the rules are with respect to a Planning Board application and the Judge agreed. He said the other side also put in a request for counsel fees, which the judge was not inclined to do so, but after July 6th he may. Mr. Sachs said that if the council does not adopt the ordinances on June 26th and when we go back to court on July 6th, the Judge will likely adopt the ordinances for us. He could revoke our builder's immunity. He went on to say that Betsie McKenzie explained to the judge that she had a productive meeting with the council. That the municipality was looking into creative issues with respect to the municipal owned properties but is concerned about Camelot II and if the council was going to discuss anything to do with Kaplan it better be done quickly. Mr. Sachs said that he spoke with Mr. Kaplan's attorney who did not want to talk until we has something concrete.

Council President Buchanan questioned Townelake and affordable housing. Mr. Sachs said that was prior to his being the Planning Board Attorney. Now that COAH has been disbanded it is now up to the court. Further discussion on

Townelake and how many units should have been affordable housing and why there was none. Spoke about other large developments and how the obligations would get attached and that anyone who come in now would have to set aside 15% for affordable housing if it is rental and 20% if it is for sale market rate housing. Co. Grillo asked if there was a possibility to look at retroactive. Mr. Sachs said that he would have to get the file and review it. Although if a project was approved 20 years ago that would be a no.

Councilwoman Novak expressed her concerns that once these ordinances get adopted Mr. Kaplan will immediately be before the planning board.

Mr. Sachs said that he does not think that the Settlement Agreement will be able to be modified. He said that Kaplan would have to agree to build somewhere else in town but that would get complicated.

Councilman Lembo suggested the density be decreased.

Mr. Sachs agreed, that if we could use what happened at Townelake as a bargaining chip we may be able to get him to decrease density on Camelot I and II.

Councilwoman Novak asked how we could do all this before we approve these zoning changes.

She said that she could not support these ordinances. She said she has no problem with the overall housing numbers but don't understand why the River Road development was not considered and now the developer's contract for the property is gone. We could have made that all affordable housing. She expressed that this is something SERA and the Housing Authority would like to do.

Mr. Sachs reminded everyone that Kaplan as an intervenor brought these properties in. They intervened in the lawsuit the day after we sought declaratory relief.

Mr. Leoncavallo explained how the numbers were cut from the original 1,360.

Co. Lembo asked about veterans housing, which was explained by Mr. Leoncavallo. Discussion followed regarding the possibility of building on River Road, Cross Avenue, Ernston Road and how each would affect the settlement.

Mr. Sachs said that the Judge also set up a final compliance hearing date in September.

He is basically giving us time to deal with these municipal owned properties and to come up with our final plan as to that. He said that Dan Frankel had suggested to come up with these 160 units on the River Road site is possible, but that would have to be in play by September

Co. Novak said that all of the zoning changes would be approved before that.

Mr. Sachs said that Cross Avenue is not being rezoned and your obstacle is apparently Kaplan. He indicated that Kaplan is not going away, unless you make it lucrative for him to build somewhere else.

Mr. Frankel offered some other suggestions.

Mr. Sachs suggested that he and Dan Frankel sit and meet with Mr. Kaplan to discuss Kaplan I & Kaplan II but this would have to be done quickly.

Council Consensus granted.

Councilwoman Novak questioned the Mocco suit and property which now can be built and if we could obligate him for the 20% affordable.

Mr. Sachs said that would be up to the Planning Board and Council.

Council President Buchanan questioned the two for one option.

Response by John Leoncavallo that we are at our maximum for rentals but he would check.

You would get the one for one because there would not be any market rate with this, it's 100% affordable.

Councilman Grillo said that the idea of two towers on River Road makes sense and if SERA wants to steer the ship they have to step up. He suggested they vote to empower SERA to develop a strategy for the site.

Councilwoman Novak said that on the 26th the ordinance would be adopted and it would not even matter what we do on River Road.

Mr. Sachs said that he would talk to Ms. McKenzie about the possibility of SERA building 160 units on River Road, which would take all of our municipal obligation and put it on that site. Discussion on the various sites.

Councilwoman Novak spoke about 10 apartments on Washington Road and if the ones on Rt. 35 get approved and they get 12 would that eliminate that.

Mr. Frankel said that the ten units as accessory apartments that are in have not been questioned by anyone, so those are down the line. This should remain in the plan.

Councilman Grillo said again that if the Special Task Master agrees we should look at Rt. 35 and have the planning board commission some type of study with the borough planner to determine if any type of re-zoning would be appropriate to develop more mixed use – commercial on the first floor and residential above. Mr. Leoncavallo stated the Ms. McKenzie thought that was a great idea, but this would have to be applied toward the next round.

Discussion on what may happen when a new Governor gets in.

Mr. Sachs explained the time periods that the planning board would have to adhere to if these ordinances pass. As well as site issues.

But for now there are two things the council would need me to do. 1) is to sit with Mr. Kaplan; and 2) make an immediate request of the Planning Board secretary to review the Town Lake file.

And see if there is a possibility of re-opening the Affordable Housing issue, which could be used as leverage with Mr. Kaplan.

Councilman Grillo also included getting something from SERA and Housing Authority as a plan. All agreed.

- **PUBLIC PORTION**

At this time Mayor O'Brien opened the meeting to the public or any and all issues.

Those appearing were:

- James Robinson, 11 Borelle Square

Stated that he was also in attendance at the hearing today.

Commented about the Towelake housing decision and suggested that the council look back at the old Master Plan, that it contained wording which would have included housing elements.

He spoke about the Mocco property and the court settlement. Suggested the borough reach out to Mr. Mocco.

Mr. Robinson asked if Off Site and Off Track Improvements are still in place.

Mr. Sachs responded that it would depend to what extent.

Mr. Robinson commented on Bulk Standards in Camelot I and II.

He suggested they build something on River Road that would give the Borough the biggest bonus.

He asked that a development fee ordinance be looked into.

Councilman Grillo said that a development fee ordinance is part of the packet of ordinances they are looking at adopting.

Larry Sachs excused himself to attend a meeting in Old Bridge. He said that he would take care of everything he was instructed to do.

- Kevin Murphy, Tall Oaks Ct.

Asked how many we are going to have to build and how much this is going to cost us and what are the chances that COAH projects will affect the property taxes.

Mr. Leoncavallo responded that excluding Luxury Point there would be approx. 1,100 - to 1,200

- Ruth Mahoney, 2 Gerard Place

Questioned that because past planning boards did not enforce COAH obligations that now we are paying for it.

Councilman Buchanan responded that was true. He also stated that the Planning Board, as was discussed, did not require it on several different applications. He said that his council nor the council before them had any appointing authority for the Planning Board. Only the Mayor appoints the Planning Board.

- Kevin Murphy, Tall Oaks Court

Questioned if building projects have to come before the council.

The response was no.

Council President Buchanan asked if there were any further questions or comments. There being no further questions or comments. Councilwoman Novak made a motion to close the public portion. Seconded by Councilman Grillo.

Roll Call: Voice Vote, all Ayes.

- **ADJOURNMENT**

Councilwoman Novak made **a motion to adjourn** this meeting. Seconded by Councilman Grillo.

Roll Call: Voice Vote, all Ayes. Carried.

Time: 7:10 P.M.

SIGNED:

Theresa A. Farbaniec, RMC
Municipal Clerk

_____ Date Approved