

**TOWNSHIP OF FRANKLIN  
PLANNING BOARD  
COUNTY OF SOMERSET, NEW JERSEY**

**SPECIAL MEETING  
April 24, 2018**

The regular meeting of the Township of Franklin Planning Board was held at 475 DeMott Lane, Somerset, New Jersey and was called to order by Chairman Orsini at 7:30 p.m. The Sunshine Law was read, the Pledge of Allegiance said and the roll was taken as follows:

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**PRESENT:** Councilman Chase, Alex Kharazi, Cecile Maclvor, Robert Mettler, Robert Thomas, Jennifer Rangnow, Godwin Omolola (arrived at 7:33 p.m.), and Chairman Orsini

**ABSENT:** Carl Hauck, Mustapha Mansaray and Charles Brown

**ALSO PRESENT:** Mr. Peter Vignuolo, Board Attorney, Mark Healey, Planning Director, and Christine Woodbury, Planning & Zoning Secretary

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**PUBLIC COMMENTS:**

Vice Chair Maclvor made a motion to open the meeting to the public for comment on any Planning topic not being discussed that evening. Mr. Mettler seconded the motion and all were in favor. Seeing no one coming forward, Mr. Mettler made a motion to close the meeting to the public. Vice Chair Maclvor seconded the motion and all were in favor.

**HEARINGS:**

- **Housing Element and Fair Share Resolution**

Mr. Healey, Township Planner, indicated that he would give a short overview. He noted that over the years the Planning Board had received summaries as the process had evolved, but that they now had a draft Housing Element and Fair Share Plan that had been formally prepared. Mr. Healey stated that the purpose of the night's meeting was for the Planning Board to carefully consider the Fair Share Plan in the hopes that they would adopt it.

Mr. Healey stated that in March of 2015, the NJ Supreme Court stripped COAH of its administrative duties relating to the affordable housing certification process. He went on to further explain that the decision desolved the substantive certification process before COAH and created a judicial process by which a municipality could declare for a judgment action with the court, seeking a judicial determination that their housing element satisfied their third round affordable housing obligation. Additionally, Mr. Healey stated that in response to the Supreme Court's 2015 decision, Franklin Township filed for a declaratory judgment with the Superior Court which sought judicial determination and compliance. Furthermore, he went on to explain that Franklin Township had been in discussions with Fairshare Housing Center, a Supreme Court designated interested party, and the court appointed Special Master to review the Township's affordable housing plans. Through the Township, Mr. Healey indicated that the Township and this Township Fairshare Housing Center agreed to settle the litigation and present the settlement to court. He went on to state that the Township entered into a settlement agreement with the Fairshare Housing Center in November of 2017 for its 1999-2025 affordable housing obligations. Mr. Healey then told the Board that the court's Special Master reviewed the settlement agreement and provided a report in December of 2017, finding that the Township's settlement agreement with the Fairshare Housing Center would adequately protect interests of low and moderate income households. He then told the Board that Judge Miller held a fairness hearing and determined, on December 11, 2017, that the settlement agreement was fair and reasonable to the interests of lower income households. Mr. Healey then indicated that the conditional order of compliance issued by Judge Miller required that the Township submit a new Housing Element and Fair Share Plan and new Affordable Housing Trust Fund Spending Plan. He then stated that the plan before the Board that evening was to address the conditional order of compliance issued by the Court.

Mr. Healey then went on to quickly summarize the plan and noted that the Township has a Prior Round obligation of 766 affordable units (pre-1999 obligation), with 723 completed units and 140 family rental bonus credits, for a total number of credits in the prior round of 863, resulting in a prior round surplus of 97 units. In terms of the Third Round obligation and for the purposes of settlement, Mr. Healey indicated that Franklin Township identified a prospective need of 2,076 units (1999-2025 obligation). He then told the Board that the Township's Third Round Plan consisted of the following: 1,231 new Third Round units with 97 surplus units, the extension of 315 expiring controls, 529 bonus credits, for a total of 2,162 that exceeds the obligation that had been agreed upon for settlement. Of the 1,231 new round units, Mr. Healy told the Board that 814 had been constructed and were already occupied by low and moderate income households, another 249 had site development approvals in place (Summerfields and Leewood currently under construction), with the remainder of 168 units (last phases of Leewood and RPM developments) were already zoned for the proposed developments and have agreements in place that have addressed the obligation. For the record, Mr. Healey stated that the Fair Share Plan, as far as the number of constructed and occupied units, indicated 117 but was actually 114, with the number of remaining units identified as 173, but should be 168. He did state that the total of new Third Round units remains the same at 1,231 units and noted that he would correct the plans that

would be submitted to the Court. In addition to satisfying the overall obligation, the Plan also demonstrated that the Township satisfied the following requirements: the Township had a 104 unit rehab obligation, 65 of which were already completed, with the Plan showing that the rest would be satisfied through 2025, a 50% low income requirement that the Township satisfied, with 13% of the units constructed after July of 2008 having to be constructed for very low income households. Additionally, he added that 25% must be rental units and 50% of those should be non-age restricted, at least 50% of the units should be non age-restricted and the age restriction limitation can include no more than 25% of the affordable units. Lastly, Mr. Healey stated that no more than 25% of the obligation can be addressed via bonus credits (519 credits). He did note that they did go right up to the 519 cap of bonus credits, but did not go over that number. He summarized the Plan by stating that the Township was meeting its obligation through units already in existence, already under construction or already contemplated. Mr. Healey stated that unlike other towns in similar circumstances, no ordinances and no re-zonings were necessary to implement the Plan.

Mr. Kharazi then opened a discussion regarding the fact that the Township would meet its obligation by 2025. He asked, however, whether any lower income housing could be built if the obligation was satisfied by 2020, for example, and wondered what would occur in the remaining five (5) years. Mr. Healey indicated that they would have to submit the Plan to the Court as a conditional order of compliance, after which they would have another hearing and a process where the Township would have to submit to the Special Master, a court appointed professional, who would monitor things to make sure the Township continued to comply. Mr. Healey stated that if they met their obligations prior to 2025, a new obligation would not come up. A discussion ensued among the Board. Chairman Orsini added that he didn't think that if an affordable housing element in the Redevelopment area came up, that they couldn't continue to collect the affordable housing fees and use the units for any Fourth Round obligations that might come up in the future. Mr. Healey concurred with the Chairman's conclusions.

Mr. Thomas then asked if completing the process successfully should protect the Township from being sued by anyone claiming that they could pre-empt zoning to put in affordable housing and wouldn't have any builder's remedies issues. Mr. Vignuolo, Board Attorney, indicated that the Township would be protected because they had already met their obligations. Mr. Healey added that it keeps the Township in control of its own zoning by meeting all of the requirements of the Affordable Housing Plan and, therefore, not allowing a developer to come in to build a 1,000 unit development, with 200 affordable units in an area possibly not zoned for that. A discussion ensued among the Board.

Chairman Orsini then opened the hearing to the public for questions or comments, and all were in favor.

Mr. Vincent Dominach, Economic Development Director, Franklin Township, came forward. He mentioned that because the Township was proactive when the process

started over 12 years ago, they can be proud of the fact that they were in the position now of satisfying the obligations and being in control of the zoning in the Township in the process. He noted the praise that the Judge, Fair Share Housing Center and Special Master gave the Township and that Franklin Township was the bright example for the way a municipality should act in regard to affordable housing obligation. A discussion ensued among the Board. A consensus from the Board was that they were very pleased that the Township had come so far as to be able to say that they met the affordable housing obligations through 2025 and that there were no longer the days of lawsuits and countersuits.

Seeing no one further coming forward from the public, Mr. Mettler made a motion to close the meeting to the public. Vice Chair Maclvor seconded the motion and all were in favor.

Chairman Orsini made a motion to adopt the Fair Share Plan and was seconded by Vice Chair Maclvor.

FOR: Councilman Chase, Cecile Maclvor, Robert Mettler, Robert Thomas, Alex Kharazi, Jennifer Rangnow, Godwin Omolola and Chairman Orsini

AGAINST: None

Vice Chair Maclvor made a motion to adopt the Resolution memorializing the Fair Share Plan. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Cecile Maclvor, Robert Mettler, Robert Thomas, Alex Kharazi, Jennifer Rangnow, Godwin Omolola and Chairman Orsini

AGAINST: None

## **COMMITTEE REPORTS**

No reports were discussed.

## **WORKSESSION/NEW BUSINESS:**

There was no work session or new business discussed.

## **EXECUTIVE SESSION:**

The Board did not enter into an Executive Session that evening.

**ADJOURNMENT:**

Vice Chair Maclvor made a motion to adjourn the special meeting at 7:50 p.m. The motion was seconded the motion and all were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
May 5, 2018