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TOWNSHIP OF MILLSTONE
TOWNSHIP COUNCIL
AND
PLANNING BOARD

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IN THE MATTER OF: : TRANSCRIPT
: OF
TOWNSHIP PLANNER'S : PROCEEDINGS
EXPLANATION OF COAH :
OBLIGATION :
-----x

WEDNESDAY, JULY 9, 2008
MILLSTONE MUNICIPAL BUILDING
215 MILLSTONE ROAD
PERRINEVILLE, NEW JERSEY
COMMENCING AT 7:30 P.M.

COUNCIL_MEMBERS_PRESENT:_

NANCY GRBELJA, Mayor
ROBERT KINSEY, Deputy Mayor
MICHAEL KUCZINSKI, Committeeman

BOARD_MEMBERS_PRESENT:

MITCH NEWMAN, Chairman
MANNY BLANCO
NANCY GRBELJA, Mayor
THOMAS PADO
MARY PINNEY
MARC WEINTRAUB
ROBERT BECK

ALSO_PRESENT:

MICHAEL STEIB, ESQ., Planning Board Attorney
MATT SHAFAI, P.E., Township Engineer
RICHARD T. COPPOLA, P.P., Township Planner
PAMELA D'ANDREA, Planning Board Secretary
NANCY WARNICK, Deputy Clerk

- - -
ANGELA BUONANTUONO & ASSOCIATES
COURT REPORTING SERVICES
26 Algonquin Terrace
Millstone, New Jersey 08535
(732) 446 - 3773

1 MAYOR GRBELJA: I'm going to
2 call the meeting to order for the Township
3 Committee at 7:30 p.m.

4 Can we have a roll-call, please?

5 MS. WARNICK: Yes. Mayor
6 Grbelja?

7 MAYOR GRBELJA: Here.

8 MS. WARNICK: Committeeman
9 Abilheira? Committeeman Kinsey?

10 DEPUTY MAYOR KINSEY: Here.

11 MS. WARNICK: Committeeman
12 Kuczinski?

13 COMMITTEEMAN KUCZINSKI: Here.

14 MS. WARNICK: And Committeeman
15 Sico? Absent.

16 DEPUTY MAYOR KINSEY: Committee-
17 man Sico is on vacation.

18 MS. WARNICK: As required by
19 Public Law of 1975, Chapter 231, I hereby
20 announce that, pursuant to the Open Public
21 Meetings Act, adequate notice of this meeting
22 has been provided to the Asbury Park Press and
23 the Trenton Times, posted on the public
24 announcements bulletin board in the Town Hall,
25 and filed in the office of the Township Clerk

1 on July 3rd, 2008.

2 CHAIRMAN NEWMAN: Thank you. And
3 we're also going to call the meeting to order
4 on behalf of the Planning Board.

5 Pam, would you please read the
6 statement of adequate notice?

7 MS. D'ANDREA: Let the minutes
8 show that adequate notice of this meeting, as
9 required by P.L. 1975, Chapter 231, has been
10 provided by publication in the Asbury Park
11 Press, the Messenger Press, posted on the
12 Township bulletin board, and filed with the
13 Township Clerk on the same date.

14 CHAIRMAN NEWMAN: And would you
15 please take the roll-call of the planning
16 board?

17 MS. D'ANDREA: Mr. Blanco?

18 MR. BLANCO: Here.

19 MS. D'ANDREA: Ms. Grbelja?

20 MAYOR GRBELJA: Here.

21 MS. D'ANDREA: Mr. Pepe is
22 absent. Mr. Sico is absent. Mr. Kurzman is
23 absent. Mr. Pado?

24 MR. PADO: Yes.

25 MS. D'ANDREA: Ms. Pinney?

1 MS. PINNEY: Yes.

2 MS. D'ANDREA: Mr. Weintraub?

3 MR. WEINTRAUB: Here.

4 MS. D'ANDREA: Chairman Newman?

5 CHAIRMAN NEWMAN: Yes.

6 MS. D'ANDREA: Mr. Beck?

7 MR. BECK: Yes.

8 MS. D'ANDREA: And Mr. Rundella
9 is absent.

10 CHAIRMAN NEWMAN: Despite the
11 absences we do have a quorum?

12 MS. D'ANDREA: Yes, sir.

13 CHAIRMAN NEWMAN: Okay, thank
14 you. And would everyone please join us in a
15 flag salute. (Pause.) Thanks, everyone.

16 I'm going to turn the meeting
17 back over to the Mayor.

18 MAYOR GRBELJA: Thank you very
19 much. We thought at this time it was going to
20 be important for the Planning Board and the
21 Township Committee to hear a presentation by
22 our planner, Rich Coppola, regarding the COAH
23 obligation that this Township is now
24 responsible for the third round.

25 Probably, over the last month or

1 so, I'm sure many people who have been
2 watching the Township Committee meetings, or
3 have been in meetings with me, certainly see
4 the frustration on me and the members of our
5 Township Committee when it comes to some of
6 the changes and things that are happening out
7 of Trenton, whether it happens to be municipal
8 aid, if it happens to be open space, if it
9 happens to be rural policing. And probably,
10 most importantly, a lot of the pressure that
11 is being placed on our community when it comes
12 to the obligation for affordable housing.

13 And I believe that once everyone
14 has the opportunity to hear Rich's
15 presentation, what you'll do is you'll have a
16 better understanding as to the sense of
17 frustration that we, as a Township Committee,
18 are feeling, as well as a deep sense of
19 hopelessness in dealing with the State and
20 what we're being asked to do.

21 So, with that, I'm going to turn
22 it over to our planner, Rich Coppola.

23 MR. COPPOLA: At the outset, the
24 Township has set up a COAH Work Group that's
25 been meeting for the better part of two years

1 in anticipation of the new rules, trying to
2 get ahead of the curve.

3 Since this group has met, and
4 your last Housing Plan Element that was
5 submitted only last year, the number -- which
6 I'll get to -- of obligation to the
7 municipality has essentially quadrupled
8 because of COAH's changes in their rule
9 formulation.

10 It is extraordinarily frustrating
11 as a planner to have to work with these rules.
12 We're doing it in ten towns, including
13 Millstone, and not one of them is finding it
14 not only not easy, but even -- in some cases
15 even being able to comprehend how to provide
16 the affordable units in accordance with the
17 requirements of COAH.

18 We should remind ourselves, as
19 described in your Master Plan, that Millstone
20 Township is a bona fide rural farmland
21 municipality, which is located entirely within
22 the Rural Environmentally Sensitive Planning
23 Area. That's PA 4b, by the currently adopted
24 State Development and Redevelopment Plan.
25 There's no public sewerage and/or water

1 facilities available to service new
2 residential or non-residential developments
3 within the Township.

4 That is completely in conformance
5 with the requirements and recommendations of
6 the adopted state plan. In fact, it would be
7 very, very hard for this town to get public
8 sewerage and public water facilities given
9 that status.

10 In your Master Plan, 2002, there
11 are a number of principles and policies. And
12 I think, again, it's important to remind
13 ourselves of a couple of them because you
14 don't want to abandon these policies. They're
15 long-standing policies of the town,
16 long-standing principles of your Master Plan.
17 They make a great deal of sense. But they
18 point, again, when you think about them, to
19 the inconsistencies between what has been
20 adopted and proposed by COAH versus other
21 state agencies.

22 Two of the principles are, one,
23 the rural character of Millstone Township
24 should be maintained. The second one is that
25 the Township supports the vision of the state

1 plan for Millstone Township as a Rural
2 Environmentally Sensitive Planning Area and is
3 committed to the protection of its natural and
4 cultural resources, including steep slopes,
5 stream corridors, and their associated
6 wetlands and floodplains, forest, agriculture,
7 and areas valuable as scenic, historical,
8 cultural or recreational resources. Again,
9 right on point with municipalities that have
10 been designated within a Planning Area 4b
11 within the State plan.

12 Policies. Just three of them I
13 would like to recite. One of them is that the
14 Township will provide active support and
15 encourage local participation in state and
16 county Farmland and Open Space Preservation
17 Programs to preserve as much of Millstone's
18 open space and farmland as possible.

19 This has been done successfully
20 by Millstone. Continues to be done to the
21 proudness of Farmland/Agricultural
22 Preservation people at the county and state
23 levels, and also Green Acres and other Open
24 Space Preservation groups also in the county
25 and state level. Again, total consistency on

1 the part of the planning in the Township with
2 the state plan and the recommendations that
3 have grown out of that plan.

4 Another policy. The Township
5 will control the location and expansion of
6 infrastructure to conserve the rural character
7 of the Township and discourage the extension
8 of sewer and water service into the
9 municipality.

10 Again, a long-standing goal,
11 totally consistent with the state plan and
12 what we've been told we should be doing as a
13 municipality for the past large number of
14 years.

15 Finally, another of the policies.
16 The Township will provide for its fair share
17 of the regional lower-income housing need,
18 consistent with the state plan designation of
19 the township as a Rural Environmentally
20 Sensitive Planning Area, with municipal
21 responsibilities under the Fair Housing Act,
22 and with the rules and regulations of the
23 Council on Affordable Housing.

24 That goal, I think, stands real
25 and true today. But, as I will now go into

1 when I talk about the COAH's adopted rules, it
2 is frustrating and near -- I wouldn't say
3 impossible, but very, very difficult to
4 provide the housing or the opportunity for the
5 housing, while at the same time maintaining
6 those goals and policies.

7 On May 6th, of this year, COAH
8 adopted the new rules. Although this Township
9 under the -- I should say over the Mayor's
10 signature, and many others throughout the
11 State, submitted rather detailed comments as
12 to why there should be changes in the rules
13 and why the rules would not work, COAH,
14 essentially, I think it is fair to say, I
15 won't say they ignored them, but they
16 certainly didn't act upon them. The rules
17 that were adopted May 8th are essentially the
18 same as were introduced.

19 They did introduce on the same
20 day a number of amendments. Those amendments,
21 while not adopted yet, they're in the public
22 review process, we are told -- I say "we",
23 municipalities throughout the State, and
24 planners working for municipalities and the
25 like -- are being told to consider those

1 proposed rules as part of the new rules. That
2 they're going to be adopted.

3 With that, when I refer to COAH's
4 rules, I'm referring to the adopted rules, as
5 well as the proposed rules.

6 I'll start off by saying that,
7 it's no secret, it's my opinion -- and I think
8 it's shared by most planners in the state I
9 know, I think I could safely say -- and the
10 Mayor and Deputy Mayor can correct me -- it's
11 shared by the COAH Work Group members,
12 including the Mayor and the Deputy Mayor --
13 that the proposed new rules, or the existing
14 and proposed new rules, including certain
15 provisions, but certainly when you look at all
16 of the provisions together -- and you have to
17 look at it that way because they all
18 interrelate, are the following:

19 They're impractical. They are
20 punitive to municipalities and private land
21 developers alike. They are arbitrary and
22 capricious, since they are premised upon
23 faulty and unverifiable data, which has been
24 admitted by COAH representatives. They will
25 effectively discourage municipal alliances

1 with private developers, which is a key part
2 of past compliance programs. They will
3 negatively impact, in my opinion, the state's
4 economy. And they will be a burden to
5 taxpayers, since the rules will result in
6 substantial increases in the real property tax
7 burden, which is in direct contravention with
8 the Fair Housing Act -- which brought about
9 COAH to begin with -- adopted by the state
10 legislature to take this whole process out of
11 the courts back in the '80s.

12 And the Fair Housing Act
13 specifically prohibits COAH from forcing
14 municipalities, and I'm quoting, "To raise or
15 expend municipal revenues to provide low and
16 moderate-income housing".

17 This whole process right now is
18 very cost exacted to the municipalities, and
19 it leaves municipalities with little else to
20 do -- since you can't really have a practical
21 alliance with developers like in the old days,
22 I'll get into that in a minute -- except maybe
23 to buy land or really do things that are quite
24 different and cost exacted to the
25 municipalities.

1 The new rules include a
2 growth-share approach for the calculation of
3 the number of affordable units calculated by
4 COAH to be obligated by a municipality. I
5 think we've discussed this at prior meetings.
6 Let me just remind you real quick.

7 For residential development the
8 calculation is based upon one affordable unit
9 for every four market-rate units. The prior
10 growth-share rules was one affordable unit for
11 eight market-rate. Prior to that there was no
12 growth-share approach. There was a number and
13 you just had to satisfy that number.

14 It wasn't always easy. You had
15 to make some hard decisions. But you didn't
16 have this relationship so that every time you
17 approve residential units, you are actually
18 adding to your obligation.

19 Also, for non-residential
20 development the calculation is based upon one
21 affordable unit for every 16 jobs. Prior to
22 that it was one for every 25 jobs. Prior to
23 that there was nothing. There was no
24 growth-share for either residential or
25 non-residential development.

1 With all this, one might think
2 that the COAH rules allow municipalities to
3 somewhat control their affordable housing
4 obligation by managing the overall number of
5 market-rate units and the number of jobs
6 created from new non-residential development.

7 DEPUTY MAYOR KINSEY: I'm sorry
8 to interrupt you, Rich.

9 Isn't there a square footage
10 component under the old rules, too? Wasn't
11 there a square-footage component?

12 MR. COPPOLA: Yes. That's part
13 of the growth share.

14 There is an appendix to the rules
15 that has different categories. Fourteen
16 different categories of use groups for
17 non-residential.

18 They each are assigned a number
19 of jobs, I should say per square feet, and
20 that's how you get the calculation. You
21 calculate the number of jobs, and now for
22 every 16 jobs, it's one unit.

23 DEPUTY MAYOR KINSEY: In effect,
24 if you have a facility that only generates,
25 say, ten jobs, they're imputing the number of

1 jobs?

2 MR. COPPOLA: Correct.

3 Everything that COAH has in its rules is
4 considered presumptively valid by COAH.

5 DEPUTY MAYOR KINSEY: Of course.

6 MR. COPPOLA: So, I guess a very,
7 very good example of that, not to digress too
8 far, but is the fact that warehousing, if you
9 have high-quality warehousing, it's very, very
10 much automated now, so per square feet the
11 number of employees is relatively little.
12 COAH has now just a single category for
13 warehousing.

14 And even if you have a blue chip
15 use that can absolutely show, with records and
16 everything else, that they have X number of
17 employees, far less than COAH's equations
18 calculate to, COAH's rules prevail.

19 And there's no question. There's
20 no appeal process. There's no showing of a
21 fact that might overturn what's in the rules.

22 CHAIRMAN NEWMAN: So, Rich, if we
23 get an applicant before the Planning Board for
24 a warehouse-type use, and in the course of the
25 application we ask how many employees will

1 there be, maybe related to parking spaces, and
2 he says, five, and we go through a little
3 testimony and it's obvious the number is five,
4 and in the resolution, presumably approving
5 the application, the number is five, in the
6 minutes the number is five, that is still
7 irrelevant for COAH's purposes if they want to
8 impute ten?

9 MR. COPPOLA: Yes, it is.

10 DEPUTY MAYOR KINSEY: Oh, it gets
11 worse. Because Rich will mention that all the
12 non-residential component now is just going
13 out the door to the state anyway.

14 We'll still get the obligation,
15 but we won't get the fees associated with
16 that.

17 MAYOR GRBELJA: Don't take his
18 story away.

19 DEPUTY MAYOR KINSEY: I'm sorry.
20 I'll shut up now.

21 MAYOR GRBELJA: It's starting to
22 get hot in here, Jim. It is, though.

23 MR. COPPOLA: The projections of
24 COAH's rules for jobs and for units, as we
25 just discussed, are held to be sacristies by

1 COAH.

2 So even though these projections
3 are unsubstantiated, the COAH rule states that
4 the projections are presumptively accurate.
5 And that the number of affordable units
6 resulting from the projections must be
7 satisfied in the Housing Plan Element or Fair
8 Share Plan/Master Plan document that will be
9 adopted by this Board by the end of this
10 calendar year. And that's it. That's really
11 it.

12 So we don't have the ability --
13 you know, this municipality, as an example,
14 did a comprehensive Master Plan in 2002. Made
15 some rather well-documented changes, or I
16 should say changes based upon well-documented
17 information, that changed the minimum lot
18 sizes, and that really refined the goal of the
19 town to really embrace its rural character and
20 preserve and safeguard the environmental
21 assets that it has been given. And those
22 changes are not a basis for their projections.

23 Their projections were taken from
24 development activity between 1993 and 2003,
25 and then it was straight-line projected. It

1 just so happened that you changed your zoning
2 in 2003. So, it's just an example. And I can
3 go on, and we all could, go on and on about
4 it.

5 And this is why they say, well,
6 they may not be correct. But the problem is
7 that this year, within what are we dealing
8 with, five months, six months, we have to come
9 up with a plan addressing the full number.

10 Now, there is a provision in the
11 rules that have a three-year review starting
12 three years after you get certification. And
13 at some point in time, if your growth is
14 actually much less than they projected, the
15 municipality can theoretically petition for a
16 change in its number. But here's the problem.
17 The problem is, you have to come up with a
18 plan this year.

19 The second part of the problem
20 is, let's say you get certification January
21 1st, 2010. They're going to have a number of
22 these plans sitting on the desk of a
23 relatively small number of planner's reviewing
24 them at COAH. That means the first review
25 period is 2013. Likely, they're not going to

1 do anything three years after they give you
2 certification, so they'll wait till 2016.
3 Well, the whole projection period goes to the
4 end of 2018.

5 So you're going to have to live
6 with, at the municipal level -- and not just
7 Millstone, but we're all going to have to live
8 with -- possibly erroneous projections. Put
9 plans in effect to address these numbers that
10 they've spewed out using their consultant's
11 projections, and then maybe at the eleventh
12 hour you will get a change.

13 And that goes to some of the
14 strategy that I'll just give you at the end of
15 this, hopefully, brief presentation regarding
16 what your COAH Work Group is trying to do to
17 protect the town, and give you options down
18 the road.

19 Those are COAH's rules. Not to
20 be out done, the State legislature a couple of
21 weeks ago passed legislation, which is yet to
22 be signed by the Governor, which makes matters
23 worse.

24 The new legislation has
25 eliminated Regional Contribution Agreements

1 from the equation. Well, COAH had already
2 upped the cost for a Regional Contribution
3 Agreement to \$80,000, roughly. That's the
4 high end of it. Between 67 and \$80,000 per
5 unit.

6 DEPUTY MAYOR KINSEY: What was it
7 before?

8 MR. COPPOLA: Thirty-five.

9 MAYOR GRBELJA: I think it might
10 even have been as low as twenty.

11 MR. COPPOLA: Oh, it was at one
12 point twenty. It went to twenty-five, then to
13 thirty-five. But this change, you know,
14 quantum leap.

15 So if a town's obligation, let's
16 say -- and a Regional Contribution Agreement
17 is when you can, a suburban or rural
18 municipality could enter into an agreement
19 with an urban municipality for up to 50
20 percent of its affordable housing obligation
21 and pay the urban municipality a sum of money
22 for them to construct the needed affordable
23 housing units for the amount.

24 Well, the number per unit, if you
25 took the 80,000, just for ease, means that

1 you're dealing \$4 million for 50 units.

2 That's an incredible amount of money.

3 So it was not necessarily
4 something that was going to happen anyway, but
5 that's been taken away. This bill says
6 there's no more Regional Contribution
7 Agreements.

8 Then the bill says that there's
9 going to be a development fee for the
10 non-residential uses in a municipality of two
11 and a half percent. Not the 3 percent that
12 they had in COAH's rules. And that a
13 municipality is forbidden from charging a
14 developer of non-residential uses any other
15 fee or require them to construct the housing
16 that they may be generating by virtue of the
17 jobs that they're creating, by virtue of the
18 calculations put forth by COAH, or by
19 requiring a payment in lieu of.

20 In other words, okay, you can't
21 build the units, but we're going to acquire a
22 payment in lieu of, not for an RCA but the
23 actual units, maybe elsewhere in the town.

24 Now, it turns out that in a
25 recent amendment that was attached to that

1 bill, if a municipality receives approval, be
2 it certification by COAH, to collect
3 residential fees, then you can keep the two
4 and a half percent. And that's the path I
5 hope that we get to.

6 But, in any case, you're still
7 obligated for the units that are generated by
8 that square footage, as Mr. Kinsey indicated.
9 The square footage of that non-residential
10 development generates a need.

11 Well, the municipalities aren't
12 off the hook on that. They can't ask the
13 developer to build the units. They can't ask
14 the developer to do something in lieu of
15 building the units. They may get the two and
16 a half percent fee, but you're still stuck
17 with whatever number of units is generated as
18 a result.

19 I think something is missing.
20 It might be logic.

21 The end result, and this is
22 across the board, there's very few
23 municipalities that are not being really hit
24 very hard, of all types, sizes, character and
25 the like. I think it's particularly hard on

1 municipalities such as Millstone, which is,
2 indeed, a rural municipality.

3 In the past, as I was saying, the
4 way -- in fact, as even put forth by the
5 Supreme Court in the Mount Laurel 2 decision
6 in 1983, what you tried to do and what was
7 being fostered is you have a working
8 relationship with developers so a developer --
9 this is before you had growth share, this is
10 before you just had a number. But you would
11 say to a developer, okay, look, build the
12 units over here, we would like this diversity
13 of units and all, and we'll give you a density
14 bonus for it. And, granted, this is for
15 water and sewer more than anything else, but
16 this was the philosophy.

17 Because really the philosophy
18 then was that the development, the burden for
19 the affordable housing, would not be on the
20 rural municipality without public water and
21 sewer in accordance with the state plan, it
22 would be on more of where the infrastructure
23 was.

24 So the theory was, okay,
25 developer, you build X number of units, we'll

1 give you a density bonus, and set aside a
2 number of those for occupancy by eligible COAH
3 households.

4 Well, now you have a situation
5 where you have the one -- given a residential
6 development, you have the one affordable unit
7 generated by the four market units. So if you
8 have a development of 100 units now, and the
9 developer said I'm going to set aside 20 of
10 these units, 20 percent, you do the math, the
11 80 market-rate units, divide by four,
12 generates the need for the 20 units. So all
13 the developer really practically can do is
14 break even for the town.

15 The town is very hard pressed to
16 go beyond the 20 percent. The AMG Realty v.
17 Warren Township case, which is the first case
18 after Mount Laurel 2, Judge Serpentelli heard
19 it. He observed that 20 percent is about as
20 much as you can ask a developer to do from a
21 financial viewpoint.

22 Ironically, in the Appellate
23 Division decision of January 25, 2007, which
24 threw out most of COAH rules, the Appellate
25 Division panel, the three judges, reiterate

1 that observation. And yet COAH's rules don't
2 allow any latitude.

3 So basically if a developer comes
4 into a town and says, hey, look, I'd like to
5 do this development, I'll give you 20 percent
6 set aside, the town's going to look and say,
7 well, yeah, but what are you doing for us?
8 Because all you're doing is really breaking
9 even on the obligation that you're creating by
10 virtue of your development.

11 This is not a problem with the
12 developers. This is a problem with the rules.

13 Developers, as I said in the
14 beginning, are being hurt as much as anybody
15 else in this equation. And everybody is
16 scrambling, as your town is, to try to come up
17 with innovative ways.

18 Let me just say one thing right
19 now, and I'll say it again later. I hate to
20 characterize this as a game, but it somewhat
21 is. There's a moving target here. You have
22 an obligation to come up with a plan at the
23 end of the year. You're going to have
24 litigation that you're going to be party of.
25 Trying to rectify the wrong, trying to get

1 something reasonable out of something that is
2 absurd and unworkable, that's going to take
3 time.

4 It may come out, in three years,
5 new rules come down the line, but you have to
6 satisfy the obligation now in order to keep
7 yourself out of court. Well, we have to -- I
8 don't know where I was going with that, I
9 think I lost my train of thought, but I'll get
10 back to it.

11 CHAIRMAN NEWMAN: Rich, can I ask
12 you a quick question?

13 MR. COPPOLA: Yes.

14 CHAIRMAN NEWMAN: Just to play
15 that absurd card on our side of the equation,
16 so let's say we do nothing. And say we're not
17 going to participate in the COAH process, we
18 don't think it makes sense. And worse that
19 could happen is we get sued by a builder, and
20 he's probably only going to sue us to build
21 the 20 percent anyway.

22 MR. COPPOLA: He might not even
23 do that.

24 CHAIRMAN NEWMAN: You're probably
25 right.

1 MR. COPPOLA: I was going to do
2 that a little later, but I can do it now.

3 Look at the COAH process as an
4 insurance policy against litigation. Think of
5 it, we haven't been certified with the 2007
6 plan. You weren't certified -- or you were
7 certified in your prior plan, and you
8 satisfied all of that obligation, which was 81
9 units, plus three more. You have three units
10 credited to this round. So from second round
11 to third. This town has done everything
12 properly, forthrightly, and you've done it in
13 a way that has preserved the rural character
14 of the town.

15 But you weren't dealing with huge
16 numbers, and you're dealing with pretty huge
17 numbers now. And, also, you had the
18 possibility of a regional contribution at a
19 reasonable, relatively speaking, 35 grand.
20 You don't have that anymore. So now the total
21 number has to be built within your
22 jurisdiction.

23 If you don't afford yourself
24 protection under the COAH process, you're
25 floating out at sea. And the way the law is

1 set up, you're easy picking for what's called
2 a builder's remedy lawsuit.

3 A builder's remedy law suit is a
4 simple form that's filed. I don't know what
5 it costs these days, but it's not that much.
6 And all it says is that the town has not
7 complied. It hasn't satisfied its housing
8 obligation, which is a constitutional
9 obligation. And, indeed, hasn't afforded
10 itself to be processed through the COAH
11 processing.

12 At that point something very
13 amazing happens. The judge says to your
14 attorney, well, have you been certified or
15 have you filed with COAH? No. Okay, you're
16 not compliant.

17 Then the judge asks your attorney
18 and the attorney for the plaintiff, who filed
19 the lawsuit, to give three names generally of
20 what are called court-appointed masters. I've
21 done this many times. I don't do it very
22 often anymore. I've done it on a
23 selective-basis recently when it's for some
24 very limited type of scope, because basically
25 there's no planning involved. I can charge

1 200, \$250 an hour, which is pretty much the
2 going rate. And guess who pays 100 percent of
3 that court-appointed master? Not the
4 plaintiff, the town.

5 And what would be the substance
6 of a lawsuit? It might be, as the Chairman
7 indicated, maybe a 20 percent set aside. But
8 more likely in a town like this, without water
9 and sewer, the target would be your
10 residential zoning districts, where the
11 developer might say, well, we're not going to
12 build -- we don't want to build one per ten
13 acres or one per six acres, we want to build
14 one per one acre. And we'll build them on
15 septics and we will provide you with a number
16 of affordable units. Maybe it is 20 percent,
17 maybe it's not 20 percent. Bottom line is you
18 have none that you plan for.

19 The judge could say, well, that
20 sounded reasonable, at least they're going to
21 provide some housing. And, Millstone, you
22 haven't done it, so these guys are righting
23 the wrong, this plaintiff.

24 Or maybe you say, God, that's
25 going to just absolutely change the character

1 of that portion of town. Maybe it's a
2 100-acre tract. And you say, look, we try to
3 negotiate it down to maybe one dwelling unit
4 per 3 acres. And the developer says, then I
5 can't provide really that number of houses, so
6 they throw money into your housing trust
7 account.

8 I've seen this happen a lot. I
9 am going to try to quantify the relative
10 costs, but I think collectively, maybe even in
11 this room, there's a lot of stories that can
12 be told.

13 At the end of the process is your
14 zoning is broken. You haven't really supplied
15 much -- provided much affordable housing. You
16 paid an exorbitant amount, because you're
17 paying entirely for me. And you don't get
18 certification because you haven't still met
19 your number, which means that there could be
20 another lawsuit next Tuesday.

21 And I want to tell you what I
22 think most planners know and many of you may
23 know, too, if you've attended any of these
24 sessions over the many months since January.
25 But there are law firms out there that are

1 waiting for January 2nd so they can go down
2 and see what towns have submitted the plans,
3 what towns haven't.

4 They're going to also,
5 secondarily, even if you've submitted a plan,
6 they're going to review them. Scrutinize
7 them, to see what possibility there is that
8 maybe they can object to the plan and take an
9 option on some land and do it.

10 So it is, in my opinion,
11 extraordinarily important that we come up with
12 a plan to give the insurance policy to
13 Millstone and the residents in the town,
14 safeguard your zone plan. But do it in a way
15 that you have flexibility over time if the
16 number comes down, rules change, that you have
17 control over at least a major portion of what
18 you put in the plan.

19 And I'll get to that in a minute.

20 MS. PINNEY: Can I ask a
21 question?

22 MR. COPPOLA: Yes.

23 MS. PINNEY: The suggestion was
24 made, I can't remember who said it, maybe
25 Mitch, of what would happen if we didn't...

1 MR. COPPOLA: That's exactly it.

2 MS. PINNEY: I understand. What
3 would happen if, in fact, we came up with a
4 plan which, in our opinion, was good faith, in
5 that we are really doing our best, given the
6 parameters of our community and our
7 environment, and perhaps it's less than what
8 the State has -- won't do, huh?

9 MR. COPPOLA: No. The number is
10 the number. At least for the time being.

11 DEPUTY MAYOR KINSEY: I asked
12 that question, Mary. I thought a good-faith
13 effort would solve the problem, but, no.

14 MR. COPPOLA: Part of it, though,
15 may be good faith, because -- not the number,
16 but how you go about it. You're going to have
17 to stretch -- you may have to stretch some
18 rules.

19 But before I get into that, let
20 me just, again, remind everybody here what is
21 meant by a low and moderate-income household
22 in Monmouth County at this point. Because I
23 think there are a lot of people that don't
24 understand who these units are being set aside
25 for.

1 When I was at a domestic Peace
2 Corps, in Bedford-Stuyvesant Brooklyn, the
3 term low-income housing had a connotation to
4 it. It generally was people who were pretty
5 down and out, on welfare or whatever else.

6 For some reason the Supreme Court
7 used that term, and I think it has created an
8 ongoing misunderstanding of what we're talking
9 about.

10 I just thought I would give you
11 the income limits, for the 2008 regional
12 income limits. They're promulgated by HUD,
13 the Federal Department of Housing & Urban
14 Development, they're cross-accepted by COAH.
15 And they're broken down by regions. We're in
16 Region 4, Housing Region 4, which consists of,
17 I think, it's Hunterdon, Mercer and Monmouth
18 County.

19 But for a one-person household of
20 a moderate, moderate level, starting with a
21 higher level person, a one-person household
22 occupying a moderate-income affordable housing
23 unit could earn up to \$47,357. A two-person
24 household could earn up to \$54,122. A
25 three-person household could earn up to

1 \$60,888. A four-person household could earn up
2 \$67,653.

3 On the low end, a one-person
4 household \$29,598. Two-person household,
5 33,826. Three-person household 38,055.
6 Four-person household, 42,283.

7 The point here is that Millstone
8 has never said there's not a need for some of
9 the housing. And I don't think Millstone is
10 saying that now. You've been working two
11 years starting with a reasonable number. You
12 had that pretty well locked in in terms of a
13 potential plan. The people are not "poor",
14 but it's hard in this state, and many states,
15 to get affordable housing.

16 The problem really is the rules
17 that generates such a high number and then
18 prevent or limit the possibility of how you're
19 going to comply.

20 Notwithstanding what you hear
21 that COAH rules provide more opportunities, it
22 is simply not true. And particularly with the
23 RCAs going away, it's definitely not true.

24 I'm not going to spend a lot of
25 time on this, but the incompatibility with the

1 state plan should be obvious.

2 But there's a strategy on Page 79
3 of the current plan which says that, "Towns
4 should provide adequate housing at a
5 reasonable cost through public or private
6 partnerships --", which I told you are no
7 longer in existence, "-- that create and
8 maintain a broad choice of housing," and so
9 forth. "Create and maintain housing in the
10 Metropolitan and Suburban Planning Areas --",
11 Planning Areas 1 and 2, "-- and in centers in
12 the fringe Rural and Environmentally Sensitive
13 Planning Areas." That's 3, 4 and 5.

14 We're 4b, which is a combination
15 of four and five. We're rural, but we're also
16 environmentally sensitive.

17 The plan also goes on to say that
18 not every town should have to have centers.
19 You don't really have a locality in town that
20 cries out to be a center. That would be just
21 a meaningless phrase really. A center is
22 supposed to have some centrality to it, some
23 meaning to it.

24 But what COAH's -- what COAH's
25 high number of units basically say is that a

1 town may need some sewer -- I shouldn't say
2 sewer. They're not talking about lines coming
3 in from other towns or a sewer treatment plan,
4 they're talking about a package plant, maybe
5 ear marked for a particular development.
6 Might be a cycle system, which I don't know if
7 you know, but it's innovative type. It could
8 be spray irrigation and whatever else.

9 What the rules do, coupled with
10 the current state plan, is almost force rural
11 municipalities to go into centers. It doesn't
12 make any sense. It's against even the state
13 plan.

14 So there's an incompatibility
15 with the rules and the state plan. And I can
16 go into a lot more of that, but I won't. And
17 I already indicated a lack of coordination
18 with New Jersey Department of Environmental
19 Protection regulations.

20 If a rural municipality wanted to
21 put a small package treatment plant to serve
22 some low or moderate-income housing, it's
23 against COAH's rules. There has to be an
24 exception.

25 There is discussion to bringing

1 about that exception. But it's very, very
2 serious and it just illustrates further the
3 inconsistencies of these rules.

4 What are our obligations? I
5 mentioned to you that the prior second round
6 was 81 units. You provided 84. You have a
7 three-unit credit.

8 MAYOR GRBELJA: Can I just make a
9 comment about that?

10 MR. COPPOLA: Please.

11 MAYOR GRBELJA: What we did is we
12 did purchase, and we had an agreement with
13 Asbury Park at the time, and what we did is we
14 purchased just about half of those units with
15 Asbury Park. So the in-town that we actually
16 had built is maybe about half of that.

17 But we did take advantage of that
18 Regional Contribution Agreement and that's how
19 we satisfied half of what we had, which we no
20 longer have the benefit of using, even if it
21 was affordable.

22 MR. COPPOLA: Correct.
23 Your growth share number right now is 172
24 affordable units. That includes 98 units
25 calculated for projected residential unit

1 growth, and 74 units calculated for projected
2 non-residential job growth.

3 In addition, you have a 15-unit
4 rehabilitation component. What is that? That
5 is COAH's calculation, which was changed, by
6 the way. Originally you had none, now you
7 have 150.

8 I don't think the Census changed,
9 so it's a little -- how they changed the
10 calculation, but the bottom line is supposedly
11 there are 15 units existing in Millstone,
12 undefined as to location, that have some
13 deficiencies such as maybe lack of heat, lack
14 of plumbing, maybe bad septic, as well as
15 possibility of others, that are currently
16 occupied by eligible COAH households that are
17 in need of repair.

18 And that means that you're going
19 to have to either build new units to replace
20 them, or you could institute a rehab program,
21 which is what the recommendation is going to
22 be, hopefully, through the county.

23 But you fund that. You can fund
24 it out of your Housing Trust Fund at a tune of
25 some \$20,000. And a lot of even eligible

1 households or property owners don't avail
2 themselves of this because they have to deed
3 restrict their property for occupancy by a
4 COAH affordable housing -- affordable
5 household for ten years now.

6 But it's another thing that just
7 changed. You know, it changed, with no
8 explanation, we just go from zero to 15. And
9 as I said to you we went from 44 then we
10 planned for 100, then we went to was it 190
11 something, 198, and now we're at 172.
12 And no RCAs.

13 So think of it, last time you
14 worked very, very hard to come up with a plan
15 for some 40 units to be constructed in town,
16 and you had the ability to RCA at a relatively
17 reasonable cost. Now you don't have the
18 ability to RCA.

19 So you are being called upon now,
20 same character of the town, same everything
21 else, just about the same state plan, to build
22 more than four times those units, four times
23 those units in your bounds.

24 I already discussed the builder's
25 remedy lawsuit if you don't. I'll answer any

1 questions on that that you have, but it's a
2 real, a real scary thing.

3 There's no winners, except a
4 developer. And, the developer, it's too
5 enticing to pass up for a developer. It
6 really is. And it's a way of breaking zoning.
7 You know, riding a beautiful steeve down the
8 center of the court.

9 The status of the efforts on your
10 COAH work, as I said it's been ongoing for two
11 years, it beats any town that I have been
12 working for, and most towns in the state.

13 Keep in mind over 300 of the
14 municipalities in the state, out of 566
15 municipalities, have not complied with COAH.
16 A lot of these are in the northeast. Some of
17 them are shore communities. Some of them are
18 towns that don't care.

19 And with these rules and the
20 feeling that it's almost impossible to comply
21 with them, there are a lot of towns that won't
22 comply. And towns that are going to comply,
23 many of them haven't even started addressing
24 this.

25 It's almost approach avoidance,

1 you know, you start getting into it.

2 COMMITTEEMAN KUCZINSKI: With the
3 fact that it's so hard to meet these
4 obligations, and obviously other towns are
5 having that issue, if we do nothing, you say
6 that we're opening ourselves up to lawsuits.

7 But if a lot of towns are in the
8 same boat, are judges going to look at this
9 the same way and say this is a problem? This
10 is not the first time it came along, this is
11 the fiftieth or sixtieth town that has the
12 same issues.

13 So they're just going to say, oh,
14 you've to do it, and that's the end of it?

15 MR. COPPOLA: You're going to
16 have so many lawsuits in front of so many
17 judges. The judges are bound by the law. I
18 mean, they have some latitude, but I've never
19 experienced a judge saying to the
20 court-appointed master, you can ignore COAH's
21 rules. It's just the opposite. COAH's rules
22 become the measure of the court.

23 I've been in -- I won't say
24 where -- up in Northern Jersey, I will say
25 that, where I couldn't believe what the courts

1 were doing, approving -- how's this one? At
2 the end of a cul-de-sac there was approval for
3 five one-acre lots. That land owner sued the
4 town on a builder's remedy, and the judge
5 awarded him 36 luxury townhouses, and with
6 some money thrown at the town. Not one unit
7 built.

8 That town was sued by I believe
9 it was four developers, in the matter of five
10 days. And I don't believe any of the
11 resulting developments resulted in any
12 affordable units.

13 MAYOR GRBELJA: You know what, I
14 also think what frightens me is we're going to
15 have developers, or attorneys, that are going
16 to pick and choose what communities are out
17 there.

18 So if you have thirty communities
19 that are non-compliant, they're going to say
20 this is where I want to go, or this is where I
21 think I'm going to be able to maximize my
22 profit or maximize what I want to do. And I
23 really feel that Millstone would be a target.

24 I mean it's a community where we
25 have fought to make sure that we have moderate

1 development within certain bounds to protect
2 the rural nature of this community. And I
3 think that once that becomes open season, this
4 will be a community that will be targeted.
5 And that's what's scary to me.

6 DEPUTY MAYOR KINSEY: You can
7 never -- you can never not consider the
8 special-interest factor. People will be
9 maneuvering and circling and rubbing elbows
10 and cutting deals.

11 And, you're right, Rich. They're
12 not going to consider anything to do with our
13 zoning and how we've managed the process of
14 our town. They're just going to expediate
15 what needs to be done because they're not
16 looking to complicate their lives, they're
17 looking to just collect fees and do what the
18 courts told them to do.

19 MR. COPPOLA: Really. And the
20 courts, themselves, I don't think, go out of
21 the box because if they go out of the box too
22 much on one case, it doesn't mean that
23 somebody else cannot sue the town weeks later.

24 And they could also take issue,
25 if they want, with the judge's prior decision.

1 So, I mean, it's just a thing that doesn't
2 end. A process that goes on and on.

3 The classic example, the classic
4 example -- I forget the name of the town,
5 right in this county, a small little --

6 MR. SHAFAI: Farmingdale?

7 MR. COPPOLA: Farmingdale. I was
8 called in to represent them some years ago.
9 It's all public record. Nothing they did
10 wrong, per se.

11 They were told by some COAH reps
12 at one point in time -- the land was pretty
13 much shown to be on the wetlands maps,
14 promulgated by the State as all wetlands. And
15 something was said or understood to be said
16 that, oh, don't worry about it. So, in good
17 faith, they didn't. They wanted to save
18 money. Why do a plan if they don't need to.

19 And they got sued. And then
20 there was a specific on-site investigation for
21 wetlands. It turns out that there were four
22 or five acres -- let's say, maybe 16 acres,
23 whatever it was, upland. It was a classic
24 busting zoning case.

25 The applicant basically managed

1 to get four times the number of units. Not
2 one affordable housing unit was built.

3 I don't know what was spent by
4 the town, but they had me on their payroll.
5 They had an attorney. They had an
6 environmental attorney. They had an engineer.
7 They had an environmentalist. They had an
8 economist. And, I'll tell you, it was one of
9 the most unhappiest experiences in my
10 professional life. To see this town that did
11 not even -- had not a bad thought about any of
12 this, okay. They would have done it if they
13 understood it differently. And it would have
14 been nothing to do, by the way. Nothing. The
15 number was so small.

16 Just to give you an example. And
17 it was very disruptive to that small
18 community.

19 MAYOR GRBELJA: I just have two
20 things that I wanted to comment on.

21 First of all, when we were first
22 asked for the third round, we did come up with
23 a plan. And I think, he was right, maybe we
24 had a responsibility of about 60 units, but
25 yet we had developed a plan that really we

1 could work out to 100 units, but that was
2 using the RCAs.

3 And, then, when they came back in
4 with these revised regulations, all of a
5 sudden we almost went up to 240 units. But we
6 still had RCAs at that particular time. Maybe
7 a little more expensive. Now we're down to
8 174 units, and no RCAs. So it's very
9 frustrating.

10 So I just wanted to make that
11 point. Because it's not like we haven't been
12 compliant. We have been compliant. And we
13 have worked with them. And we've provided
14 them. Even though, as Rich had said before,
15 and many times, even though we know that the
16 rules that we're working on are flawed and
17 they're going to change, they still required
18 work to be done.

19 So we're spending time, we're
20 spending money, in order to develop plans that
21 we know are going to have to change because
22 the rules are going to change.

23 I did have an opportunity to meet
24 with Senator Doria, and a gentleman -- whose
25 name escapes me -- from the DCA, as well as

1 Lucy Voorhoeve from COAH. And I talked about
2 our environmental sensitivity, and I talked
3 about our ten-acre zoning. And the fact that
4 when they looked at the numbers they were
5 looking at numbers prior to the adoption of
6 our Master Plan.

7 And the first thing that they
8 wanted to come out with is that we developed
9 ten-acre zoning to stop building. And I said,
10 oh, no. We have a Master Plan that is based
11 on environmental facts that clearly
12 demonstrates that we are protecting our land.
13 We are the headquarters of five watersheds.
14 We were the first community to set up a
15 Watershed Council. We are the stewards of our
16 watersheds. And that is what our zoning is
17 based on, the protection of our environment.
18 Our sensitive environment.

19 So right away that is what
20 they're going to look at when they want to
21 come into Millstone and they look at ten-acre
22 zoning. They're going to do whatever they can
23 to try and attack our zoning. To say that it
24 was only done in order to avoid building.

25 And I think it was very good at

1 the time when the Master Plan was done that
2 all of the documentation relates to the
3 environmental sensitivity of our environment
4 in this community.

5 MR. COPPOLA: That plan was done
6 before I was, thankfully, asked by you all to
7 work with you, but, of course, I've become
8 familiar with it. And it was based upon the
9 environmental issues, as the Mayor said. And
10 also on the prevailing character of
11 development in the town, which is a
12 prerequisite for zoning in the land use law.
13 And, thirdly, on the recommendations of the
14 state plan.

15 I mean, you had those three
16 ingredients, which were ironclad. You were
17 really working, again, in total consistency
18 with the state plan, and with the Land Use
19 Law, and everything else.

20 But, you're right. Regardless of
21 what those individuals might have said in any
22 case, you're going to be dealing with the
23 reality of the staff. And I don't know if the
24 staff -- the staff probably wants to take a
25 year off at COAH, because they're going to be

1 in the middle of a lot of difficult things.

2 DEPUTY MAYOR KINSEY: I would
3 like to take 20 years off from COAH.

4 MR. COPPOLA: Anyway, your COAH
5 Work Group, I could just tell you -- I don't
6 want to get into specific sites, but a number
7 of them are being looked at, in a variety of
8 different ways, and the reason I don't want to
9 get into them is because nothing has really
10 been finalized.

11 There's a couple of municipal
12 sites that we know have come in front of the
13 Planning Board or the Zoning Board for that
14 matter, but there's many other sites. And
15 it's an on going process, to meet with land
16 owners and everything else, and it would be
17 premature, really, to start discussing that,
18 because some of them is potential negotiations
19 and the like.

20 But, suffice it to say, what the
21 Work Group is trying to do -- going back to
22 the beginning of my presentation when I talked
23 about the policies and the principles of your
24 Master Plan -- is adhere to those. Keep the
25 Zone Plan of Millstone Township intact to the

1 greatest extent possible.

2 There may be exceptions to this.
3 You know, maybe a short-run exception,
4 hopefully, that you have the right to go back
5 and change over time. And that's where, if
6 the town owns land, you have an advantage.
7 And you do own some land. And all that land
8 has been looked at, and others are being
9 considered.

10 And the reason is that if you own
11 the land, and let's say your number goes
12 down -- over the course of the next three
13 years because of litigation -- from 172 to
14 whatever, you could amend your plan and take
15 some of your properties out of the plan or
16 lower the number of units that you had ear
17 marked for that property or those properties.

18 If it's privately owned land, the
19 only way you could take a piece of property
20 out of the plan is with the permission of the
21 land owner. So, obviously, the game -- and
22 this is where the cost comes in -- the best
23 approach is to try to build on, or have your
24 plan earmark units on municipally owned land.

25 That gives you the greatest

1 flexibility. That's a hard challenge for 172
2 units.

3 I hope that at least helps. I
4 know you've been through a lot of it before.
5 I didn't go through some of the other
6 inconsistencies, but I think that's probably
7 more than enough for tonight.

8 Am I right?

9 MAYOR GRBELJA: Does anybody have
10 any questions for Rich?

11 DEPUTY MAYOR KINSEY: Rich, are
12 you finished?

13 MR. COPPOLA: Yes.

14 DEPUTY MAYOR KINSEY: Maybe I
15 just would like you to make one comment to the
16 public and for the people here, is when COAH
17 was formulating these plans -- because I'm
18 sure a lot of people are going to be sitting
19 at home listening, and certainly sitting here,
20 in disbelief about how COAH could be putting
21 forth so much regulation in non-conformity
22 with its own state planning initiatives. And
23 we've had many a conversation about it, but I
24 think it's interesting to know how, and maybe
25 you can comment, about how COAH worked in a

1 vacuum on this.

2 Because they're in the same
3 building, and extensively on the same floor as
4 the DEP -- who we work with in the planning
5 area, we're Planning Area 4b -- and
6 specifically did not talk to those people.

7 MR. COPPOLA: I've had two
8 conversations with people I'm not going to
9 name, one in COAH, one in the Office of Smart
10 Growth -- which is coming to be a real
11 oxymoron -- but it was a Deputy AG at the
12 level of the Office of Smart Growth, and they
13 both told me that there was no dialogue
14 between them.

15 It's really hard to believe.
16 They happen to be on the sixth floor of the
17 same building. The only thing separating them
18 are four elevator shafts and two bathrooms.
19 And, yet, I believe them to be true. Why
20 would they say it otherwise? They did not
21 talk to each other.

22 I then heard, through the
23 grapevine, that somebody spoke to another
24 representative of the Office of Smart Growth
25 and they are now rewriting the state plan.

1 And that may come out this year, too. It's
2 been outsourced to a private consultant.

3 DEPUTY MAYOR KINSEY: In hopes of
4 conforming to COAH?

5 MR. COPPOLA: I thought that.
6 But then I was told that -- I anticipated that
7 exactly, Bob, but I was told just the
8 opposite, that they were told not to speak to
9 COAH.

10 Now, it doesn't make any sense,
11 but none of this does. It really doesn't. So
12 it is where we're at. And I wanted to give
13 you the problems so that you understood what
14 you're up against, and the repercussions of
15 not playing the game.

16 It's going to be very hard and
17 really risky to say -- to pick up the ball and
18 say, I'm not playing, I'm going home. And
19 that's the tough message. Because we're going
20 to have to come up with something, even if we
21 stretch it a bit, and keep that insurance
22 policy until things are resolved.

23 And maybe things will resolve
24 differently as time goes on. But you could be
25 assured, even though there's litigation going

1 on, if there's no stay given, and you're sued,
2 that lawsuit is going to be heard right away.

3 CHAIRMAN NEWMAN: Thank you.

4 MAYOR GRBELJA: Thank you, Rich.

5 Do you have a question, Jim?

6 MR. PICKERING: No.

7 MAYOR GRBELJA: I'm going to open
8 this to the public at 8:30.

9 If anyone would like to step up
10 to the mike, or have any questions to ask?

11 We have no mike, but if you could
12 just state your name and address?

13 MR. LITECKY: Sure. My name is
14 Andy Litecky. My company is Svedova Company.
15 And I really came here to look for the
16 Planning Board, because we're negotiating to
17 buy one of the lots on Burnt Tavern Road in
18 your Business Industrial area. We're going to
19 put up a small business.

20 First of all, I want to
21 apologize, because we have sixteen employees,
22 that's a COAH unit. Right from the start I
23 sat back there and I said, oh, doggone.

24 But what I find fascinating is I
25 lived most of my life in Burlington Township.

1 For the last 25 years I've lived in Mansfield
2 Township. My sister's lived in Springfield
3 Township. I sat on the Planning Board in
4 Mansfield Township 25 years ago. 1982, plus
5 or minus.

6 We fought in the courts
7 Hovnanian. They came down like a hammer.
8 They wanted to put 12 units per acre. Our
9 Township, 25 years ago, looked like your
10 Township. When we moved in we had no traffic
11 lights in the entire township. Extremely
12 rural and extremely just beautiful. Probably
13 your per capita income is higher. I see nicer
14 houses.

15 But the two townships,
16 Springfield, which is in Burlington County,
17 and Mansfield, are side by side. 25 years ago
18 we lost badly to Hovnanian. I haven't been
19 involved in the local politics at all. I run
20 a business, it consumes me. And I'll be
21 here -- just to let the Planning Board people
22 know -- I'll be here for I think September's
23 meeting to present my project. Mr. Ken Pape
24 is my lawyer. Crest Engineering is my
25 engineer.

1 But, anyway, the reason I'm
2 saying this is Hovnanian came in with COAH,
3 and first thing they did was -- we had no
4 sewers, no waters -- no water, and they
5 proposed this hair-brained ground-injection
6 system, which they now use, and it seems to
7 have worked. And they dug three deep wells.
8 And they proceeded to bring a large portion of
9 people from all walks of life down.

10 My wife sat on the School Board
11 for two terms, six years. And we went from a
12 very rural township to knife fights, and gun
13 fights, and drugs in the school, and things
14 like that. And it was -- unfortunately, came
15 from the new development. Many other
16 developments were built in our Township.

17 Now, next to us, where my sister
18 lives, in Springfield Township, they have the
19 ten-acre zoning, Madam Mayor, that you
20 mentioned. And they have been very
21 successful.

22 What they seem to have done --
23 and, again, I'm not involved, but my
24 suggestion is for your township to call --
25 your people to call their people. They seem

1 to have taken a slice of the township near a
2 town, which is right outside of Fort Dix, that
3 has water and sewer, and they've dedicated
4 land, and then said, okay, here is where our
5 COAH is going to be, and whoever wants to
6 build it, can build it, townhouses,
7 apartments, however -- condominiums, and this
8 will fill our obligation.

9 Now, so far, no one has done
10 that. But they have been very, very
11 successful in keeping it rural. They're
12 extremely rural, with very, very controlled
13 development. Much less than you.

14 And so my point to you is it can
15 be done. And it could also be done poorly,
16 like Mansfield Township did. And we now are
17 just -- we also have two very, very large
18 senior citizen developments, one of which has
19 their own sewerage treatment plant. And I
20 don't know, I think maybe the other one that
21 might be used is the high school plant.

22 My point to you is it's really
23 the tale of two cities, so to speak. And one
24 has done a very good job, and there is a way
25 to do it, and they know how to do it, and

1 they've done it well. And the other
2 township -- you won't recognize your Township,
3 ladies and gentlemen, when they get done with
4 you.

5 MAYOR GRBELJA: Thank you very
6 much.

7 MR. LITECKY: You're quite
8 welcome.

9 MAYOR GRBELJA: Appreciate that.
10 Anyone else?

11 I'm going to close the public
12 portion at 8:35.

13 One thing that we did do with the
14 sewer and the water in our Cross-Acceptance
15 Plan back in 2004, we really have made it
16 known that we are not interested in having
17 sewers cross our borders. As you know in
18 Monroe, down Butcher Road, there are sewers.

19 We have been very vocal to
20 Jackson that they're keeping their sewers on
21 537. We have it in our Master Plan. We have
22 it in our Cross-Acceptance Plan. That has
23 been our mantra since, certainly, I took
24 office.

25 So that's something that we're

1 going to hold very, very strong to. And,
2 hopefully, we'll be more like Springfield
3 rather than Mansfield.

4 One of things that we did talk
5 about, as we sit in our COAH subgroup and we
6 express our frustrations -- and sometimes the
7 language isn't too good --

8 MR. COPPOLA: It's great. It's
9 fun.

10 DEPUTY MAYOR KINSEY: Lot of new
11 planning terms I learned.

12 MR. COPPOLA: I'm learning a lot.

13 MAYOR GRBELJA: It just becomes
14 very frustrating.

15 -- but there's going to be an
16 impact with 174 units on the school. The
17 schools are our biggest cost when it comes to
18 taxes. And when we have 60 units and we
19 thought we had some RCAs and we were going to
20 put a couple of units here and a couple of
21 units here, and some -- we were actually
22 talking about having one unit, like
23 one-bedroom units, you know, you really
24 haven't had any children...

25 MR. COPPOLA: Group homes.

1 MAYOR GRBELJA: Group homes, and
2 stuff like that.

3 MR. COPPOLA: Supportive housing.

4 MAYOR GRBELJA: We would have
5 been able to limit the amount of children that
6 would have been coming into Millstone Township
7 and impacting on our tax base, because we have
8 to provide an education for those children.

9 When you have 174 units, you are
10 talking about kids, and I think we estimated
11 it may be about at least 80 new kids that may
12 be coming in just on 174 units.

13 MR. COPPOLA: Half of the units
14 that you provide, at least half of the units
15 that you provide within the town, half of your
16 obligation, has to be family units. Only 25
17 percent can be age-restricted.

18 COMMITTEEMAN KUCZINSKI: I'm
19 sorry, What was that?

20 MR. COPPOLA: Age-restricted, 55
21 years of age and older. It used to be 50 a
22 couple of Tuesdays ago, or maybe a little
23 longer. Not much.

24 And so you're limited even in the
25 number of group homes and supportive housing.

1 And so the Mayor is absolutely right. No
2 matter what you do, you're going to have an
3 impact on your school system. At least
4 theoretically.

5 Now, remember, this is a game a
6 little bit. You want to comply. You want to
7 continue under the insurance policy of COAH so
8 that you can continue to see how this unfolds
9 in the courts or wherever else. And I think
10 there will be changes.

11 MAYOR GRBELJA: And the Township
12 Committee did pass a resolution that we would
13 file suit, and we would join in with other
14 groups to challenge the COAH regulations as
15 they are written.

16 And certainly what Rich has
17 advised us to do is to certainly partner up
18 with those groups that are in the same
19 position as us.

20 If you have a lot of bad case
21 law, you have a bad example. So you want to
22 make sure that the groups that you're going to
23 be locked in with, that you're going to move
24 forward with, are in the same situation as
25 you, which means that they satisfy their first

1 and second-round obligations, and they have a
2 plan for the third-round obligation.

3 You can't bring somebody in who
4 didn't satisfy their second-round obligation,
5 because the courts will just pick up on that
6 and it sets a bad example.

7 And we just want to make sure
8 that we've done what we've been asked to do.
9 We continue to do what they ask us. Even
10 though we know that the money that we are
11 expending, and the time that we are expending,
12 and the plan that we have is worth the paper
13 that it's written on because it's going to
14 change within a couple of months. But we
15 still continue to do that, to make sure that
16 we protect what we have in this municipality.

17 And I'll tell you, it takes a lot
18 of hard work. And Rich has been excellent in
19 really leading us in the right direction. And
20 sometimes, when Bob and I freak out, and, you
21 know, we're ready to like torch the state, he
22 kind of brings us back to reality.

23 MR. SHAFAI: Once in a while.

24 DEPUTY MAYOR KINSEY: He hits us
25 with a two-by-four.

1 MAYOR GRBELJA: You know, I mean
2 because, it really is, it becomes very
3 frustrating.

4 Everybody in this municipality
5 loves it for exactly the same reason. It's
6 the quality of life issues. It's the open
7 space. And that's what we enjoy each and
8 every day. And I just feel that we're
9 continuously, every action that's being taken
10 by Trenton, threatens our very existence as we
11 know it today. And it's frustrating.

12 DEPUTY MAYOR KINSEY: Just for
13 the record, it might make sense just to name
14 who is on the COAH Work Committee with us.

15 MAYOR GRBELJA: Go ahead.

16 DEPUTY MAYOR KINSEY: Well it is
17 yourself and me. Rich Coppola. Matt Shafai,
18 our engineer. Jim Pickering, our
19 Administrator. We have Duane Davison, our
20 Township attorney. And also Donna Rose Blaze,
21 who is the -- I guess she's the Chairman of
22 Monmouth Housing Alliance.

23 MR. COPPOLA: She's the
24 President.

25 DEPUTY MAYOR KINSEY: President

1 of the Monmouth Housing Alliance.

2 MR. COPPOLA: The Housing
3 Alliance, yes.

4 DEPUTY MAYOR KINSEY: Who is our
5 COAH partner and helps us...

6 MR. COPPOLA: Build small
7 projects, that don't have really any impact,
8 on small pieces of land that the town has
9 available.

10 DEPUTY MAYOR KINSEY: They worked
11 with us on the Canright House and something
12 that's going on up there right now. Working
13 with us on the Allen House project.

14 Obviously these were the types of
15 projects that we could have successfully done
16 and fulfilled our obligations under the plan
17 that we put forth and we all approved, I
18 guess, in May of last year.

19 MR. COPPOLA: Exactly.

20 DEPUTY MAYOR KINSEY: In front of
21 the Planning Board here, and we had a joint
22 session then, I believe, to do that.

23 MAYOR GRBELJA: And, as Rich has
24 said, we are looking for property, and we're
25 investigating a number of other things. But

1 we can't look at five acres of property and
2 expect to fill a requirement of 174 units.

3 So, you know, we have to think a
4 little bit bigger. And we're trying to think
5 a little bit bigger, and what would basically
6 fit within our zoning and how we don't give up
7 everything that we believe in.

8 It's very hard. We're trying to
9 be creative. But, you know, we're trying to
10 move forward, but yet we still said we're
11 going to comply in some way. But we're going
12 to fight like hell to have those regulations
13 changed, if we can.

14 And we're going to probably need
15 everybody, at some particular point, to lobby
16 with us when we need public support. So that
17 will be important.

18 COMMITTEEMAN KUCZINSKI: I guess
19 you guys might have addressed this already,
20 but I'm asking it anyway.

21 Is there any way we can get our
22 challenge expedited to get a stay with the
23 costs and the ramifications involved?

24 I mean they're talking about a
25 lot of things that our towns have to do. If

1 we just get the stay, it gives us a little bit
2 more time to plan and do these other things.

3 MR. COPPOLA: I think there will
4 probably be, Mike, there's going to be a
5 number of litigations. The litigation that
6 the Mayor is talking about is a group out of
7 Clinton Township area, it was called the
8 Clinton Seven.

9 There's a group of municipalities
10 that have been meeting for I guess years on
11 items of mutual concern, not just housing.
12 When the rules came forth in December, and
13 then January with more of the rules, they
14 decided that they were going to sue. And then
15 it expanded.

16 And as the Mayor said it's
17 limited to towns that have been compliant.
18 And now it's up to, I think, somewhere in the
19 neighborhood of close to 20 municipalities. I
20 don't know if they want to go much bigger than
21 that.

22 They have a good attorney. I
23 think it's one of the League of Municipalities
24 attorneys, but he's doing it apart from the
25 League of Municipalities. And it's the whole

1 gist of it is substantive items of the rules.

2 Some of the things I said
3 tonight, a lot of it deals with the lack of
4 veracity of the base data, inconsistencies,
5 and so forth and so on. Not policy, because I
6 guess you don't win on policy problems. COAH
7 is allowed to do what it wants.

8 One of the things that will be
9 asked is a stay. I don't think -- I have not
10 spoken to any attorney that feels that there's
11 even a chance of a stay. It will just go on.

12 Keep in mind that last year you
13 had to prepare a Housing Plan Element and Fair
14 Share Plan under rules that in January of this
15 year were declared null and void.

16 I remember Chairman Newman
17 leaning over to me, because I put some
18 verbiage in that document, it was all
19 factual -- like the translation was how
20 idiotic is this, and Mitch said to me at the
21 end of the presentation, "Do you think this is
22 going to upset COAH?" I said, "Don't worry
23 about it, they're not going to even read it.
24 Why are they going to read a plan that they
25 know is going to change?"

1 I mean, so if it could happen
2 last year -- think of it, you were forced to
3 pay me and others, spend your time to do a
4 plan. Now it's not all for not, because we're
5 building on it now.

6 But I don't think there's going
7 to be a stay. That's too logical.

8 MAYOR GRBELJA: All right. So,
9 then, if the Township Committee doesn't have
10 any other questions, then what I'm going to do
11 is I'm going to ask for a motion to adjourn
12 the Township Committee portion of this
13 meeting.

14 DEPUTY MAYOR KINSEY: I'll move
15 it.

16 MAYOR GRBELJA: May I have a
17 second?

18 COMMITTEEMAN KUCZINSKI: I'll
19 second it.

20 MAYOR GRBELJA: All those in
21 favor?

22 COMMITTEEMAN KUCZINSKI: Aye.

23 DEPUTY MAYOR KINSEY: Aye.

24 MAYOR GRBELJA: Aye. The
25 Township Committee meeting is over at 8:45.

1 Thank you very much. We're still
2 in Planning Board.

3 CHAIRMAN NEWMAN: Right. We're
4 going to continue with the Planning Board
5 meeting. We are going to take a 30 to
6 45-second break.

7 - - -

8 (Whereupon, the joint meeting of
9 the Township Committee and the Planning Board
10 was concluded.

11 - - -

12 (Time noted, 8:45 a.m.)

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REPORTER CERTIFICATE

I, ANGELA C. BUONANTUONO, a Shorthand Reporter and Foreign Commissioner of Deeds for the Commonwealth of Pennsylvania, certify that the foregoing is a true and accurate transcript of the deposition of said witness(es) who were first duly sworn by me, on the date and place herein before set forth.

I FURTHER CERTIFY that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

ANGELA C. BUONANTUONO
Shorthand Reporter

