

**BOROUGH OF FANWOOD
MAYOR AND COUNCIL SPECIAL MEETING
JULY 5, 2016**

A Special Meeting of the Mayor and Council was held on July 5, 2016 at Borough Hall, 75 North Martine Avenue, Fanwood, NJ 07023 at 7:10 pm.

Mayor Colleen Mahr presided and stated: I hereby announce and request that such be included in the minutes of this meeting that notice of the time, place and date of the meeting has been prominently posted on the bulletin board at the Borough Hall, mailed to The Times, the Star Ledger, the Courier News, PATCH and Alternative Press, filed with the Borough Clerk and mailed to any person requesting the same in accordance with the requirements of the Open Public Meetings Act.

Present: Kevin Boris, Russell Huegel, Tom Kranz, Jack Molenaar
Erin McElroy Barker arrived later

Absent: Katherine Mitchell

Also Present: Colleen Mahr, Eleanor McGovern, Fred Tomkins, Peter Bondar, Antonios Panagopoulos, Dan McCarthy, Stan Slachetka

Mayor Mahr stated that this Special Meeting was being held to consider the adoption of a transfer resolution and the adoption of an agreement with the Fair Share Center.

OLD BUSINESS

A. Administration and /Finance (Councilman Huegel)

Resolution 16-06-84

Huegel/Boris moved to adjourn the consideration of the passage of this resolution to a Special Meeting to be held on July 12, 2016. Motion carried.

NEW BUSINESS

A. Administration and Finance (Councilman Huegel)

Resolution 16-06-90

Stan Slachetka gave an overview of the Fair Share Agreement relevant to COAH regulations. Huegel/Boris moved to adopt Resolution 16-06-90. Motion carried on the following roll call vote.

RESOLUTION OF THE BOROUGH OF FANWOOD ENDORSING THE 2016 DRAFT HOUSING ELEMENT AND FAIR SHARE PLAN AND SETTLEMENT AGREEMENT WITH FAIR SHARE HOUSING CENTER IN THE LITIGATION ENTITLED IN THE MATTER OF THE APPLICATION OF THE BOROUGH OF FANWOOD, COUNTY OF UNION, DOCKET NO. UNN-L-2056-15

WHEREAS, pursuant to the New Jersey Supreme Court’s March 10, 2015 decision In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”), the New Jersey Supreme Court transferred primary jurisdiction over affordable housing matters from the New Jersey Council on Affordable Housing (“COAH”) to the New Jersey Superior Court and established a transitional process for municipalities, like the Borough of Fanwood (the “Borough”), to file declaratory judgment actions seeking to declare their Housing Element and Fair Share Plans (“HEFSPs”) as being constitutionally compliant and seeking similar protections to what they would have received if they had continued to proceed before COAH; and

WHEREAS, pursuant to N.J.S.A. 52:27D-313 and Mount Laurel IV, the New Jersey Superior Court has the authority to enter an Order granting protection and repose against exclusionary zoning litigation to a municipality that is in compliance with its affordable housing obligations under the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.; and

WHEREAS, on June 8, 2015, the Borough filed a declaratory judgment action with the New Jersey Superior Court seeking to declare itches as being constitutionally compliant and seeking protection and repose against exclusionary zoning litigation for a ten (10) year period (the “Action”); and

WHEREAS, the Borough’s Special Planning Consultant, T&M Associates, has prepared a draft HEFSP dated June 14, 2016 that addresses the Borough’s affordable housing obligation (“2016 Draft HEFSP”); and

WHEREAS, since a decision has not yet been rendered on the methodology to calculate municipal affordable housing obligations, the New Jersey Superior Court has advised that it is acceptable and appropriate for the Borough to settle its Action through entry of a settlement agreement (the “Settlement Agreement”) with interested party, Fair Share Housing Center (“FSHC”), which Settlement Agreement attaches and incorporates the 2016 Draft HEFSP; and

WHEREAS, the New Jersey Superior Court further advised that approval by the Governing Body of the Borough is required when submitting the Settlement Agreement and 2016 Draft HEFSP for review by the Court; and

WHEREAS, by Resolution dated June 29, 2016, the Planning Board of the Borough of Fanwood endorsed the Settlement Agreement and 2016 Draft HEFSP and committed to promptly finalize and adopt the 2016 HEFSP as an amendment to the Master Plan of the Borough if the Settlement Agreement and 2016 Draft HEFSP is approved by the Court, a copy of which Resolution is attached hereto as Exhibit A;

WHEREAS, the Governing Body of the Borough desires to approve the submission to the New Jersey Superior Court of the Settlement Agreement and 2016 Draft HEFSP as accepted and endorsed by the Planning Board.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fanwood, County of Union, State of New Jersey, as follows:

1. The Borough hereby approves submission for review by the New Jersey Superior Court of the Settlement Agreement and 2016 Draft HEFSP accepted and endorsed by the Planning Board.
2. The Borough hereby commits to endorse the final 2016 HEFSP once the Planning Board formally adopts the same as an amendment to the Borough’s Master Plan after receiving approval from the Court.
3. The Borough reserves the right to amend the 2016 HEFSP, if necessary, after receipt of any decisions rendered by the New Jersey Superior Court regarding the methodology to calculate municipal affordable housing obligations.
4. The Mayor and Borough Clerk are hereby authorized and directed to execute the Settlement Agreement in substantially the same form as attached hereto as Exhibit A, subject to approval by the Township Attorney, and, together with all other officers, professionals and employees of the Borough, are hereby further authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution.
5. A copy of this Resolution shall be available for public inspection at the office of the Borough Clerk.
6. This Resolution shall take effect immediately.

FOR:	Huegel, Boris, Kranz, McElroy-Barker, Molenaar
AGAINST:	None
ABSTAIN:	None
ABSENT:	Mitchell

MEETING OPEN TO THE PUBLIC

Boris/Huegel moved to open the meeting to the public. Motion carried.

Michael Lewis, Beech Avenue, asked about the 218 number of affordable units obligation and how long it will take to get approved by the Special Master. Stan Slachetka responded to his questions.

Harry McNally, Second Street, asked for clarification on the liquor license transfer that was adjourned to July 12, 2016. Dan McCarthy addressed his question. He also questioned if the affordable units were tax exempt. Stan Slachetka answered that they were not tax exempt.

Krantz/Huegel moved to close the meeting to the public. Motion carried.

ADJOURNMENT

Boris/Kranz moved to adjourn at 7:55 pm. Motion carried.

Respectfully submitted,

Eleanor McGovern
Borough Clerk