

**MINUTES OF A REGULAR MEETING OF THE PLANNING BOARD  
OF THE BOROUGH OF MOUNTAIN LAKES**

March 24, 2016

Chair Martin Kane read the Open Public Meeting Advertisement Notice adopted at the annual meeting on January 28, 2016: Adequate notice of this meeting was given to the Citizen and the Daily Record, filed with the Borough Clerk, posted on the Bulletin Board in the Borough Hall on February 01, 2016 and made available to all those requesting individual notice and paying the required fee.

Meeting start: 7:31PM

**ROLL CALL:**

Members Present: Kane, Nachshen, Sheola, Horan, Holmberg, Dagger, Borin, DuTertre and Mirsky

Absent: DeVenezia and Russo

Also Present: Attorney Peter Henry

Also Absent: Engineer Bill Ryden

**PUBLIC COMMENT:** none

**REVIEW OF MINUTES:** Peter Holmberg made a motion to adopt the minutes of the March 10, 2016 meeting with corrections. John Horan provided the second; the minutes were approved by voice vote of all eligible voters.

**RESOLUTIONS:** none

**PUBLIC HEARING:**

Housing Element and Fair Share Plan

The Chair Martin Kane explained tonight was the public hearing for the adoption of Element VI, the "Housing Element and Fair Share Plan". He asked if anyone from the Board had any questions concerning the plan. New Board member Arlene Mirsky asked what the Borough's housing obligation was under the Highlands Master Plan. Peter Henry said this community has decided not to participate in the Highlands. Mr. Phillips confirmed his statement. Corey Nachshen question if Mountain Lakes was part of the Highlands. Peter Henry confirmed we were part of the planning area and participation was up to the Borough.

Seeing no further questions or comments from the Board Mr. Kane opened the hearing to the public. Wilson Mitchell, of 44 Hillcrest Road, asked for help understanding the definition of affordable housing. Peter Henry said the definition is not the same all over the state. It is defined by the region or area you live in and the median income level for that region. COAH has established a grid that takes into account family size and the regional median income. There are three levels of income on that grid; moderate, low, and very low. Only 30% of the median income can be used toward rent for an apartment or the sales price of a home for that region. Paul Phillips added Mountain Lakes is in the region made up of Morris, Essex, Warren and Union counties. Moderate income is established by taking 80% of the median income, low is 50% and very low is 30%. This has nothing to do with the true cost of building the units. A town has to provide a

reasonable opportunity and a developer has to charge for the units based on the COAH levels not what they actually cost to build. That is why they have to make up the cost with the other units they build for profit. Mr. Mitchell asked if the units built at King of Kings would be as tall as Legacy. Peter Henry said the Board can't determine that without a plan. Ellen Emr, the property owner of 19 Sherwood Drive, pointed out an error on page 23 of the element. Boonton Township was listed as a water utility but the Township has no public water supply. She was also uncomfortable with the charts in the element containing the names of the parcel owners. People's names would change over time and she was also concerned about privacy. She thought the element should contain references to the water restrictions the Borough was under. George Jackson, of 20 Sherwood Drive, said the element was setting the requirements for affordable housing and how the Borough would fill those requirements. The 2<sup>nd</sup> and 3<sup>rd</sup> round total Unmet Need was 62 and 33 units respectively. The Board should use the historic district to reduce our Unmet Need. He did not like using multi-family units to reach the Unmet Need. Sandy Batty, of 15 Lockley Court, said the steep slopes on King of King were part of the Boroughs vacant land adjustment in round 2 and now the new Ordinance allows roads to be built on them.

Martin Kane asked about addressing the water concerns. Paul Phillips responded we are not addressing water scarcity in this element. The municipality will have to deal with any specific shortage issue. Mr. Kane confirmed any water shortage would be addressed when the Board heard an application. The Borough should not claim a shortage of water as a way not to meet our affordable housing obligation. Tom Dagger confirmed with Paul Phillips that if there were scarce water resources the water would have to go to our affordable housing obligation first. Peter Holmberg asked if we could change the tables to remove the names of the property owners. Paul Phillips said we need to keep the Borough as the owner of the parcels the town owns. Rich Sheola suggested we list the properties as "Borough Owned" or "Private Property".

Peter Holmberg said a town can't just make the affordable housing numbers as low as possible they must be defensible if challenged in court. He asked if the Borough could be forced to sell Borough land. Peter Henry said right now that is not a requirement but that may change later. Martin Kane asked how the prior overlay zone came into play with this round. Paul Phillips said the overlay zone that was put into place to handle the Unmet Need in the last round was approved and was not something to change. He continued the new overlay zone in the commercial area would not be subject to the 20% overlay zone of the previous round. Martin Kane asked about the historic district. Tom Dagger said the second round overlay zone was in existence when we filed for the historic district. Mr. Kane asked if the Board should consider not encouraging multifamily development. Discussion ensued about removing the reference to it in the second sentence of the second paragraph on page 22. It was determined it should stay since we were going to use multi-family structures to meet our obligation due to the lack of developable land. Tom Dagger was troubled about the comment made concerning doing a vacant land adjustment in the second round for the King of Kings property due to steep slopes and now not counting the same property in order to build affordable housing today.

The Chair opened the meeting to the public again. Ellen Emr clarified the Highlands question. The town got a grant to review the question of opting in to the Highlands but the Council decided not to. She thought we could build our own affordable housing and thought the scare water resources should be mentioned. George Jackson questioned the 5<sup>th</sup> accessory apartment. It was explained it was needed to meet the 33 units of Unmet

Need.

Peter Holmberg asked if we should add something about our water resource. Corey Nachshen said that was part of the application process. Paul Phillips added you will push all the development in the community to affordable housing.

Historic Preservation Element Amendment

Tom Dagger said the suggested amendment should be left as it was written.

A motion was made by Frank Borin to adopt the Housing Element with the two corrections. Remove the parenthesis on page 23 referencing the specific towns who provide water and sewer utilities and all the charts in the element that reference the owners of particular parcels of land would be changed to “Private Property” and “Borough Owned”. No changes would be made to the Historic Preservation Element. A second was provided by Rich Shelo. The Board voted 9 to 0 to adopt the element and amendment with members Kane, Nachshen, Sheola, Horan, Holmberg, Dagger, Borin, DuTertre and Mirsky voting in favor.

The Board Administrator will send a memo to the Council informing them of the adoption of the Housing Element and send a copy of the element and the amendment to the county.

COMMITTEE REPORTS – none

OTHER MATTERS – none

Martin Kane adjourned the meeting at 8:52 PM.

Respectfully submitted,

Cynthia Shaw, Secretary