# WYCKOFF PLANNING BOARD
# JUNE 15, 2015 SPECIAL MEETING MINUTES

Public Meeting: 7:30 p.m. Second Floor, Memorial Town Hall

The meeting commenced with the reading of the Open Public Meeting Statement by Richard Bonsignore, Chairman:

> This special meeting of the Wyckoff Planning Board dated Monday, June 15, 2015 is now in session. In accordance with Section 8 of the Open Public Meeting Act, I wish to advice that notice of this meeting has been posted on 2 bulletin boards in the main level of Memorial Town Hall and posted on the Wyckoff Township website since Wednesday June 10, 2015. A copy of the notice has been filed with the Township Clerk and copies were emailed and mailed to the Ridgewood News, Bergen Record and the North Jersey Herald and News all papers with general circulation throughout the Township of Wyckoff. This notice establishes a special meeting for the revision of the Township of Wyckoff's 2008 Third round Housing Element and Fair Share Plan.

**Board Member Attendance:** Richard Bonsignore, Chairman; Robert Kane, Vice Chairman; Kevin Rooney, Mayor; Rudy Boonstra, Township Committee Representative; Drita McNamara; Glenn Sietsma; John Haboob, Alt.

**Board Member(s) Absent:** Doug Macke; Tom Madigan; Scott Fisher.

**Staff Attendance:** Robert J. Shannon, Township Administrator; Susan McQuaid, Board Secretary.

**Staff Absent:** Joseph C. Perconti, Board Attorney; Mark DiGennaro, Township Engineer.

Roll call was taken.
The Planning Board meeting began with the Pledge of Allegiance.

## PUBLIC HEARING

**RESOLUTION ENDORSING THE FILING OF A DECLARATORY JUDGMENT APPLICATION AND A MOTION FOR TEMPORARY IMMUNITY TO ALLOW THE TOWNSHIP TO REVISE ITS 2008 THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN AND OBTAIN A JUDGMENT OF COMPLIANCE AND REPOSE.**

Chairman Bonsignore said this evening the Board will review and endorse the resolution endorsing the filing of a declaratory judgment application and a motion for temporary immunity to allow the Township to revise its 2008 Third Round Housing Element and Fair Share Plan and obtain a Judgment of compliance and repose.

Mayor Rooney said this resolution is the next step in order for the township to meet its COAH obligation.

OPEN TO THE PUBLIC
No one appeared.
CLOSED TO THE PUBLIC

Chairman Bonsignore asked for a motion to forward this resolution to the Township Committee,

Township Committee Representative Boonstra made a motion to approve this resolution which states:

WHEREAS, the Planning Board of the Township of Wyckoff did, on December 16, 2008, adopt a revised Third Round Housing Element and Fair Share Plan consistent with the Rules of the New Jersey Council on Affordable Housing (COAH) at N.J.A.C. 5:97-1, *et seq*; and

WHEREAS, the Township Committee did, on December 16, 2008, endorse the adopted revised Third Round Housing Element and Fair Share Plan and submit it to COAH along with a Resolution petitioning COAH for substantive certification of the Township's revised Third Round Housing Element and Fair Share Plan; and

WHEREAS, COAH's Third Round Rules (at N.J.A.C. 5:96-1, *et seq*. and 5:97-1, *et seq*.) were subsequently invalidated by the Appellate Division in September of 2010, which invalidation was later affirmed by the New Jersey Supreme Court; and

WHEREAS, as a result of such invalidation, COAH never completed its review of or certified Wyckoff's revised Third Round Housing Element and Fair Share Plan; and

WHEREAS, because of COAH's failure to adopt new, valid Third Round Rules, the New Jersey Supreme Court did, on March 10, 2015, issue an order eliminating the COAH administrative processes authorized by the Fair Housing Act (N.J.S.A. 52:27D-301, *et seq*.), with an effective date of June 8, 2015; and

WHEREAS, the New Jersey Supreme Court provided in said order that municipalities which had participated in the COAH process by submitting their Third Round Housing Elements and Fair Share Plans to COAH along with a petition for substantive certification but had not yet received substantive certification from COAH would be permitted a period of thirty (30) days beginning on June 8, 2015, within which to file declaratory judgment actions in Superior Court in order to obtain the judicial equivalent of the substantive certifications that they had applied for under N.J.S.A. 52:27D-313, but had not yet received; and

WHEREAS, Wyckoff Township is one of the municipalities in the State of New Jersey that petitioned COAH for substantive certification of its Third Round Housing Element and Fair Share Plan but had not yet received substantive certification at the time COAH's 2008 Rules were invalidated in 2010; and

WHEREAS, the Township has consistently complied with COAH's requirements, having previously received substantive certification of its prior round Housing Element and Fair Share Plan and an extension of the prior round substantive certification, and having submitted its first Third Round Housing Element and Fair Share Plan to COAH in 2005; and

WHEREAS, the Township had been granted a vacant land adjustment as part of the Court's approval of its initial (first round, 1987-1993) Housing Element and Fair Share Plan, reducing its COAH-assigned 362 unit fair share obligation to 271 units; and

WHEREAS, the cumulative first and second round fair share obligation (1987 through 1999) assigned to Wyckoff by COAH of 232 units was less than the 271 unit adjusted first round

obligation and could, therefore, be fully addressed; and

WHEREAS, COAH calculated Wyckoff's third round fair share obligation to be 171 units in addition to a 221 unit prior round obligation and a 36 unit rehabilitation obligation, causing Wyckoff to seek an adjustment in COAH's projection of future growth in Wyckoff; and

WHEREAS, the Township has continued to protect and administer its existing inventory of affordable housing, most of which was created pursuant to the first and second round Housing Elements and Fair Share Plans and has implemented a number of the proposals contained in the 2008 Third Round Housing Element and Fair Share Plan, including:

1. Undertaking to extend affordability controls on the four (4) family affordable for sale units at Turtle Creek; and
2. Approving the construction of 17 family affordable rental units at Boulder Run (now completed); and
3. Approving the construction of 13 family affordable rental units at Fieldstone Manor (now completed); and
4. Welcoming several special needs group homes owned and operated by Eastern Christian Children's Retreat (housing developmentally disabled adults); and
5. Using its Affordable Housing Committee, which is Wyckoff's affordable housing administrative entity to review not only any remaining vacant developable sites but also any potentially redevelopable sites to find suitable locations for new inclusionary residential development in sufficient numbers to satisfy whatever new third round affordable housing obligation is assigned to the Township by the judiciary; and
6. Maintaining an active ongoing housing rehabilitation program by contract with Bergen County Community Development; and

WHEREAS, the Planning Board recognizes that under the Rules proposed by COAH as N.J.A.C. 5:99, which Rules would have replaced N.J.A.C. 5:97, had they been adopted, the Township's third round fair share obligation would have included a twenty-seven (27) unit Rehabilitation Share, a 176 unit Prior Round Obligation for the period from 1987-1999, and a total Accrued and Prospective Fair Share Obligation for the period from 1999 to 2024 of 257 units, prior to an adjustment based on something called the Buildable Limit and prior to deducting any credits for past affordable housing completions; and

WHEREAS, based upon COAH's application of its Buildable Limit along with credits for past affordable housing completions in the proposed but unadopted N.J.A.C. 5:99, Wyckoff's entire unmet prior round obligation and prospective fair share obligation would have been 61 units; and

WHEREAS, the Planning Board acknowledges that it is now up to the judiciary to determine statewide and regional affordable housing needs and to allocate such need to the municipalities in the housing region, which may result in a higher or lower obligation than that in the proposed but unadopted N.J.A.C. 5:99; and

WHEREAS, the Planning Board requires time to revise the previously revised and adopted Third Round Housing Element and Fair Share Plan to eliminate all references to the growth share methodology previously espoused by COAH and to address the obligation assigned to it by the judiciary;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Wyckoff, County of Bergen, State of New Jersey, as follows:

1. The Planning Board endorses the Township Committee's authorization for the firm of Landel Bernstein & Kalosieh, LLP, Township Attorneys, to prepare and file a Declaratory Judgment action in the Superior Court of New Jersey, Bergen County, to be accompanied by such exhibits and certifications as deemed necessary and appropriate for the purposes of obtaining temporary immunity from all exclusionary zoning lawsuits so that the Planning Board can revise and adopt an amended Third Round Housing Element and Fair Share Plan and submit it to the Superior Court for review and approval as a basis for a Judgment of Compliance and Repose.

2. The Planning Board endorses the Township Committee's authorization for Elizabeth C. McKenzie, AICP, PP, Township Planning and Affordable Housing Consultant, to prepare amendments to the 2008 Third Round Housing Element and Fair Share Plan, and to undertake any other studies needed to address the Township's third round fair share obligation, once the extent of that obligation has been determined by the judiciary, which amendments shall be completed within the period of temporary immunity granted by the Superior Court leaving sufficient time for the revised Third Round Housing Element and Fair Share Plan to be adopted and submitted to the Superior Court by the established deadline.

3. The Planning Board endorses the Township Committee's authorization for the execution of a Common Defense Agreement with other participating municipalities and the payment of the Township's pro rata share of the costs of retaining Robert Burchell, PhD, to calculate statewide fair share obligations and assign them to municipalities.

4. The Planning Board authorizes the Township Committee's submission of a copy of this Resolution to the Superior Court, along with a copy of the 2008 Third Round Housing Element and Fair Share Plan and any other materials required by the Superior Court in connection with the Declaratory Judgment action and the Superior Court's review of the Township's Plan.

5. This Resolution shall take effect immediately.

Second, Board Member McNamara, Voting in favor: Mr. Haboob, Ms. McNamara, Mr. Sietsma, MR. Boonstra, Mr. Kane, Mayor Rooney and Chairman Bonsignore.

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There being no other business permitted to be considered, a motion to adjourn the meeting was made and seconded and passed unanimously. The meeting concluded at 7:33 p.m.

Respectfully Submitted,

Susan McQuaid, Secretary
Wyckoff Planning Board