

Amended 3/15/16

**BOROUGH OF DUMONT
BERGEN COUNTY, N.J.
PUBLIC MEETING MINUTES
Knights of Columbus Hall
FEBRUARY 16, 2016
6:30 PM**

Mayor Kelly called the meeting to order.

Flag Salute, Moment of Silence

Sunshine Law: The notice requirements of the Open Public Meetings Act of the State of New Jersey have been satisfied by the inclusion of the date, time and change of venue of this public meeting having been posted at Borough Hall, sent to *The Record* and the *Ridgewood News*, posted on the Borough website and filed with the Borough of Dumont.

Roll Call:

Council members Correa, Di Paolo (arrived at 7:15), Hayes, Morrell, Riquelme,
Zamechansky-present
Mayor Kelly-present

Motion to Accept Agenda as presented: Councilman Hayes

Second: Councilman Morrell

All in favor.

Approval of Minutes:

Motion to approve the December 15, 2015 Public Meeting minutes: Councilman Riquelme

Second: Councilman Morrell

Roll call vote: Council members Correa, Hayes, Morrell, Riquelme, Zamechansky-yes

Motion to approve the December 17, 2015 Special and Closed Session minutes:

Councilman Hayes

Second: Councilwoman Zamechansky

Roll call vote: Council members Correa, Hayes, Morrell, Riquelme, Zamechansky-yes

Motion to approve the January 12, 2016 Closed Session minutes: Councilman Riquelme

Second: Councilman Morrell

Roll call vote: Council members Correa, Hayes, Morrell, Riquelme, Zamechansky-yes

Motion to approve the January 19, 2016 Public Meeting and Closed Session minutes

Councilman Morrell

Second: Councilman Riquelme

Roll call vote: Council members Correa, Hayes, Morrell, Riquelme, Zamechansky-yes

Motion to approve the February 2, 2016 Executive Session and Closed Session minutes:

Councilman Hayes

Second: Councilwoman Zamechansky

Roll call vote: Council members Correa, Hayes, Morrell, Riquelme, Zamechansky-yes

ADMINISTRATOR PERKINS' REPORT

The cost of the winter storm a couple of weeks ago cost \$48,000 total.

The shredding program will be held this Saturday at the DPW from 9AM to 12PM. The town gets credit for all the tonnage.

There was a carbon monoxide call a couple of weeks ago. He congratulated Officer Correa who went into the building and rescued a woman.

COUNCIL COMMITTEE REPORTS

- Councilwoman Correa

Board of Education

As of the January 21st meeting, they were still in negotiations with the teachers' contract. They are also looking into paving contracts.

They also updated eight of their policies: five were the evaluation policies, two were FMLA and one was electronic communications.

- Councilman Hayes

The Joint Land Use Board held their reorganization meeting January 26th. A new member, Ron Burkett, was appointed. The oath of office was administered to all reappointed members.

There were two resolutions memorialized-one was approval of a variance for a minor subdivision and the other was denial of variance for a minor subdivision on Barbara Road.

The professionals were appointed. Bill Bochicchio was reappointed chairperson and Tim Hickey vice-chairperson.

Finance

The committee met and started the budget process. The next meeting is scheduled for tomorrow.

Ordinance

The committee met February 5th to discuss designated pertaining to the smoking ordinance and the Shade Tree Commission has requested them to increase the penalties of the current ordinance. The Police Department has requested some changes to their hiring ordinance.

- Councilman Morrell

No report

- Councilman Riquelme

No report

- Councilwoman Zamechansky

No report

ATTORNEY'S REPORT

No report

MAYOR'S REPORT

Mayor Kelly apologized to the people who could not be seated in the main room because of fire regulations.

Review of Consent Agenda Items: All items with an asterisk are considered to be non-controversial by the Council and will be approved by one motion. There may be further

discussion prior to the vote upon request of a member of the public or a Council member. Also, any item may be removed for further discussion or for roll call vote in which case the item will be removed and considered in its normal sequence as part of the general order of business.

RESOLUTIONS

- #16-54** Bills List * check #58099 is removed and will not be paid at this time.
- #16-55** Fire Truck Loaner Program-Authorization of Shared Services Agreement with the County of Bergen *
- #16-56** Approval of Dumont High School Music Boosters On-premise Cash Raffle to be held March 17, 18, and 19; ID #109-5-36714; RL#446 *
- #16-57** Approval of Amendment to RL#444 (change of date); Dumont High School Music Booster On-premise Merchandise Raffle to be held March 12, 2016; ID #109-5-36714 *
- #16-58** Approval of Amendment to RL#445 (change of date); Dumont High School Music Booster On-premise Cash Raffle to be held March 12, 2016; ID #109-5-36714 *
- #16-59** Appointment of Ralph Williams as Homeowner Representative of the Rent Leveling Board *
- #16-60** Reappointment of Al Taxter as Tenant Representative of the Rent Leveling Board *
- #16-61** Reappointment of Judy Parker as Landlord Representative of the Rent Leveling Board *
- #16-62** Approval of Bergen County Law Enforcement Mutual Aid *
- #16-63** Eric Barker-Accept Application as Auxiliary Firefighter *
- #16-64** Ryan Botto- Accept Application as Auxiliary Firefighter *
- #16-65** Approval of LOSAP Contribution for Fire Department and Ambulance Corps.- \$44,400 *
- #16-66** McNerney & Associates-Authorization of Commercial Appraisal and Support Services *
- #16-67** Raymond Herr-Hire as Administrator/CFO-annual salary \$155,000, no health benefits *

Motion to open to the public on consent agenda items: Councilman Hayes

Second: Councilman Morrell

All in favor.

1. Tom Kelly, 70 Beacon Street, asked what property would be appraised in resolution #66. The Mayor responded that it is for the car wash on Madison. The owner had an appraisal done and now our appraiser will do one.

2. MaryAnn Russini, 141 Roosevelt, asked if the new employee will be doing the Administrator's job plus the CFO's job. She asked what the previous CFO's salary was. Mr. Perkins responded \$95,000.

3. Lynn Vietri, Wilkens Drive, asked if the Recreation subaccounts have been straightened out. She asked what Northwest Bergen County is on the bills list. Mr. Perkins responded that they are videotaping all the sewer lines. Ms. Vietri asked what Covanta was. The response was recycling.

Motion to close to the public: Councilman Morrell

Second: Councilwoman Zamechansky

All in favor.

Motion to approve the Consent Agenda: Councilman Morrell

Second: Councilman Riquelme

Roll call vote: Council members Correa, Hayes, Morrell, Riquelme, Zamechansky-yes

Mayor Kelly introduced Special Master Frank Banisch and Borough Planner Darlene Green.

Mr. Banisch explained that his job is to assist the Court in making a determination on your affordable housing plight. He said his role is to review proposals that are made by the Borough and possibly by others who hope to be part of the program of meeting your affordable housing needs. He will write a report to the judge advising whether or not the town is in compliance with your constitutional obligations of affordable housing. For him the purpose of tonight's discussion is to listen to a settlement proposal and deliberations by the borough officials and to determine whether it satisfies the COAH regulations the Fair Housing Act requires. At some point tonight he will tell the officials whether or not that settlement would be an appropriate part of the housing.

Councilwoman Correa requested that the meeting be postponed so that everyone would be able to see and hear the presentation by Landmark.

There was then a presentation by Andy DelVecchio, Esq. and architect Dave Minno for Landmark.

Mr. DelVecchio stated that Landmark Dumont LLC is the contract purchaser of D'Angelo Farms. The property consists of two sites, approximately 6.1 acres on the main site and approximately one acre on the secondary site. He explained he will present a proposed settlement of the pending litigation. Landmark Dumont LLC is a plaintiff in a builder's remedy suit that was filed involving the Borough's affordable housing obligation. Also, they are an interested party in the Borough's declaratory judgment action, which the Borough has filed to address its affordable housing components. He said that Mr. Banisch is the court-appointed expert, an independent expert to assist the court in evaluating very complex rules involving affordable housing in New Jersey. He stated that he has allowed Mr. Banisch to participate in the proceedings tonight with the understanding that he needs to maintain his role as an independent expert in order to not affect the proceedings pending before the court.

Mr. DelVecchio said he is here to present the facts and to provide an overview of what they believe can be accomplished on these properties and to provide a path for the Borough to complete and satisfy its affordable housing obligations. Settlement proceedings in the court are strictly monitored and maintained. The parties who participate are bound by rules and confidentiality in order to allow settlement to be fostered and hopefully a settlement reached as opposed to a litigated solution. He thanked the Mayor and Council for maintaining a level of confidentiality. This process has been going on for approximately two years.

Mr. DelVecchio displayed renderings of their proposed project. The one possibility, he explained, would have 141 units on the main tract and approximately 20 units on the corner tract for a total of 161 units. All of the affordable housing would be handled on site. Since entering into the settlement discussions they understood that height and size are very important to the design of the proposed project. Architect David Minno was

charged with developing a plan that met the height and reasonable density that would allow the property to be developed for affordable housing. Right now, in Dumont, the residential B zone allows for fifteen units an acre with twenty-five foot setbacks. Mr. Minno explained the units are two stories with elevators and have two car garages. There is a courtyard, landscaping and a club facility. There would be 106 units as opposed to the original proposed 200 units. There are a combination of one and two bedroom units- 53% are one bedroom or one bedroom/den and 47% are two bedrooms or two bedrooms/den. On the one acre site there is proposed a sixteen unit building with garages. They would all be rentals.

The next site is 50 Washington Avenue, which will be a combination of affordable housing and market rate housing. There are a total of 20 units, eighteen of which are affordable housing and two would be market rate. For affordable housing you need a combination of one, two and three bedroom units.

Mr. DelVecchio explained that as a rental project in the affordable housing arena the Borough would receive two credits for every unit that is constructed of affordable housing. They are proposing eighteen units toward affordable housing for which the Borough would receive thirty-six credits toward their affordable housing obligation.

There were no comments from the Council.

Motion to open to the public: Councilwoman Zamechansky

Second: Councilman Hayes

All in favor.

1. Karen Valido, Overlook Drive, said she is vice-president of the Board of Education. She read a lengthy statement, in which she said that the BOE had the right of first refusal. She said that the Borough made a financial offer in exchange for the Board's relinquishing its right of first refusal. The Board of Ed never received notice of the redevelopment resolution adopted by the Joint Land Use Board. She said this renders the Joint Land Use Board's findings null and void. The Board of Ed will take legal action if the Borough does not rescind their plans.

2. Nancy Poplar, 60 Windsor Drive, asked that the time limitation for speakers could be waived today. She suggested that people donate their time to those who wished to speak more than five minutes.

3. Margaret Keating asked who will be paying professionals and appraisals. She said we are in debt. She asked if the affordable housing numbers have been decided, the tax impact, infrastructure impact. Mayor Kelly responded that part of the settlement would be that the developer would pay for infrastructure costs, soil remediation and street widening. Mr. DelVecchio stated that they would not expect more than twenty school children as a result of the project. They would take care of the necessary infrastructure. Ms. Keating asked if the Special Master takes into consideration the impact on the infrastructure and the taxes. Mr. Banisch replied that fiscal impact is not something he is called on to account to the court. They look at whether or not you have achieved compliance with the mechanisms that the town proposes. We do not know our COAH number.

4. John Sansone, 119 Beacon, asked where the egress and ingress would be. What is the impact on Washington Avenue? Do the streets have to be widened? Mr. DelVecchio replied that he has been in contact with the County. Property would be taken from D'Angelo's for widening the street and a stop light would be required.

5. Rachel Bunin, 9 Poplar, said that FARM'D is against increasing density. They have been advocating against changing the zoning from single family homes. Dumont is overcrowded. Dumont is the 31st densest town in the state. The taxes are among the highest in the state. There are many foreclosures in town. She addressed the builders, saying that their entrance to the community was to file a lawsuit to force their development plan on our community. Ms. Bunin cited the Harvard study. There are more cars than garages. She believes there will be more children than the developer states. The taxes collected from high density rentals do not provide the services needed by the residents. The pipes are too small to accommodate the additional units.

6. Judy Parker, 55 Susan Drive, Closter, stated that the Housing Authority will build affordable housing for free as long as the land is provided. She said she owns 52 Washington Avenue and would like to purchase the 50 Washington Avenue building.

7. MaryAnn Russini, 141 Roosevelt, said that she and her sister have decided to accept the offer to tap in to the storm drain the Borough will be putting in on Roosevelt.

8. Matthew Bailin, 12 Elizabeth Street, said that he will be directly impacted by this Development and asked if the streets will be private or public. Will the width of the streets conform to current standards? Mr. DelVecchio replied that the streets are private and they are part of the parking lot; therefore, they will conform to parking lot requirements. Mr. Bailin asked if guest parking will be provided. Mr. DelVecchio replied there is surface parking on the premises. Mr. Bailin asked about turns on Washington Avenue. He asked if the developer is willing to bear the cost the development is going to add to the system. Mr. DelVecchio responded that they have indicated in their settlement discussions that repairs and improvements that are necessary to the sanitary sewers to service this project and the pipes will be done. Mr. Perkins stated that the pipes are definitely inadequate. We would have to see if the pump station would be able to handle the volume. Mr. Bailin was concerned about the shrubs being planted and access to walls on their properties.

9. deLyon, 67 Beacon Street, is against the density for low income housing. He asked for a show of hands for which council members have borough phones and a show of hands for who receives a stipend. He asked Mayor Kelly why he doesn't recuse himself since his wife is on the Board of Education. He asked for confirmation that if ethics questions arise, would they be heard by the State Department of Community Affairs, Local Finance Board. The response was yes.

10. Jane Enright, 68 Clark Street, said there were 114 people outside.

11. Walter Papp, 47 Wilkens, asked if we have met our COAH obligations. If not, why are we considering any plan from the developer? Ms. Green replied that we are waiting to hear from a judge to hear what our future obligation is. We have satisfied our prior obligations. However, we have to deal with the builder's remedy lawsuit. Mr. Papp suggested continuing with the lawsuit. Has anyone reviewed the COAH work? Ms. Green responded that the Borough hired Ed Buzak, Esq., who agreed that the work done was correct. If the Borough loses the builders remedy lawsuit the number imposed by the judge would be much larger than the number of units presented tonight.

12. Carl Manna, Harding Avenue, asked whether the more than 200 units have been accurately counted and credited. He stated that builder's remedy lawsuits always succeed when the town's fair share housing number is found to be deficient in meeting their constitutional obligation. If so, what is our deficiency? He questioned whether the

developer's project would compound our obligation for round 3. Mr. Manna asked who would be responsible for the formula. He said a decision should be made based on how to best protect the town. Ms. Green said that Dumont's existing credits are not "family credits", which might be needed for the third round. Mr. Banisch remarked that the fact that the developer has proposed two stories is striking to him. Around the State, this is not a high number of density-it's probably an intermediate number. The minimum density is ten units per acre.

13. Colleen Fisco, Prospect Avenue, asked the property taxes of the proposed project for D'Angelo's parcels and 50 Washington Avenue. She asked what the rental fees will be for the units and whether utilities are included. Mr. DelVecchio replied the one bedroom and two bedroom units will be from \$1700-\$2500 per month. He said he would have to check about the utilities. Ms. Fisco stated that those rents are much higher than people currently pay. Projecting twenty children living in these units would be underestimating the number. Mr. DelVecchio stated that this project is meant to provide tax help to the town. If the project is built as is proposed in the settlement, it will not add to the tax burden of Dumont. Services such as garbage pickup, snow removal and street repairs are not provided by the town. He said that if anyone has a study that predicts more than twenty children, he would be happy to look at it.

14. Tom Kelly, 70 Beacon Street, gave background on how we arrived at this point with Landmark. Dumont has always embraced affordable housing. The fact that the Council could not speak of the litigation was not fair to the residents. It led to speculation on what was going on behind closed doors. There have been no suggestions from Maser Consulting for satisfying our affordable housing obligation outside of D'Angelo Farms. There are towns around us who are satisfying their obligations without high density units, which we are being forced to in this situation. Several towns such as Tenafly and Upper Saddle River have faced builder's remedy lawsuits and they are not caving in because they satisfied their obligations. He pointed out that the number of affordable housing units Dumont will need varies. The number at the Roche Apartments should be verified. There are Section 8 units in town which should be looked into. Maybe some would be agreeable to possibly a tax settlement to put a deed restriction on some of these units. We were told the Board of Ed was agreeable, but they are not. He feels the town needs more information on this lawsuit.

15. Suzanne Riordan, 46 Harrison Street, asked how long Maser has been our Planner, COAH Planner and Joint Land Use Planner. Ms. Green replied they were hired in 2013 to prepare the Housing Plan; then in 2014 and 2015 as Jt. Land Use Bd. Planner, COAH Planner and Borough Planner. Ms. Riordan asked if Maser advised how to handle our burden of Affordable Housing? She said that going with this land deal before a decision is made by the courts would be detrimental to the residents. She asked about deed restriction. Ms. Green responded that in 2013 they were retained to prepare the Housing Plan, the Borough formed a COAH subcommittee. At that time she advised them of all the options available to the Borough. Ms. Green said that this court case is separate from our obligation. This builder's remedy case may be before we know our numbers. It is very unfair. Mr. Paster explained that they are now trying to mitigate the damage. Part of the proposed resolution to settle the lawsuit is that Landmark, at their expense, will remediate the property to residential standard-a much higher standard than commercial industrial use-estimated at \$1,000,000. It's strictly governed by DEP. Then they would

spend \$1,500,000 to build to cover the affordable housing obligation that doesn't have to go at D'Angelo's. Mr. Perkins added that when he first took a tour of the building, there were plants growing in the police department basement. When issues including mold, air quality and lead paint issues came up, they were addressed. The roof was constantly leaking, animals in the building, doors weren't opening and closing properly and the windows had to be changed. There were major issues almost on a daily basis. We did what we needed to do to make sure that it was a healthy and safe environment for the people there.

15. Debbie Tamburro, Roosevelt Avenue, said she is proud of this town. There are a lot of people here and they are going to fight. She asked where borough hall is going to go. Mayor Kelly said Bergenfield is going to need a new borough hall soon so there is a possibility of combining the borough halls in the future. Ms. Tamburro suggested putting a borough hall, teen center, police station and ambulance corps together.

16. Linda Fusco, 45 Harwich, said the residents in the development will need police, fire and ambulance services. We shouldn't give in to the developer suit. She said she lives a couple of blocks away from D'Angelo's. She is concerned about her property flooding if the units are built at D'Angelo's. She said that the gag order caused people to think that the council was "in bed" with the developers.

17. Lynne Vietri, 41 Wilkens, confirmed with Ms. Green that Maser did the 2007 Master Plan. She asked if the 2014 revised plan included the land use element. She asked if the developer came in with a plan, the borough has time to reject that plan and get that property from them. Mr. Paster responded that the borough had an appraisal done that said the six acre parcel was worth \$2,300,000. There is a court process that would be involved. Ms. Vietri stated that Dumont has only 6% open land-1.9 miles, 18,000 people. She asked if the developer's plan is a private community and if the clubhouse was private. The answer was yes. The clubhouse is for the residents of the community. She then asked what happens if the Board of Ed takes back 50 Washington Avenue. Mr. DelVecchio responded that more affordable housing would have to be put at D'Angelo's.

Ms. Vietri asked the developer why they haven't submitted a plan yet. Mr. DelVecchio was not prepared to share that strategy.

18. David Hayes, Harrison Street, asked if there would be walls to protect the mechanical units on the roof. Mr. DelVecchio answered there would be. Mr. Hayes then asked if there are any balconies or decks. Mr. DelVecchio responded that there are very small decorative balconies in front of the building.

19. Laurie Dripchak, 40 Wilkens, asked when the Council will make a decision. The Mayor responded that the Council will absorb what was presented tonight. Ms. Dripchak asked where the dumpsters will be. Mr. DelVecchio said to the sides of the buildings.

20. Resident, McKinley Avenue, asked the rental price of the affordable units and have we looked into saving the building at 50 Washington Avenue. Mr. DelVecchio said that they would have to follow a formula in the COAH rules.

21. Mike Sullivan, 125 Andover, asked if the buildings would be handicap accessible. Mr. DelVecchio responded handicap accessible and handicap adaptable. Mr. Sullivan said that he has problems all the time with the sewer. He said that 50 Washington Avenue has not been taken care of in the last thirty years.

22. Tom Kelly, Beacon, asked if the town ever made an offer on the property; a

buyout.

Motion to close to the public: Councilman Morrell

Second: Councilman Riquelme

All in favor.

Mr. Banisch was asked for his opinion. He said that the specific proposal we heard tonight and with the understanding that the set aside of 15% will meet the COAH requirements, the bedroom distribution will meet the minimum of 20% set aside and three bedroom units as part of this project and provided 50 Washington Avenue becomes a viable location for additional units he feels the court would find these units credible.

Motion to adjourn: Councilman Hayes

Second: Councilman Riquelme

All in favor.

Meeting adjourned at 10:15PM

Minutes respectfully submitted by:

Susan Connelly, RMC

Municipal Clerk