

MINUTES
Special Meeting – **August 31, 2021**

The Meeting of the Board of Commissioners of the Borough of Allenhurst was held on the above date with Mayor McLaughlin presiding and Commissioner McLoughlin and Commissioner Cumiskey answering the roll call. Also in attendance was the Borough Clerk, Donna Campagna; Borough Attorney, David McLaughlin; Redevelopment Attorney, Matt Jessup; Borough Planner, Jen Beahm and Affordable Housing Consultant Andy Bayer.

The meeting was called to order at 8:00 P.M. with a salute to the flag.

Mayor McLaughlin announced that the notice requirements of R.S. 10:4-18 had been satisfied by delivering the required notice to the Coaster, posting the notice on the board in Borough Hall and filing a copy of said notice with the Borough Clerk.

PRESENTATION

Presentation regarding redevelopment of the former JCP&L sites and implications of the Builder's Remedy action brought by the owners of the property.

OPEN PUBLIC HEARING: Three Minutes per Speaker – Transcript of proceedings is attached.

There being no further business or comments, Comm. McLoughlin moved, seconded by Mayor McLaughlin that the meeting be adjourned at 9:40 PM. Motion carried.

Donna M. Campagna

Donna M. Campagna
Administrator/Clerk

1 THE BOROUGH OF ALLENHURST
2 BOARD OF COMMISSIONERS MEETING
3 MONMOUTH COUNTY

4 X ----- X

5 SPECIAL MEETING TRANSCRIPT OF
6 PROCEEDINGS
7 X ----- X

8
9 August 31, 2022
7:30 p.m.

10
11 BOARD OF COMMISSIONERS

12
13 DAVID McLAUGHLIN, Mayor
14 CHRISTOPHER McLOUGHLIN, Deputy Mayor
15 RICHARD CUMISKEY, Commissioner
16 DONNA M. CAMPAGNA, Clerk

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1 A P P E A R A N C E S

2 BIRDSALL & LAUGHLIN, L.L.C.
3 BY: DAVID A. LAUGHLIN, ESQ.
4 1720 State Highway 34
5 Wall, New Jersey 07719
6 Attorney for the Borough of Allenhurst.
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1 (The Pledge of Allegiance is
2 recited.)

3 MAYOR McLAUGHLIN: Donna, can you
4 please take the roll call.

5 MS. CAMPAGNA: Certainly.
6 Commissioner McLoughlin?

7 COMMISSIONER McLOUGHLIN: Here.

8 MS. CAMPAGNA: Commissioner
9 Cumiskey?

10 COMMISSIONER CUMISKEY: Here.

11 MS. CAMPAGNA: Mayor McLaughlin?

12 MAYOR McLAUGHLIN: I'm here. Notice
13 requirements of State Statute have been satisfied
14 by delivering required notice to The Coaster and
15 The Asbury Park Press, posting the notice on the
16 board in Borough Hall, and filing said notice with
17 the Borough Clerk.

18 Thank you everybody for coming. I'm
19 going to stand up because this chair is so low
20 compared to the table. I feel a little more
21 comfortable.

22 Thank you everybody for coming. We thought
23 it was very important to hold this meeting tonight
24 because there's so much misinformation that's
25 going around town. We wanted to bring everybody

1 up to speed of the present state of the
2 redevelopment. Okay, so that's the main purpose
3 of this meeting.

4 There will not be any action taken at this
5 meeting. I want to emphasize that. This is just
6 for information purposes, to bring everybody up to
7 speed because the Building Remedy lawsuit that the
8 developer has filed against the town. We want to
9 go into a little bit of detail, discuss what that
10 means and the ramifications to the town.

11 Just a little bit of housekeeping before we
12 start the meeting. The rule for the public and
13 how the meeting is going to be conducted tonight.

14 So each member of the public, when we're
15 done doing our presentation, we're going to ask
16 that you line up behind the podium. When it's
17 your turn to speak we ask that you very clearly
18 say your name, spell your last name and give your
19 address so that we have it for the record. And
20 then we that you, if you have one or two, three
21 questions, that you ask them all at once. Each
22 person will be given about three minutes -- will
23 be given three minutes to speak. When you're
24 getting close to the three minutes, you will be
25 advised "you're at 30 seconds". Okay.

1 But it's important to remember we're going
2 by Robert's Rules of Etiquette. What we're asking
3 is, we don't want people shouting out, screaming
4 answers or questions. We're trying to do this as
5 orderly as possible. Why? Because there's a
6 tremendous amount of information that we're asking
7 you to digest. This is a very confusing topic.
8 I'm sure hopefully we can answer a lot of your
9 questions but I'm sure you're going to have a lot
10 more questions.

11 The other thing I want to bring up briefly
12 before we start tonight is a lot of you folks know
13 that we've had some car thefts recently in the
14 area. Okay. And unfortunately, you know,
15 Allenhurst has been hit numerous times. The Chief
16 has since the spring has been reminding everybody
17 to lock your cars and take their car fobs. Do not
18 leave them in the car.

19 This is a situation that's been happening
20 in Monmouth County. So up in Holmdel, Shrewsbury,
21 Middletown, Deal, Interlaken, Allenhurst, Loch
22 Arbour this group has been going around and the
23 one common thing is people leaving their keys in
24 the car. And you know people get comfortable,
25 they say, well my car is in the driveway and I

1 comfortable leaving my key fob. You can't do it.

2 The newer cars now a lot of them the
3 mirrors will be out if your car fob is in there.
4 That's what these folks look for. They're very
5 brazen. They'll come in the middle of the day.
6 They go and they check for cars. They're usually
7 driving around in a stolen car.

8 This -- we had just met, I want to say it
9 was in the early spring with Senator Gopel and New
10 Jersey had a very strict rule about pursuing these
11 vehicles. You couldn't pursue them. Now it's,
12 and correct me if I'm wrong, Chief, they've
13 loosened that up a little bit because it's been
14 such a problem where we're, under certain
15 circumstances, we're allowed to pursue.

16 So what we ask the public is, make it
17 difficult. Don't put your key fob in there. What
18 happens is when they come around and they don't
19 see that, they're not going to come back here.
20 It's like mice looking for food. They're going to
21 keep coming back if there's vehicles open and
22 there's opportunity to take cars.

23 What should you do if you see something?
24 And we ask everybody to be vigilant. If you see
25 something that's suspicious, call the Police

1 Department right away. Call them. Okay. You're
2 never going to be a nuisance. So when you see
3 something, you call right away.

4 Chief, did you want to add anything to
5 that?

6 CHIEF SCHNIEDER: Thanks, Mayor. I
7 think everybody here knows me and you know where I
8 stand with this. If we have one theft, it's one
9 theft too many. Just some facts, let me put it
10 out there. I actually went and looked today, on a
11 neighborhood report that's submitted to the Chief
12 every two days or so. And the dates of the 28th
13 and 29th around the state mid 60 cars stolen.
14 About half of them where all from this group. All
15 luxury cars that were unlocked and the key fob in
16 off.

17 I can tell you after doing this in this
18 town for 26 years I don't remember the last time a
19 locked car was taken. I don't remember the last
20 time somebody broke a window to get into a car.
21 It just doesn't happen anymore. There are too
22 many opportunities out there for these kids, and
23 that's what they are. They're teenagers from
24 Essex County to go out there any prey on these
25 unlocked vehicles with key fobs in the car.

1 So I know it sounds simplistic, and I know
2 some of you might be getting sick of getting my
3 emails and I'm sorry but I will be a pest but I'm
4 telling you it is this simple. If your car is
5 locked, it probably most likely will never be
6 stolen. They will move onto somewhere else.

7 So like you see in my emails, like the
8 Mayor was saying, they will go where the food
9 remains. If we take the food away from them and
10 I mean by locking our cars, if we take the food
11 away from them, they will go somewhere else. And
12 other towns in Monmouth County have shown this.
13 That as they're getting the cars locked in a
14 greater percentage, these guys are going away.
15 They're going somewhere else.

16 So we did have one taken Sunday night, I'm
17 sorry, Monday night. Sunday we had four cars that
18 were attempted. One they entered. They didn't
19 take it because the key fob was not in the car.
20 Three others they attempted but they couldn't open
21 the door because the car was locked.

22 And this is how brazen these kids are,
23 yesterday we had another attempt in the morning,
24 Deal ends up finding the car, chases it around
25 Deal for awhile. Chases them into Long Branch.

1 And then the car got so far ahead of the pursuing
2 police car, the pursuing police car shut off the
3 siren but was still heading in the same direction
4 where the car was going. He came across the
5 suspect's car, stopped, put the passenger out
6 trying the door on another car. This is how
7 brazen they are. They don't want confrontation
8 for the most part. But like I put in my email,
9 you don't what a cordoned animal is going to do.
10 So please leave it up to our officers who are
11 trained to handle these situations. I don't want
12 to see anybody putting themselves in a situation
13 where they're in danger.

14 So if anybody has any questions?

15 MALE VOICE: Yeah, I've heard that
16 they're trying to break into houses -- inaudible.

17 CHIEF SCHNIEDER: Excellent point.
18 So yes, we've had one instance where they broke
19 into a house. They tried to break into a house
20 and homeowner heard them and scared them off.
21 This is happening way more often around Monmouth
22 County.

23 I think it happens less in Allenhurst,
24 because they're seeing our car all the time.
25 Right. Again our officers can't be everywhere at

1 once. We need the help of our residents and we
2 need the help of the public.

3 An extra set of eyes and ears is always
4 going to help us. But we can't be everywhere at
5 once. The theft on Sunday -- the theft that I
6 recall from 2017 took less than 20 seconds. At 20
7 seconds I could have a marked patrol car around
8 the corner and they can't stop that at 18, 20
9 seconds.

10 So I just -- like I said, if the cars are
11 locked, they will move on and they will go
12 somewhere where the cars are not locked. So
13 please I mean that's the best thing we can do. I
14 know it sounds simplistic but it's the best thing
15 that we can do.

16 MAYOR McLAUGHLIN: Thank you, Chief.
17 Just so you know, we did put on extra patrols. We
18 do have extra patrols out there. We're also,
19 again our Police Department is working -- a lot of
20 local police departments, we're all working
21 together on this. But again just the take away is
22 don't leave your keys in the car. I know we feel
23 comfortable and they're in the back of our house
24 or in the driveways, just these guys are brazen.
25 They're going right up driveways to get the cars.

1 Okay so enough on that topic.

2 I do want to do some quick introductions
3 real fast. You want to stand behind us. This is
4 Jen Beahm. Jen Beahm is the Director of Planning
5 for Leon Avakian's office. Jen has been working
6 for us. This is Matt Jessup. Matt is our
7 Redevelopment attorney. He's been with us from
8 the beginning and he's been working with us on the
9 Builder's Remedy lawsuit and don't forget his
10 expertise in Affordable Housing.

11 And I think most of you know Dave Laughlin.
12 Dave Laughlin is the counsel to the town. He's
13 been here a number of years --

14 I thought it would be worthwhile, Chris to
15 get a quick background and a rundown as to how we
16 got to this point. So Chris at this point, if you
17 could give just a quick summary how we got to this
18 point.

19 COMMISSIONER McLOUGHLIN: Sure. So
20 again dates and times, a sort of approximate, I
21 mean close and I don't have an identic memory.
22 2005 JCP&L notified the Borough that they were
23 going to vacate the roughly ten acre properties
24 that we all know as the east and west side of the
25 Redevelopment Zone.

1 Gordon Gemma was the planner at the time
2 that we hired, and there are some people in this
3 room who actually were part of that subcommittee,
4 and we decided maybe the best thing the town could
5 do was kind of figure out what we wanted, put it
6 into a Redevelopment Zone, and kind of maybe drive
7 or dictate what our future was.

8 The resounding call was low density. So
9 the final Redevelopment Plan that was past in 2007
10 call for eight to ten single-family homes on the
11 east side of the street, and about 40 to 50
12 apartments on the west side of the street over
13 commercial businesses. Even some people on the
14 subcommittee at the time thought that was a little
15 too dense.

16 Gordon Gemma, who is a witty man,
17 congratulated me after we past it. Said
18 congratulations, you now have a Redevelopment Zone
19 that nobody is going to bid on because the
20 project is too small.

21 It turns out he was correct. For 17 years
22 nobody bid on it. No one came to us -- I
23 shouldn't say bid on it because that's not fair.
24 JCP&L was in the middle of roughly 17-year cleanup
25 of the property and then put it up for sale.

1 MAYOR McLAUGHLIN: Just to be clear,
2 I just want the people to understand, so from
3 2004 or '05 when they roughly abandoned the
4 property, the property did not become for sale --

5 COMMISSIONER McLOUGHLIN: Until 2017.

6 MAYOR McLAUGHLIN: -- '17.

7 COMMISSIONER McLOUGHLIN: Correct.

8 MAYOR McLAUGHLIN: Okay. So and they
9 were dealing with cleaning up various sites that
10 they had, open sites. And we also had some
11 several tax appeals. So the property never hit
12 the market till 2017.

13 COMMISSIONER McLOUGHLIN: Correct.

14 We did -- during that time we had people ask us
15 and we said, you know it's not for sale yet. And
16 anything that anyone came to us with, we had some
17 200-, 300-unit you know, proposals that were like,
18 would you like this. And we were like, no. Run
19 away. Thank you.

20 Then in 2017 JCP&L put the property up for
21 sale. My understanding was that they were going
22 to go out to an auction. And that auction was
23 actually rescinded because they got an offer from
24 who the current buyers are right now. Who spent
25 roughly, I think, five million dollars or

1 something for the entire property, my
2 understanding.

3 They came to us and asked, you know, for
4 140 units. We said nope. We'd be much happier
5 with something sub-100 units. And we were going
6 back and forth for about two years. They -- not
7 only talking about the overall number but also
8 discussing what their possible off-site
9 contributions could be, what their financial
10 capacity was, what kind of ratables, impact of
11 children. And by early 2021 the redevelopers were
12 getting a little antsy and a little annoyed and
13 started to remind the Board of Commissioners that
14 they could file a Builder's Remedy lawsuit.

15 We will discuss a little further on exactly
16 what a Builder's Remedy lawsuit is and why it
17 pertains to us and things like that.

18 MAYOR McLAUGHLIN: So before you
19 continue on.

20 COMMISSIONER McLOUGHLIN: Yeah.

21 MAYOR McLAUGHLIN: Why don't we have
22 Andy discuss a little bit what a Builder's Remedy
23 lawsuit is and how it affects Allenhurst.

24 COMMISSIONER McLOUGHLIN: You're on
25 but speak up.

1 MAYOR McLAUGHLIN: You're on.

2 MR. BAYER: Thank you, Mayor. So in
3 the -- the New Jersey Supreme Court in
4 the mid 1970's basically said that every
5 municipality has a constitutional obligation to
6 provide of its fair share in Affordable Housing
7 that's known as the Mount Laurel doctrine --
8 inaudible.

9 So after that came about the legislature
10 created a state agency called COAH, Council on
11 Affordable Housing. And every municipality had a
12 choice. You could either file an Affordable
13 Housing Plan before COAH and the state, you could
14 go to court or do nothing.

15 And then in or around 2010 basically COAH
16 stopped operating and the New Jersey Supreme Court
17 said every town had to go to court because COAH
18 wasn't working, if you had an affirmative plan --
19 your Affordable Housing on the record.

20 Allenhurst gave that primarily because you
21 don't have available land for high-density
22 housing, which is what affordable housing is
23 connected with. So you never had a plan before
24 COAH. You never went to court.

25 So what the law provides, what the Supreme

1 Court said is that a developer or property owner
2 could file what's known as a Builder's Remedy
3 lawsuit.

4 And basically what that is is the owner or
5 developer asks the court that the town has to
6 suspend -- the township suspends its zoning
7 regulations to allow for high-density housing
8 with an affordable housing component to
9 developers and help, "help" in quotes the
10 municipality satisfy its affordable housing
11 recommendation.

12 So that is what we have here. Allenhurst
13 overall affordable housing obligation from 1987
14 through 2025 is 94 units. That's affordable
15 housing units. So to produce 94 affordable
16 housing units, multiply by five, that's typically
17 it's a 20 percent set aside. So you would end up
18 with 500 residential units to create approximately
19 100 affordable housing units. And clearly you
20 don't have that available land here. And that is
21 what's involved in our litigation.

22 MAYOR McLAUGHLIN: Andy, could you
23 just explain those affordable -- how you get to
24 that, so everyone can understand.

25 MR. BAYER: Sure. So typically when

1 a developer files a Builder's Remedy and what the
2 COAH, Council on Affordable Housing rules provided
3 is that for every four of the market-rate units
4 one would be affordable.

5 So 20 percent out of -- a 20 percent
6 set aside. So to 100 affordable housing units of
7 that hundred 20 would be affordable. And that
8 would if a property owner or developer's way to
9 get zoning which wouldn't otherwise be. So you
10 could have a 90 units -- you could have zoning for
11 commercial development versus industrial or
12 highway. And if a municipality doesn't meet its
13 affordable housing obligation, a property owner
14 can come in and ask the court to say, I want to
15 build apartments in this commercial zone, it
16 doesn't matter how the town zoned it.

17 And that's what's going on here in
18 connection with the claims by High Power Station,
19 which is the entity that's filed the lawsuit.

20 MAYOR McLAUGHLIN: All right. Thank
21 you, Andy.

22 Chris, do you want to continue?

23 COMMISSIONER McLOUGHLIN: Sure. So
24 and also just a quick note, if we have a question
25 we'll answer this, affordable housing versus

1 Section 8 Housing two vastly different things.

2 Okay. Affordable housing is, you know, your
3 teachers and your firefighters and people who have
4 an income but it's --

5 MAYOR McLAUGHLIN: It's based on
6 income. Again it's --

7 MR. BAYER: May I, Mr. Mayor.

8 MAYOR McLAUGHLIN: Yes.

9 MR. BAYER: I have the latest chart
10 here. So in Monmouth County the income levels to
11 qualify depends on the number of people in
12 households, it could go from anywhere from one to,
13 you know, one to five people in a household. And
14 those income ranges go from a low of let's say a
15 four-person household of 45,000 to a high of
16 152,000. So if it's for-sale housing the
17 individuals that the Mayor and Council Member are
18 talking about here they would have to -- people
19 would have to qualify for a mortgage and have
20 income, as pointed out, it's typically public
21 employees who would have salaries in the range of
22 what I'm talking about. It's not quote,
23 "giveaway housing" or housing where the
24 Government is paying for it, vis-a-vis WIC. So
25 it's people have to qualify and be able to get

1 equity in their house.

2 COMMISSIONER McLOUGHLIN: Thank you.

3 So when we got to early 2021 and knowing that
4 there was this threat of a Builder's Remedy
5 lawsuit, when we were negotiating with the
6 redevelopers the Commissioners capitulated on a
7 couple of things. We were like, all right they
8 wanted a height, you know, variance on the
9 townhomes. They wanted, you know, maybe an extra
10 bedroom in some of them. And we essentially
11 settled on 108 units. And in that 108 units was
12 10 percent set aside for affordable housing that
13 they were going to take care.

14 At that time and again I'm just it out
15 there, I cast no aspersions, please know that.
16 I'm just giving a historical background here. A
17 group called the Allenhurst Taxpayers Association
18 was formed and opposed the density of 108 units.
19 They hired an attorney from Beattie Padovano and
20 they filed suit against the Borough for the method
21 by which we came to this agreement.

22 What also ended up happening at that time
23 was that because a lawsuit was filed it hit all
24 the papers. As soon as it hit all the papers the
25 Fair Share Housing Council, a nonprofit, who sole

1 goal is to make sure there's affordable housing in
2 all of the boroughs, was like "oh, I want a part
3 of that."

4 So they immediately came in and basically
5 said a 10 percent set aside that's not going to
6 work. Twenty percent set aside.

7 So immediately the redevelopers were like,
8 well we still might want to settle with you but
9 instead of 108 units, you got to give us now about
10 120 to 130 units. At which point the
11 Commissioners having seen the concern on behalf of
12 the residents and by the ATA, we rescinded the 108
13 Resolution. So we made the ATA lawsuit moot
14 because we weren't doing anything.

15 At which point the Power Station
16 Redevelopers filed the Builder's Remedy lawsuit.
17 And that's kind of where we are now. We told
18 Power Station we were not going to enter into
19 another agreement without coming before our
20 community. We are way too small that we can't
21 live -- if you're Middletown, you're not going to
22 get 16,000 people and get an opinion.

23 We're 350 homes. We can get a pretty good
24 idea of what people are thinking. So --

25 MAYOR McLAUGHLIN: At that point --

1 COMMISSIONER McLOUGHLIN: Please.

2 MAYOR McLAUGHLIN: You know now the
3 developer has filed this Builder's Remedy and we
4 have been ordered through the court for mediation,
5 which we have been having with them. We haven't
6 had any luck. We cannot discuss what that
7 mediation entails and so forth because it is
8 confidential.

9 But to that end, you know, we have a trial
10 coming up. There is a trial coming up in what?
11 April or May I guess.

12 MR. BAYER: Probably May or June of
13 2023.

14 MAYOR McLAUGHLIN: Okay. And in
15 their suit, we've handed out, it's a public
16 document. They're looking for was it 200-and --

17 COMMISSIONER McLOUGHLIN: Forty-five.

18 MAYOR McLAUGHLIN: -- 45 units.

19 MR. BAYER: It's 245 units, Mayor.

20 MAYOR McLAUGHLIN: So that's what
21 they're looking for that piece of property. The
22 unfortunately thing, and Andy I want you to
23 correct me if I'm wrong, and I think everybody has
24 got to understand this, is the Borough going
25 against the Builder's Remedy, all of the local

1 zoning and so forth goes out the window with the
2 Builder's Remedy. Okay. No town -- I'm not
3 saying you won't, but no town has ever won a
4 Builder's Remedy suit when you go to court and
5 fight these things.

6 COMMISSIONER McLOUGHLIN: Having said
7 that, I'm a Jet fan and I still think they're
8 going to win the Super Bowl every year. But we
9 should just keep that in mind.

10 MAYOR McLAUGHLIN: I don't know,
11 Chris, 1969 --

12 COMMISSIONER McLOUGHLIN: I'm just
13 saying.

14 MAYOR McLAUGHLIN: And so many other
15 things that go along with a Builder's Remedy, what
16 I want to mention so that the town is aware is we
17 could be liable for all the legal fees that are
18 associated with this. We'd wind up paying them.

19 MR. BAYER: Not just ours, theirs.

20 MAYOR McLAUGHLIN: Ours and theirs, I
21 want to emphasize that. Ours and their legal
22 fees.

23 I don't know if there's penalties and so
24 forth.

25 MR. BAYER: No penalties on the legal

1 fees but we could be responsible for all of their
2 legal fees.

3 VOICES: And fair share.

4 MR. BAYER: And fair shares. So two
5 lawyers in addition to our team.

6 MAYOR McLAUGHLIN: Don't forget, we
7 also have to now settle with Fair Share. Fair
8 Share has also joined in on this lawsuit.

9 So there's quite a bit here to digest. And
10 I know some folks' immediate reaction is, hey,
11 come on. We're a small town. That's the reaction
12 I have. They're going to put 245 units in a very
13 small town and we have 300 -- we have less than
14 400 homes.

15 COMMISSIONER McLOUGHLIN: And also
16 Historic Preservation is out the window.

17 MAYOR McLAUGHLIN: All -- like I
18 said, Chris has just mentioned to me, historic
19 Preservation. All of that local zoning is moot.
20 Okay. We have no control over it.

21 One of the other things, and say okay
22 you're going to put this many units in this area,
23 the town could be liable to any infrastructure
24 they put in there. Water, sewer, that would go on
25 our bill. We would have to be liable for that.

1 Basically the style and design they can do what
2 they want as long as its functional. You know
3 there's things that we are going to argue and so
4 forth but we just want everybody to be aware of
5 where we're at with this suit and the seriousness
6 of it and the predicament the town is in.

7 Dave, would you like to add something?

8 MR. LAUGHLIN: Yeah, just
9 for the sake of the crowd here. What you see up
10 on this board and what there was handouts that
11 I know Donna created, this is the Builder's
12 Remedy's -- this is the request that they filed
13 with the court. So what you're seeing there is
14 what they're asking the judge to approve on these
15 two properties. 245 units, 150 across the street,
16 95 over here on the other side of Main Street, 422
17 cars for the two properties. They're massive
18 buildings.

19 They're -- the one on this side is four
20 stories of housing above a one-story of parking.
21 That's six stories on the west. They are massive
22 buildings. The one over here is basically
23 designed to be built right out to the edge of the
24 sidewalks so they're saying.

25 It's clearly not and understand this is not

1 what these gentlemen want. This is what the
2 builder is asking the court to force us to
3 approve. We don't really get approval. The judge
4 approves it.

5 So there were some handouts. I don't know
6 how many we got. Donna had them out. They're in
7 the back over there. It's this page and there's a
8 bunch of others. But this is the one that shows
9 you sort of the massive size of the structures
10 they're looking to put up. It does make 108 units
11 look like an awful good deal. But that's history
12 now.

13 So this is what we're facing and what we're
14 trying to get you folks to understand. This could
15 very well be forced down the Borough's throat by
16 the court. So and as the Mayor said no
17 municipality has ever won a Builder's Remedy suit.
18 The best you can do is get a compromise less than
19 what they're asking for, but they will get a
20 remedy.

21 Andy, you disagree?

22 MR. BAYER: Well yeah, because the
23 Borough needs to provide -- because the Borough
24 needs to provide for its Fair Share of Affordable
25 Housing. Every other municipality throughout New

1 Jersey and that's the hammer that this developer
2 -- property developer is using against --

3 MR. LAUGHLIN: Right. And
4 let me add that the Mayor covered this briefly but
5 you should know the reason the property wasn't for
6 sale for many years, from when they vacated until
7 2027 (sic) is they did a -- JCP&L was frankly a
8 good neighbor. They did a 17 year pollution
9 cleanup approved by DEP, fully settled, fully
10 done. So there's not a pollution danger over
11 there because JCP&L cleaned it up before they
12 ever put the properties up for sale. We have all
13 the documents on that. You can go on a DEP
14 website and check it. You don't have to take my
15 word for it. It was done and approved by the
16 DEP. After that was done is when JCP&L sold it
17 not before.

18 So we're in this predicament now and this
19 is what the Borough is facing, 245 units, 422
20 cars. It's a problem for all of us.

21 Matt, you have a comment? No, okay. Jen?

22 MR. BAYER: All right. You want to
23 just do questions, Mayor and we'll try to answer
24 them as they come along.

25 MAYOR McLAUGHLIN: Sure. I was going

1 to make one more comment though. You know the
2 rules of common sense, what Dave said about the
3 cars. It's a frightening thing, that many cars.
4 We already have problem with Main Street right now
5 and traffic, wow.

6 You would think that would be a logical
7 argument. It's an argument that we can make but
8 if you're going to inundate and make this such a
9 congested area, that it's not going to be safe. I
10 had read, and correct me if I'm wrong, they don't
11 care about this stuff. They don't -- the answer
12 is hire more police. There was a -- I had read on
13 line and we were talking about this, one of the
14 towns was faced with one of these suits and
15 basically where the developer wanted to the
16 property was in an area, this town was prone to
17 flooding and it was going to exacerbate the
18 flooding. Okay. It was going to make it worse.
19 The town was always flooding. The developer said
20 I'm going to put -- I'm going to build here.
21 Everybody agreed it's going to make it worse. And
22 they said there's no way you're going to allow
23 this to be built here. It's going to make it
24 worse. He got it built there. Okay, the
25 developer was allowed to build there even though

1 it exacerbated the flooding.

2 So I just wanted to throw that in there.

3 Some people have asked me and I want to throw this
4 out, some people said why can't we go back to the
5 original plan? Unfortunately because of the
6 Builder's Remedy that's null and void. There is
7 no -- we have lost the control over this. Okay.

8 So I ask now if folks have questions, I'm
9 going to open it up to questions. If anybody has
10 any -- no one has anything else to add up here.

11 COMMISSIONER McLOUGHLIN: So let's go
12 to the microphone and --

13 MAYOR McLAUGHLIN: Go to the
14 microphone. I'm going to again just go over it.
15 Each person is given three minutes. If you could
16 please identify yourself. Spell your last name
17 for the record. And let's start.

18 Good evening.

19 MR. DABA: Good evening, Mayor and
20 Commissioners. I moved here in early 1990's.
21 Barbara and I actually chose our --

22 COMMISSIONER McLOUGHLIN: I'm sorry,
23 Hein, name and address.

24 MR. DABA: Hein Daba, 5 Elberon
25 Avenue. So we chose Allenhurst over Deal because

1 of all its quaintness and charm. So our hope and
2 I think everybody's hope in this place --
3 inaudible. So I'm not speaking here as a
4 representative of the Allenhurst Taxpayers
5 Association. I'm speaking here just as a resident
6 for me, my family and our neighbors.

7 The issue at hand is the need for
8 affordable housing. That is the thing that is
9 causing the Builder's Remedy lawsuit. We, I, my
10 family and my neighbors support affordable
11 housing. It's the right thing to do. It's not
12 something that we at all opposed to. I think
13 everybody here is on the same page.

14 What I'm against as I think everybody here
15 is against is 245 units and 435 parking in the
16 town of less than 350 homes. I'm also against
17 what I think is a greedy developer who is -- who
18 really wants to make a killing on the back of our
19 town. The developer does not live here. We live
20 here and the consequences of this density are
21 going to enormous.

22 I understand that you, our Commissioners,
23 our representative, our leaders, you only have two
24 choices to make. Choice one, negotiate with a gun
25 to your head. Choice two, go to court and find

1 what a judge says with a gun to her head.

2 I think and I know the other solution. The
3 third choice is the development of a separate
4 piece of land of 50 to 60 unit of affordable
5 housing only. So we don't have to have the four
6 to one. This would be more than the 39 units the
7 developer is proposing.

8 So by doing this we can address the
9 affordable housing without the density that comes
10 with 245 units, and 45 parking. This alternative
11 can eliminate or substantially reduce --

12 MS. CAMPAGNA: Mr. Daba, I'm sorry,
13 30 seconds.

14 MR. DABA: -- the potential for the
15 Builder's Remedy lawsuit that is here. The reason
16 he is not negotiating good faith is because the
17 end, the affordable housing component. If we take
18 that away from him, I think we might have a better
19 chance. So there's also another choice that
20 separately or concurrently we can also use this
21 once in a lifetime opportunity to finally improve
22 our police department, municipal space that are
23 obsolete and have an eminent domain upon relations
24 so we can use this land.

25 I believe the economics could work for the

1 town and we've reviewed it and we have gotten ways
2 to make sure that's -- cash-flow positive and we
3 can definitely address the affordable housing and
4 hopefully not have this thing happen to us. I
5 know it's time but I just want to thank you guys
6 for allowing me to --

7 COMMISSIONER CUMISKEY: Thank you,
8 Hein.

9 COMMISSIONER McLOUGHLIN: Thank you.
10 You might need to raise the mike. You're taller.
11 Or just take it out, you know, like you're a rock
12 star.

13 MR. WEINER: My name is Ira Weiner.
14 I'm from the law firm of Beattie Padovano. I
15 represent the Allenhurst Taxpayers Association. I
16 know you've been dealing with Mr. Lamb. He's away
17 on vacation when you scheduled this so he pressed
18 me into service, and I've been before you before
19 so I thank you for holding this meeting.

20 I think it's important for the community
21 and as a former councilman and mayor of my own
22 town and having dealt with these kinds of issues,
23 I know the difficulty and the challenges that
24 you're facing.

25 On behalf of the association we want to

1 work with the town as much as possible. And to
2 that end we have a couple of suggestions. Now I
3 don't know, you may have considered these and
4 obviously you have to talk to your counsel about
5 that.

6 But even though the remedy is difficult
7 and I think it's an unintended consequence of the
8 statute, we feel that one of the things that Mr.
9 Daba referred to of developing some affordable
10 housing on another parcel could have an impact.
11 I'm not sure to give legal advice, I'm getting
12 into that but it's never been a circumstance that
13 I'm aware of where there's been a Builder's
14 Remedy and the town actually did zoning elsewhere
15 that would increase the affordables. The court
16 has a right to take that into account. So -- and
17 it's certainly a negotiating point.

18 But obviously we would hope that there
19 wouldn't be anything, you know, some of the things
20 here, the density, the height, you know, but even
21 so if they had to go to three stories or something
22 like that to get more units, you might be able to
23 satisfy a fair share -- and your professionals
24 will tell you, the developer is the developer, but
25 if fair share is healthy that has an impact on the

1 court. So that's kind of addressing that issue.

2 There are a number of other issues now that
3 I'm holding this I can't turn my page.

4 COMMISSIONER McLOUGHLIN: Sorry about
5 that.

6 MR. WEINER: That's okay. There's
7 some concerns over here and my clients want me to
8 express this to you folks is, there's an art deco
9 building over there as part of that development.
10 They feel that that would be a tragedy if that
11 thing got destroyed as part of this. There may be
12 something that could be taken into account as part
13 of your review and negotiations.

14 The other -- obviously we want reasonable
15 setbacks, compliant parking, all of those kinds of
16 things. We didn't have any objection to them when
17 there was townhouses suggested over here. We
18 thought that that was a good idea and we certainly
19 think that maybe that could be put into the mix. I
20 know there was suggestions also about condemning
21 that property over there for a municipal building,
22 a police station and you might be able to fit in
23 as part of that, maybe in the art deco building
24 some affordable housing units in addition to
25 off-site -- inaudible.

1 And that's, you know, combinations of
2 legitimate public purposes. And I think that if
3 we went and looked at some of these other kinds of
4 things, we don't know what a court is going to
5 do.

6 COMMISSIONER McLOUGHLIN: We'll let
7 you wrap up but just --

8 MR. WEINER: All right. I'll wrap
9 up. At any rate we appreciate the fact we're
10 willing cooperate and help in any way we can and
11 hopefully -- inaudible -- and provide his
12 expertise and maybe crafting some other
13 strategies that even if it doesn't eliminate it
14 will at least reduce the impact to the point
15 where it's livable, because this is a beautiful
16 community, historic, and frankly what they're
17 doing is going to destroy the community.

18 Just one quick thing, I am aware of a case
19 we handled up in Little Ferry. There was a
20 Builder's Remedy and the developer wanted like a
21 14-story building, and Judge Harris reduced it to
22 eight stories. So the courts, that's a precedent
23 that the court has limited it and used -- and his
24 answer was it's out of character with the rest of
25 everything that's going on. So I suggest you

1 might want to look into that -- basically you'll
2 have all the information on that. So that's
3 another thing. So thank you very much.

4 COMMISSIONER McLOUGHLIN: Thank you.
5 Thanks, Ira.

6 MAYOR McLAUGHLIN: Thank you.

7 MR. WEINER: I appreciate it. Feel
8 free to call on us to help in any way we can.

9 COMMISSIONER McLOUGHLIN: I
10 appreciate it. Thank you. You were never a front
11 man in a band.

12 MAYOR McLAUGHLIN: Hey, Nancy. How
13 are you?

14 MS. SENET: Nancy Senet, S-e-n-e-t,
15 218 Elberon Avenue. I have two questions -- we
16 are designated as a historical town. I don't know
17 what the regulations are pertaining to that
18 historical status, and whether any of that plays a
19 part in what is being proposed.

20 COMMISSIONER McLOUGHLIN: Does the
21 historical status of the town take any part?

22 MR. LAUGHLIN: Unfortunately the
23 answer is no. There's historical protection does
24 not rise to the level of a constitutional
25 obligation. The judge will hear us on it, and

1 then it won't really make any difference. So the
2 constitutional obligation to provide affordable
3 housing is what's going to drive the day.
4 Historic preservation is not a constitutional
5 obligation so it's not going to help us.

6 MS. SENET: So what you're saying is
7 -- my second question is there any weight given to
8 changing the character of a town and --

9 MR. LAUGHLIN: I'll let Andy answer.
10 He's shaking his head yes.

11 MS. BEAHM: I would say a little bit.
12 It's not going to solve the problem. The court --
13 so the court assigned a court-appointed master
14 that we've been dealing with to understand the
15 concerns that we have, and how this proposal would
16 alter the character, double the number of housing
17 units, et cetera. So they do understand that.

18 The difficulty is that Allenhurst has
19 not participated in this process since the day
20 when this started. And the constitutional
21 obligation was basically assigned to every town
22 in the state. It's a voluntary process. The
23 town or the Borough has opted not to participate.

24 So when we're dealing with Builder's Remedy
25 we're on the defense. We're not on the offense.

1 So we basically have to deal with going back and
2 forth with the developer and the court is looking
3 to get affordable housing regardless.

4 I also just want to reiterate the
5 obligation for the Borough since the beginning,
6 and I think Andy iterated it, is 94 units of
7 affordable housing. So, you know, even this
8 process, I mean there's remedies that we can take,
9 two for one credit, et cetera, but unless we solve
10 -- unless we satisfy our obligation, it's not
11 going to solve the problem of the Builder's
12 Remedy. We have to satisfy the obligation to the
13 court's satisfaction.

14 So I understand what you're saying and I
15 empathize and trust me when I tell you and these
16 guys can tell you that I have not been the nicest
17 person for this developer to deal with throughout
18 this process. You know there's been some lovely
19 words thrown my way. But at the end of the day
20 what we're stuck dealing with them right now
21 because we haven't satisfied our obligation. And
22 they knew that, and filed litigation understanding
23 that we're obligated to deal with it.

24 So I understand your concerns and we've
25 been pushing hard back on everything but it -- I

1 hate to say they don't care but they don't care.

2 MS. SENET: Can I ask this question?

3 MS. BEAHM: Sure.

4 MS. SENET: So that number of
5 affordable housing units that's the amount that
6 the developer is proposing to --

7 MS. BEAHM: No, so -- in 2015 the
8 Supreme Court came up with a decision that they
9 were going to take over the entire process. There
10 were several towns or a couple of town in Mercer
11 County that fought back and there was a prolonged
12 trial associated with it. Judge Jacobsen presided
13 over it in Mercer County. And there was a
14 determination made an obligation assigned
15 throughout the state.

16 Now we here in North Monmouth County,
17 this is a regional issue, so we're in Region 4,
18 which is Monmouth, Ocean, Mercer. So the judges
19 here in Monmouth County accepted that decision and
20 accepted those obligations. So those are
21 obligations that have been blessed by the court.
22 So we really don't have, like the ability to
23 modify that overall obligation.

24 MAYOR McLAUGHLIN: That's the 50,
25 right?

1 MS. BEAHM: That's the 50 plus the
2 44, which is --

3 MAYOR McLAUGHLIN: Nancy, I'm sorry.
4 We'll allow you just one question, but you're
5 really only entitled to three minutes, you know.
6 So just to be fair to the rest of the public.
7 Three minutes.

8 MS. SENET: Can I just get in one
9 more. We do have affordable housing; don't we?

10 MAYOR McLAUGHLIN: No, we don't. So
11 there's a misconception. Years ago you were
12 allowed to go and you could give -- what was it?
13 Cash credits to other towns?

14 MS. BEAHM: The RCA, the Regional
15 Contribution Agreement, where you can pay another
16 community within your region up to 50 percent of
17 your obligation.

18 MAYOR McLAUGHLIN: But unfortunately
19 that's gone the way of the dodo bird. So one of
20 the other things that's happened throughout the
21 years, this is for the public, is you know every
22 Governor, since this inception, we've gone
23 through four different Governors and Governors
24 have had different views on affordable housing.
25 So this has been a thing that's been

1 transitioning for --

2 MS. BEAHM: And just to kind of recap
3 too, there -- in order for a municipality to take
4 credit for a unit as affordable, low to moderate
5 income, it has to be Deed restricted, the
6 occupants have to be income qualified.

7 So, you know, I work as well as Andy in
8 many towns that have units that technically fall
9 within that income limit. But because they're
10 not Deed restricted and the occupants are not
11 income qualified, it does not count towards your
12 obligation.

13 MS. SENET: Thank you.

14 MAYOR McLAUGHLIN: Thank you.

15 COMMISSIONER McLOUGHLIN: Thank you.

16 COMMISSIONER CUMISKEY: Thank you.

17 MAYOR McLAUGHLIN: Yes, sir. How are
18 you?

19 MR. ADJMI: Okay. Thank you, Mayor.
20 I'm Alex Adjmi, 2 Allen Avenue, 101 Cedar. I live
21 in several houses in the town.

22 I'd like to ask the professionals to
23 basically speak about this eminent domain option
24 to get their professional opinion. Satisfying the
25 housing that we need to basically cut the legs out

1 of the developer and not have our town destroyed
2 by 240 units, which we all know again what that
3 would do to this town. It would literally destroy
4 it. It might be a little more costlier for us to
5 build our own affordable housing on a piece of
6 property that we own.

7 Everybody might have to pay a little bit
8 more taxes but we'll save our town. And I think
9 it will give the town a lot better negotiating
10 power with the developer. Okay, you bought the
11 property at a very low number. Okay. Whether he
12 does, you know, 108 units or 80 units, okay, it
13 could be profitable for him.

14 So I would like to ask the professionals,
15 who can, speak about some of them.

16 COMMISSIONER McLOUGHLIN: Thank you,
17 Alex.

18 MR. LAUGHLIN: Okay. I'll start
19 this. I'll probably need some help along the way
20 but...

21 We have certainly looked at and we're aware
22 of eminent domain and there are reasons that we
23 cannot discuss in this meeting the opinions we
24 have given to our clients for why that's not being
25 considered. The way that the Mayor and I

1 discussed it is from our review of it, it's
2 probably going to take more money than the
3 borrowing capacity of the town to accomplish.

4 So as a result we really haven't considered
5 in past there because we have to have the money to
6 condemn it. And we think it's going to take it
7 beyond that evaluation. There's a bunch of other
8 legal reasons why not to do that, but the biggest
9 one is we have to the money and goes to the town's
10 borrowing capacity.

11 Does anybody else need to add anything?

12 No.

13 MR. ADJMI: But doesn't the town have
14 certain assets that they can sell to use towards
15 this development and the eminent domain? Like the
16 police station is probably worth four or five
17 million dollars, that piece of property today its
18 value.

19 MR. LAUGHLIN: All ideas we've looked
20 at, sir, but in order to do an eminent domain
21 proceeding you've got to put the money up when you
22 file the complaint for the taking.

23 MR. ADJMI: So was there ever an
24 appraisal done based upon the way that -- do we
25 know what that number is? And what the capacity

1 of borrowing power are?

2 MR. LAUGHLIN: We certainly do.

3 MR. ADJMI: Okay. Thank you.

4 MAYOR McLAUGHLIN: Thank you. Yes,
5 ma'am. Name and address, please.

6 MS. FALLACE: Heather Fallace, 40
7 Ocean Avenue. Has anyone asked the developer if
8 he's willing to sell? Like how much are we -- how
9 much do you think they'll make on this? 30
10 million? 40 million? Does anyone know?

11 MR. LAUGHLIN: We've had lots of
12 discussions with them and we're not allowed to
13 discuss those particular settlement discussions in
14 this meeting. They're confidential.

15 MS. FALLACE: Right.

16 MR. LAUGHLIN: So all I can say is
17 the thought has occurred to us.

18 MS. FALLACE: Right because honestly
19 if we offer them like 50 million, could be five
20 million maybe they'll walk. Is it possible?
21 Because we all be willing to put up the money.
22 I'm just curious. Because that's a way offer them
23 money and then -- It's not a crazy idea.

24 MR. LAUGHLIN: Anything is possible.

25 MS. FALLACE: Okay. Just wondering.

1 Okay.

2 MAYOR McLAUGHLIN: Thank you.

3 MR. LAUGHLIN: Again I'm not trying
4 to coy, ladies and gentlemen. We have -- there
5 are reasons -- there are topics we can't touch.
6 There's topics the Commissioners can't touch. So
7 we can't go into -- we've been at this for a year
8 in discussions. So we've had lots of discussions.
9 We just can't divulge them because they're
10 confidential. So again, I'm not trying to cute or
11 coy. I'm going as far as I can help until Andrew
12 hits me and tells me to shut up.

13 MR. FELDMAN: So my name is Steven
14 Feldman. I live at 1 Elberon Avenue. And I guess
15 we're in this predicament because of the
16 affordable housing. That's it stems from. What
17 type of properties do we control as a town that we
18 can turn around and do a build of affordable
19 housing? Do we have -- I know that we have the
20 tennis courts. I know we have a site next to the
21 Chase Bank. So can we accumulate enough land
22 where we can put up the affordable housing? We
23 can get financing for that. We can float a bond.
24 So we may be able to solve our problem,
25 accommodate the affordable housing for people.

1 And then take over the current sites from JCP&L
2 for a repositioning of our municipalities. We can
3 use an up-to-date Fire Department, Police
4 Department, Administrative Offices, Courthouse,
5 something taking us out of the 1800s and bringing
6 us into the 2000s. Has that been looked at?

7 MR. LAUGHLIN: Jen, do you want to
8 take the land question? Because you certainly
9 looked at that.

10 MS. BEAHM: We did look at properties
11 within the community. None of them are
12 significantly sized. With the exception maybe the
13 property on Lake Ave. which we did look into,
14 which has, you know, some CAFRA implications.

15 I just wanted to be clear too is that to
16 build a property that's 100 percent affordable
17 even if we coordinated with an affordable housing
18 developer, which I've had a lot of experience
19 with, to build a project at four percent tax
20 credits, which is how those projects are
21 financed. The community has to come up with not
22 only the property but 100 to 150,000 per unit.

23 So in order to satisfy our obligation you'd
24 need about 50 rental units, and I'll be very
25 clear, in order to satisfy the obligation.

1 Otherwise it's 94 units. And that's between five
2 and seven-point-five million dollars in subsidy
3 just for the development, not including the land
4 cost.

5 So you know, and then on top of which would
6 be negotiating with the owner of this property to
7 purchase it. So you're talking millions and
8 millions of dollars.

9 Now I'm not opining one way or the other,
10 whether that's something you guys want to do but
11 I just want to put it out there that to just build
12 affordable housing it doesn't just happen.
13 There's a cost associated with it.

14 MR. FELDMAN: What's the 150,000 per
15 unit?

16 MS. BEAHM: Because there's a
17 shortfall in --

18 MR. FELDMAN: How about if it's
19 covered?

20 MS. BEAHM: Covered by what?

21 MR. FELDMAN: By depleting the
22 mortgage, between the finances and the --

23 MS. BEAHM: So the issue is in order
24 for them get a mortgage there's a gap in the
25 financing between the tax credits that are given

1 out by HMFA and the mortgage that they have to
2 take out. And that shortfall has been, I guess,
3 tied to us, I mean we've been dealing with this
4 all over the state for years, between 100 and
5 150,000 per unit. That's what a developer is
6 going to need in order to do 100 percent
7 affordable project. So 50 unit project is going
8 to require five million bucks. In addition to the
9 property.

10 MR. FELDMAN: Inaudible.

11 MS. BEAHM: Well it's 100 to 150,000.
12 So at 100,000 it's five million. 150,000 is seven
13 and a half million. So -- and we've been doing
14 this all over the place and even when there's
15 other financing in place --

16 MR. FELDMAN: If you could get a
17 developer to put up the money to them putting up
18 with their equity and the bond that would be
19 needed that could be supplied by the state or the
20 federal, I'm not sure who, would this be a viable
21 solution for the town? A developer. I'm a
22 developer. I build it.

23 MS. BEAHM: Right. I understand. So
24 usually a developer who's going to build
25 affordable housing --

1 MR. FELDMAN: Not usually. I'm
2 saying if somebody stepped to the plate and said
3 they'll build 50 units, the town does not have to
4 spend ten cents and you just give the land to this
5 developer for him to build it, would the town be
6 amenable to something like this to solve their
7 problem?

8 COMMISSIONER McLOUGHLIN: Hold on one
9 second.

10 MAYOR McLAUGHLIN: Just till the
11 train goes by so we all can hear.

12 COMMISSIONER McLOUGHLIN: Hold on.
13 Charm running through the town. Wait one second.

14 MAYOR McLAUGHLIN: And I think we
15 just got a call for the ambulance, so it's all
16 happening at once.

17 MS. BEAHM: I mean at the end of the
18 day in order to build 50 units and to park it,
19 which would be 100 parking spaces, you need a
20 piece of property big enough. If there's a piece
21 of property big enough that can do that, that
22 somebody wants to provide the Borough with the 50
23 units with no market-rate units, my experience is
24 that unless you're an affordable housing -- like a
25 hundred percent affordable housing developer that

1 uses tax credit financing I have yet to meet a
2 developer that's going to build an affordable
3 project with no market-rate units. If that's
4 going to happen, that's fine. But we need a piece
5 of property that's big enough. But to date --

6 MR. FELDMAN: It could be on multiple
7 --

8 MS. BEAHM: -- in my 25 years --

9 MR. FELDMAN: It could be on multiple
10 properties.

11 MS. BEAHM: I get it. And in my 25
12 years experience I've never seen it happen.

13 MR. FELDMAN: Well we're in a
14 different world today.

15 MS. BEAHM: I get it and I'm more
16 than willing to -- if you're volunteering, great.

17 MR. FELDMAN: Okay.

18 MR. LAUGHLIN: If I can give one
19 other point it's the availability of property.
20 That's a problem in town.

21 MR. FELDMAN: Absolutely.

22 MR. LAUGHLIN: So there may not be
23 enough from a study Jen has done and we've looked
24 at there isn't a big enough property right now
25 except across the street that could house anywhere

1 near that many units. So that's something we've
2 looked at. It's availability of property that is
3 a problem.

4 MR. FELDMAN: I'm not -- I don't say
5 no. All I'm saying is have we looked at it? Can
6 we look at some of the zoning to determine that?
7 That's what I'm saying.

8 (Inaudible.)

9 MR. LAUGHLIN: We have looked at it.

10 MR. FELDMAN: So then give me the
11 numbers. How many can we put on each site?
12 You've looked at it. Let me know. Where are we
13 short?

14 MR. BAYER: One of the things, we've
15 looked at it. The issue is even if we do what
16 you're suggesting, which is a great idea. The
17 issue is is that may not solve the -- and I don't
18 want to get into any legal arguments here. You
19 know, but I don't know that that solves the
20 problem with the developer and the remedy.
21 Because they went to court first before, right,
22 and they have some rights under the case law. So
23 it's not so simple but it's --

24 MR. FELDMAN: Well, I'm definitely
25 not a lawyer. I am a developer. I -- all I'm

1 doing is bringing some information to the Council
2 so they can make the consideration. This is a
3 major, major situation for this town. We can't
4 double the size of our town. Hello. We're
5 willing to step to the plate. We can get things
6 done. Let's work together and do it, please.

7 COMMISSIONER McLOUGHLIN: Thank you,
8 Mr. Feldman.

9 MAYOR McLAUGHLIN: Thank you.

10 MR. CAUFIELD: Jim Caufield, 2 Spier
11 Avenue. Just two quick questions. If this
12 developer picks up 50 units of the 90, are the
13 other 40 still on table?

14 MS. BEAHM: Yes and no.

15 MR. LAUGHLIN: I'm sorry.

16 MR. CAUFIELD: 90 units were
17 required.

18 MR. LAUGHLIN: 94 yes, is the
19 number.

20 MR. CAUFIELD: The developer you're
21 talking to now satisfies 50 of them, what happens
22 to the other 42 (sic)?

23 MR. LAUGHLIN: We still would be
24 responsible for the 42 unless they're rentals;
25 right, Jen?

1 MS. BEAHM: So rental units are
2 two-for-one credit. Family rental units are
3 two-for-one credit. So if you were to build 49 --
4 abdicating that they're going to be -- I just want
5 to be very clear. You would get two-for-one
6 credit for each of those units.

7 MR. CAUFIELD: So 49 units would
8 satisfy --

9 MS. BEAHM: Rental.

10 COMMISSIONER McLOUGHLIN: 49 rental
11 units --

12 MS. BEAHM: Rental units. I would
13 say yes that's probably what? 98?

14 MR. BAYER: Yeah.

15 MS. BEAHM: 98, so yes. It would get
16 us to the 94. I'm not abdicating that that's a
17 good solution.

18 MR. CAUFIELD: Just two other items.
19 One, the property that store equipment in opposite
20 the Post Office, is that city or Allenhurst
21 property?

22 MAYOR McLAUGHLIN: It's not it's
23 owned by JCP&L. It's contaminated too.

24 COMMISSIONER McLOUGHLIN: And it's
25 leased to the Borough for like a dollar a year

1 just for us to --

2 MR. CAUFIELD: So it's something that
3 could be acquired.

4 COMMISSIONER McLOUGHLIN: I'm sorry.
5 You can't build on it.

6 MR. LAUGHLIN: It's contaminated.

7 MR. CAUFIELD: They have to fix --
8 They've got to take care of the contamination
9 period.

10 MAYOR McLAUGHLIN: It's full tar and
11 it's CAFRA blacktop at this point.

12 MR. CAUFIELD: They'd still have to
13 do it. We've done it. It's their obligation to
14 clean that up.

15 COMMISSIONER McLOUGHLIN: It's
16 already capped, Jim.

17 MS. BEAHM: It's just capped. It's
18 --

19 MR. CAUFIELD: Not if it's coal tar.

20 MS. BEAHM: We can't build
21 residential on it no matter what.

22 MR. CAUFIELD: We've done it.

23 MS. BEAHM: But it's capped and the
24 DEP has --

25 MR. CAUFIELD: And they took the coal

1 tar out and we built over it.

2 MAYOR McLAUGHLIN: But the point is,
3 we don't own the property. JCP&L does.

4 MR. CAUFIELD: No but for them to get
5 this other deal to go through without headaches
6 they might talk to you. They're getting nothing
7 out of it now.

8 And then the second thing is it was
9 something about the excess from the developer
10 would be about 125 to 150,000 over and above what
11 the rent they would pay --

12 MS. BEAHM: That's if they're
13 building --- that's if you're building 100 percent
14 affordable units.

15 MR. CAUFIELD: Right. That's what
16 I'm talking about.

17 MS. BEAHM: Without any market-rate
18 units associated with it. There's a shortfall
19 between what the tax credit financing will pay and
20 the balance of their mortgage. That's where that
21 100 --

22 MR. CAUFIELD: What about the rent
23 you're going to collect? How does that play into
24 it?

25 MS. BEAHM: That factor is in

1 already. It's not enough. Because the rents on
2 affordable units are not the rents --

3 MR. CAUFIELD: I've done affordable
4 units. I mean the numbers you're talking, you're
5 saying each one of those units is gonna cost 3 or
6 400,000 to build.

7 MS. BEAHM: I -- all I'm saying is
8 what we've experienced.

9 MR. CAUFIELD: But don't you think
10 that's a fair question. How much does it cost to
11 build one of these units?

12 MS. BEAHM: You get it from an
13 affordable housing developer and what it tells you
14 is is that the rents they project because let's be
15 clear you need low income, moderate income and
16 very low income units. And the rents are --
17 you're obligated -- just before anyone goes crazy,
18 you're obligated 13 percent of the low-income
19 units have to be available for very low income.
20 So you're obligated to provide for very low
21 income units.

22 MR. CAUFIELD: I thought we were
23 affordable housing and we weren't low income
24 housing.

25 MR. BAYER: It's just an income

1 level.

2 MS. BEAHM: Affordable housing is
3 from low to moderate income households.

4 MR. CAUFIELD: But the low income is
5 the 40-some-thousand -- 35,000 --

6 MS. BEAHM: But is that very low?

7 (Inaudible.)

8 MS. BEAHM: Right, so --

9 MR. BAYER: So the rents would range,
10 obviously like if it's a rental project, the rents
11 would go from four or 500 a month, from 12 to
12 1,300 a month depending on the size of the
13 households that are eligible --

14 MR. CAUFIELD: Even if you take 500 a
15 month, 6,000 a year and decent -- create a
16 mortgage on it so you can call up \$100,000
17 mortgage. We'd cover that. And you can build a
18 unit for 175, maybe we have to chip in 25,000. But
19 the numbers you're talking about are just off the
20 charts.

21 But all I'm saying is that I think that
22 avenue should be looked at to use that site. But
23 the real question I have is if this developer does
24 40, 50 units here, what stops them from coming in
25 and taking another piece of us?

1 MS. BEAHM: So once -- through this
2 process if we settle a fair share housing -- the
3 Borough is afforded immunity from further
4 Builder's Remedy litigation.

5 MR. CAUFIELD: So they do have a
6 positioning to negotiate the number of affordable
7 units.

8 MR. BAYER: So there's like two
9 aspects -- there's two aspects to this case. One
10 is the Builder's Remedy we've talked about. The
11 other is an affirmative declaratory judgment
12 action. So we're -- there's two sets of
13 negotiations going on and one with Fair Share
14 Housing and one with the developer.

15 And the goal, if we're -- however it gets
16 resolved, the goal is to ultimately get a
17 judgment of reposing compliance, which right now
18 we protect the Borough from Builder's Remedy
19 through July of 2025, which right now isn't that
20 far off. And then given Allenhurst's
21 circumstances we think in essence that would
22 cover us to the round also would also most likely
23 go to 2035.

24 So the goal, if we're able to resolve it
25 however that happens, would be get this immunity

1 in place so we don't have to deal with this
2 again.

3 MR. CAUFIELD: So you're going to go
4 to court. We're not going to settle with this
5 developer now. You're not going to settle
6 outright with this developer, you go along with
7 his idea.

8 MR. BAYER: If he wins this lawsuit,
9 that's what he gets.

10 MAYOR McLAUGHLIN: Jim, I hate to do
11 this to you --

12 MR. CAUFIELD: So he could go for a
13 smaller number of units.

14 MAYOR McLAUGHLIN: Jim, I hate to do
15 this to you but we're limiting everybody to three
16 minutes.

17 MR. CAUFIELD: You got it.

18 MAYOR McLAUGHLIN: You've been up for
19 a while. I appreciate your questions. Thank you.

20 MR. CAUFIELD: But the other I think
21 it has to be looked into.

22 MAYOR McLAUGHLIN: Thank you. Thank
23 you for coming up.

24 Yes, sir.

25 MR. TAWIL: Good evening, gentlemen.

1 Victor Tawil, 107 Cedar Avenue. I wanted to thank
2 you all for all the work you're doing for us and
3 we do appreciate it.

4 Based on what we've heard this evening from
5 many experienced people wouldn't it behoove you
6 the Commissioners to bring in some of the town's
7 people to work directly with you in the
8 negotiation with the developer and in any other
9 aspects of what's going on here, and have full
10 coordination?

11 So we don't have, you know, the taxpayers
12 association spent a lot of money and you guys
13 spent a lot of money for miscommunication between
14 what the town and the people of the town want and
15 what was actually proposed. I'm not blaming
16 anybody. We're moving past that. But a
17 partnership should be involved.

18 There are very sophisticated developers
19 in the crowd as we just heard this gentleman and
20 others here that should be sitting with you, with
21 these meetings, with these negotiations. There's
22 a lot of money in this town. We're committed to
23 this town, to be here to join with you and keep
24 this town as beautiful as it is. And I think that
25 should be considered. That a group of people

1 from the community from the town should be
2 sitting with you negotiating. Of course they'll
3 do everything confidential -- whatever these --
4 you'll deputize them or whatever you need to do
5 and put them with you. They're very experienced.

6 As the last gentleman stated about, he
7 knows much more than me about, you know,
8 affordable housing. But these are professionals
9 that are dealing with it. Professional
10 developers and they should be sitting with you
11 like with this developer.

12 We have -- I don't want to say sharks but
13 very sophisticated people here that can help with
14 this. Inaudible.

15 COMMISSIONER McLOUGHLIN: Thank you,
16 Mr. Tawil.

17 MAYOR McLAUGHLIN: Thank you very
18 much. Thank you. What's your name, sir?

19 MR. SCHECHNER: Paul Schechner, 10
20 Cedar Avenue.

21 COMMISSIONER CUMISKEY: You fronted
22 a rock band. Look at that.

23 MR. SCHECHNER: So can we just for a
24 second, gentlemen, look -- I'm going to wave a
25 magic wand here let's assume we come up with the

1 two and a half million dollars, five million
2 dollars, seven and a half million dollars and see
3 if we can pay at this. So you don't have to
4 worry and David let's not -- Laughlin, let's not
5 worry about the town's bonding capacity. This
6 would be for Mr. Bayer, so I hope you hear me and
7 you're paying attention. Andy is going to come
8 right at you.

9 COMMISSIONER McLOUGHLIN: Fast ball's
10 coming.

11 MR. SCHECHNER: So that's the first
12 question. Secondly let's make the assumption that
13 there's one or multiple sites in town where you
14 can build the 49 rental units that Jen's talking
15 about to solve this issue. So let's say there's
16 multiple sites, not one but we have multiple
17 sites, okay. Mr. Bayer so what's the problem?

18 We can't get a delay of this lawsuit
19 for a better solution. We have an everybody wins
20 solution. We're building more housing units than
21 what Fair Share wants. We're getting better. If
22 the developer makes money as well, then he
23 doesn't build any of things. He can build
24 something smaller.

25 So why, why is this not going to be

1 something the judge should listen to?

2 MR. BAYER: Well I don't dis -- I
3 think the judge should listen to what we're
4 talking about. We have right now a court
5 schedule, which takes us through April of next
6 year. There's been mediation through the court's
7 Special Master since early this year. The
8 developer and their attorney are pressing the
9 court to compress the time; right? Because they
10 want to end their lawsuit to get whatever they're
11 trying to get out of it.

12 We're saying -- we are asking for more
13 time. But the idea is if there's serious way to
14 resolve it then some other way then what the
15 other side is projecting so far, obviously that
16 should be pursued.

17 MR. SCHECHNER: Because I think we
18 have a viable option. I think you all done a
19 great job here. But in the last couple of weeks
20 all of a sudden there's been a significant amount
21 of cash consideration, money that seems to be
22 available that wasn't on the table before. And so
23 it's options and you as the Commissioners and as a
24 legal team should really take into account.
25 Because trying to double the size of the town just

1 doesn't seem like it's the right way to go and we
2 all don't want that. So this could be a way where
3 -- I know, Jen, it's never been done before with
4 situations like this with the money that comes
5 down after --

6 MS. BEAHM: I'm all for it. I just
7 want everyone to be aware of like the hurdles --

8 MR. SCHECHNER: The numbers are
9 great, and the facts are helpful. Very, very
10 helpful. That's it. Thank you very much.

11 COMMISSIONER McLOUGHLIN: Thank you.

12 MAYOR McLAUGHLIN: Thanks, Paul.

13 MR. ADJMI: I'm sorry. I know I
14 spoke earlier but I just want to say one other
15 thing. That the developer needs to know that from
16 what I'm told the ATA is going to sue him
17 separately whether the town approves 108 units,
18 125 and he needs to know that he's going to be
19 into the state for many more years to come through
20 that lawsuit.

21 Whether the town approves, whatever you're
22 negotiating with, he needs to know that it's
23 going to cost him a bunch of years and a bunch of
24 money okay, that the town is not at risk for,
25 okay, but a delay of this project. It happened

1 to me.

2 COMMISSIONER McLOUGHLIN: Thank you.

3 MAYOR McLAUGHLIN: Thank you. Does
4 anybody else have any other questions? It looks
5 like one more.

6 MS. MEZRAHI: Hi.

7 MAYOR McLAUGHLIN: Hi.

8 COMMISSIONER McLOUGHLIN: Hi.

9 MAYOR McLAUGHLIN: If you could just
10 say your name and address.

11 MS. MEZRAHI: My last name is
12 Mezrahi. My question is --

13 MS. CAMPAGNA: I'm sorry. Can you
14 just spell it.

15 MS. MEZRAHI: M-e-z-r-a-h-i. My
16 question is for the amount, if the developer is
17 responsible for doing the gardening, landscaping,
18 lawn over on Main Street, if they can proceed to
19 do it as it's been done for the last few years? I
20 have photo documentation that I can -- and it's
21 impossible to walk on the sidewalk over there. I
22 would hate the developer to have a lawsuit because
23 somebody got hurt and fell. It's almost
24 impossible to walk. Is that the responsibility of
25 the developer?

1 MAYOR McLAUGHLIN: It's the
2 responsibility of the property owner, yes. So we
3 can actually talk to our Code Enforcement and have
4 them speak to them.

5 MS. MEZRAHI: Yes.

6 COMMISSIONER McLOUGHLIN: We will get
7 it to our Code Enforcement.

8 MS. MEZRAHI: It's not like it's
9 looked like in the past. I mean it's always been
10 attended to and the people that live on that
11 block, you know -- they're being punished.

12 MAYOR McLAUGHLIN: We can talk --
13 we'll have our Code Enforcement --

14 COMMISSIONER McLOUGHLIN: Thank you.

15 MAYOR McLAUGHLIN: Does anyone else
16 have any comments or questions?

17 All right, again I want to thank everybody.
18 We have one more. Want to come up here, sir.
19 Again if you could just give your name, address
20 and spell your last name for the record.

21 MR. AGRISTA: My name is Steven
22 Agrista, A-g-r-i-s-t-a. I live and own 402 Spier
23 Avenue. I've been an Allenhurst resident since
24 1976. I'm a 50-year financial professional. I'm
25 familiar with Mount Laurel, as well as Mount

1 Laurel II. You don't need me to tell you it could
2 be an absolute disaster. I just have a couple of
3 questions in retrospect and please don't
4 misunderstand.

5 I'm just curious. Did the Borough -- since
6 this property nobody bid on it and we had a long
7 clean up. Did the Borough ever consider just
8 buying this from JCP&L? And if not, why not? It
9 seems it would solve a lot problems.

10 MAYOR McLAUGHLIN: The answer to that
11 is -- I'm trying to remember. I think -- did we
12 put a bid in, Donna?

13 MS. CAMPAGNA: Uh-huh.

14 MAYOR McLAUGHLIN: We did. We did
15 actually put a bid in on it.

16 MR. AGRISTA: And that was before the
17 prior --

18 COMMISSIONER McLOUGHLIN: Yes. And
19 --

20 MR. AGRISTA: Who is this developer?
21 Where are they from and what was their history?
22 Is it a publicly traded company? Is it private?

23 MR. LAUGHLIN: We don't want to give
24 their names out. It's operated as an L.L.C. It's
25 Power Station at Allenhurst, L.L.C.

1 MR. AGRISTA: It's public
2 information. And if it's a company I could go to
3 the Secretary of State tomorrow and find out --

4 MR. LAUGHLIN: You could and if you
5 find out that way, we're glad you did it.

6 MR. AGRISTA: But why is it so
7 secretive?

8 MR. LAUGHLIN: We don't want to be
9 the ones disclosing it. We literally have a
10 confidentiality agreement that we're very close to
11 violating in trying not to talk tonight. So
12 that's the reason.

13 We're in negotiations with a Special
14 Master, who made us execute one. So we're out
15 here telling you what we can. Understand the
16 order. We're telling you what we can.

17 MR. AGRISTA: Has any environmental
18 impact studies been conducted? Because it would
19 seem to me, you know, we have enough problems as
20 it is with -- not only us, everyone does. Water,
21 sewerage, utilities in general. We double the
22 size of Allenhurst, I don't know how that
23 capacity, current capacity is going to be handled.
24 How is that possible?

25 MAYOR McLAUGHLIN: I think, Andy, you

1 might want to address that.

2 MR. BAYER: The question is, is what
3 happens with the infrastructure in case we can't
4 handle 245 units for the sewerage, for the
5 electric or for the water. I know the answer but
6 I'll let you --

7 MR. AGRISTA: Excuse me. I'm sorry.
8 The question is not the cost. The question is is
9 it feasible? Is it possible?

10 MR. BAYER: That's something that the
11 plans would have to prove. They would have to
12 prove that adequate water, sewer --

13 MR. AGRISTA: Have they done that?
14 Has that been asked?

15 MR. BAYER: We're in the process now
16 where we requested it. They would have to give it
17 to us and the court. That information. But as
18 part of their proofs to get a Builder's Remedy,
19 that's one of the things they have to prove. That
20 there would be adequate water -- inaudible.

21 MR. AGRISTA: And assuming that's --
22 if they can't prove it, I would conclude that it
23 would then significantly reduce this proposal. Is
24 that a correct statement?

25 MAYOR McLAUGHLIN: Sir, just to spare

1 everybody else, we'll let them answer the question
2 but your three minutes is up. Your three minutes
3 is up.

4 MR. AGRISTA: No problem.

5 MAYOR McLAUGHLIN: Okay.

6 MR. AGRISTA: Thank you.

7 COMMISSIONER McLOUGHLIN: Thank you.

8 MAYOR McLAUGHLIN: We appreciate your
9 comments.

10 MR. TAWIL: Hi. I'm Joseph Tawil, 27
11 Corlies. Thank you everybody for all your efforts
12 here. I just wanted to point out that under the
13 scenario that some of the town's people are
14 suggesting on the affordable housing and using
15 some of the properties the town already owns, you
16 spoke about a seven and a half million dollar
17 number. We're talking about 350 homes in the
18 town. That calculates to a tax assessment of
19 around \$21,000 if you were to do -- inaudible.
20 Just to put it into prospective for homes that are
21 selling upwards of millions of dollars to see the
22 potential future tax burden from a 250 unit
23 development to come up with seven and a half
24 million dollars seems to do that logic to cost all
25 of us in the town's people is not such a big ask.

1 So I think that's very important to take a look at
2 that. Again, 21 -- the number is just 21,428
3 across 350 units. So I think we can all manage
4 that and I think -- inaudible. One final
5 assessment that's your seven and a half. Assuming
6 the developer is working for free and the town
7 contributes the land, which land -- I mean you
8 know -- inaudible -- but you know add that to the
9 part of the eminent domain on a separate side
10 here. Maybe you can use some of the assets that
11 we have, some of the little ones, and move it all
12 to Main Street. It makes for a very, very
13 plausible solution. If you want to put the
14 dollars and cents in prospective.

15 MAYOR McLAUGHLIN: Thank you.

16 COMMISSIONER McLOUGHLIN: I
17 appreciate it. Thank you.

18 MAYOR McLAUGHLIN: Anybody else have
19 any questions or comments?

20 MR. ADJMI: I just have one more.
21 I'm sorry.

22 MAYOR McLAUGHLIN: That's okay.

23 MR. ADJMI: Did anyone do an impact
24 study on this development on how many school
25 children and what that cost would be to the town?

1 MR. BAYER: Not yet. We're not up
2 to that yet.

3 MR. ADJMI: I'm sorry.

4 MR. BAYER: Not yet.

5 MR. ADJMI: Not yet. Okay.

6 MR. LAUGHLIN: We're not to that
7 point yet.

8 MAYOR McLAUGHLIN: Anyone else?

9 MR. ADJMI: Is senior housing
10 considered affordable?

11 MR. BAYER: It can be.

12 MS. BEAHM: Only up to 25 percent of
13 the overall obligation. It can't satisfy our
14 total obligation. It's 25 percent of the 94.

15 MR. ADJMI: Okay. Thank you.

16 MAYOR McLAUGHLIN: Thank you. Anyone
17 else? All right. Listen again we want to thank
18 everybody for coming out. We really appreciate
19 it. Thank you.

20 COMMISSIONER McLOUGHLIN: We just
21 wanted to give everyone the baseline of where we
22 all are and again the Borough has done nothing
23 without just informing you all of where we are.

24 MAYOR McLAUGHLIN: Before you all
25 leave, again I just want to remind everybody, as

1 the Chief said, as we leave, everybody, key fobs
2 not in cars. Lock your cars. Everybody be
3 careful. Okay.

4 Thank you, everybody. Safe trip home.

5 COMMISSIONER McLOUGHLIN: Thank you.

6 I make a motion to adjourn.

7 (Meeting is concluded.)

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CERTIFICATE

I, MICHELE A. MAC PHERSON, Transcriber and
Notary Public of the State of New Jersey, hereby
certify the foregoing to be the truest and most
closely verbatim record able to have been
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MICHELE A. MAC PHERSON
Transcriber

Dated: SEPTEMBER 15, 2022
My Commission expires:
February 7, 2026

