

**Borough of Paramus  
Mayor and Council Special Meeting  
Caucus Room 6:00 PM  
January 27, 2020  
MINUTES**

Resolution No: 20-01-108 : Notification of meetings as required by "The Open Public Meetings Act."

**In Accordance with the Open Public Meetings Act, notice of this meeting of The Borough of Paramus Mayor and Council was transmitted to the Bergen Record on January 22, 2020. Notice was posted on the bulletin board of the municipal building and on the Borough of Paramus website.** Read by the Deputy Borough Clerk at 6:05 PM

PLEDGE OF ALLEGIANCE led by Borough Administrator Joseph D'Arco

**ROLL CALL:**

Present: Councilwoman Bellinger, Councilman DiPiazza, Councilwoman Tedesco-Santos, Councilman Vartolone, Councilman Verile, Councilwoman Weber, Mayor LaBarbiera

Also Present: Borough Administrator Joseph D'Arco, Borough Attorney Daniel Lagana, Deputy Borough Clerk Nicolette Riggi

Absent: Borough Clerk Annemarie Krusznis

Paul Kaufman and Jaime Placek from Kaufman, Semeraro & Leibman are present for the discussion on the proposed Fair Share Housing Settlement.

Mayor LaBarbiera advises everyone that this Special Meeting is being held to come to a decision on the proposed Fair Share Housing settlement. The Council has been working on this for four years and it is the largest issue that the Borough has faced in many years. He explains that this resolution was postponed from the January 21<sup>st</sup> regular meeting because Councilman DiPiazza had further questions and wanted to do further research. Mayor LaBarbiera inquires about whether or not Councilman DiPiazza has completed his review as the Borough's immunity expires in two days. Councilman DiPiazza explains that he wanted a second opinion. He does not see it appropriate to vote yes on the settlement seeing as how he voted no on the appointment of the attorney who presented this opinion.

Mayor LaBarbiera points out that this settlement was not only crafted by Mr. Kaufman but several professionals who have presented their opinions to the Council. Mr. Kaufman points out that he never acted on any negotiations without consent of the Council. Mr. Kaufman has no problem with any member of the Council getting a second opinion, but would like to know which points are being questioned and who else is qualified to give this opinion.

Mr. Kaufman explains that the Borough's immunity expires in two days and inquires whether Mr. DiPiazza will be able to get a second opinion before that.

Mayor LaBarbiera points out that Councilman DiPiazza has been a part of this discussion for over two years and has been present in the closed sessions in which this was discussed. He believes wanting a second opinion at this point is politicizing the issue. There will be ramifications if this is not passed tonight. There was a defeated lawsuit because of the immunity and good faith with Fair Share Housing. That could've been over 200 units in a residential neighborhood. Mayor LaBarbiera explains the ramifications. After Friday, there will be no more immunity and any deals made as part of this settlement, including nurseries, will be done.

Mr. Kaufman inquires who Mr. DiPiazza had in mind for a second opinion. Mr. DiPiazza does not have anyone specific in mind. Councilwoman Bellinger points out that there have already been several professionals involved in this and the Council has already heard their opinions. This point has been reached because of their opinions. She would like to know why Mr. DiPiazza waited until now to ask these questions when there have been professionals present throughout all these meetings. Councilwoman Bellinger believes the entire Council was on board. Mayor LaBarbiera points out that during every closed session, the Council unanimously agreed with Mr. Kaufman moving forward with negotiations. Councilwoman Tedesco-Santos points out that Mr. DiPiazza voting no on appointing Mr. Kaufman has nothing to do with the settlement because the Council directed all the negotiations. Mr. Kaufman and Mr. Placek reassure everyone that nothing was done without direction from Council. Mr. Placek advises that the attorneys acted as the Council's mouthpiece.

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Mr. Kaufman advises that Councilman DiPiazza's comments can be settled by releasing the closed session minutes. The minutes will show that Mayor LaBarbiera consistently polled the Council on moving forward and the Council advised Mr. Kaufman to move forward.

Mr. Kaufman has no problem with getting a second opinion but advises Councilman DiPiazza that whomever he chooses for a second opinion must have extensive background with Affordable Housing. He believes that whoever performs this second opinion will say the settlement is a job well done. Councilman DiPiazza stands by his decision and wants a second opinion.

Councilman Verile believes this does not make sense as the Council has been in agreement for two years as a team. Mayor LaBarbiera is blown away. Councilman Verile points out to Councilman Vartolone that he has not seen everything that has gone on during the negotiations and that the Council was very firm in negotiating this. The final number is extremely low compared to what the Borough started at. Mr. Verile thinks Councilman DiPiazza is backing out of this because he does not want to admit to the public that the Council made progress together.

Councilman Vartolone admits that he was not privy to the discussions over the last few years. He believes the 259 number is great. Councilwoman Bellinger points out that this will not go in the right direction unless it is unanimous. Mayor LaBarbiera agrees, this must be unanimous. Councilman Vartolone does not believe it must be unanimous. He believes 259 achieves what the Council wants it to achieve. He would support the number. When he was present during closed session as a non-voting member, he suggested putting a cap on that number. He would like to push for agreeing to limit affordable housing going forward up until we are required to do more. That would make him more comfortable voting yes on this settlement. He acknowledges that the resolution is the same as what was previously agreed on. Mr. Kaufman explains that no one can take any binding position beyond 2025, and anyone doing so would be doing so to be deceitful. Mr. Vartolone understands but is still concerned with saying yes and then someone comes in wanting to build 500 units. Mr. Kaufman advises there are no sites in town with 20 acres available zoned for housing. Councilwoman Bellinger believes the negotiations of units to acre, and new master plan protects the Borough. This is why the Council carved out specific areas where affordable housing can be developed. It protects from building units where it abuts residential areas. It was a compromise. She believes the Borough got closer to what it wanted than Fair Share got to what they wanted. She expresses her aggravations. If we throw out everything that has been negotiated, we might end up with higher.

Mayor LaBarbiera points out that every other month there was specific time devoted to this and not once did Mr. Kaufman act without consent of the Council. Councilwoman Bellinger does not want to see this settlement go away, but she also does not want it to turn political where one side can say the other side passed this settlement. She strongly believes everyone came up with this together as a team. Mr. Placek explains certain points of the settlement to Mr. Vartolone and how it protects the Borough.

Mayor LaBarbiera further explains the ramifications of not passing this settlement. Mr. Vartolone believes the settlement is the right decision but wants to know how the Borough protects itself in the future. Mr. Placek advises that this settlement is how the Borough protects itself. Mayor LaBarbiera urges everyone to understand that Mr. Vartolone is new at this. He does not want Mr. Vartolone to misinterpret their intensity. They have been working on this for four years and are tired. He believes many of Mr. Vartolone's points are valid and good points.

Mayor LaBarbiera will not let the Council vote on this unless it's unanimous. Councilwoman Weber would like assurance that no one can come in and go above the number we're settling on. Mr. Placek and Mr. Kaufman advise that there cannot be 100 percent assurance of that. That cannot go in the settlement. The 259 number is not a cap. It's the Borough's projection of what we believe will be the number achieved through 2025. The marketplace is going to dictate what people want to develop, but what the Council has done is limit the areas where people can develop and the amount of units they can develop. Borough Attorney Daniel Lagana points out that there are cases right now being won and upheld because the Borough has raised the bar by doing a re-examination in 2016.

Mayor LaBarbiera uses an example of a current project that is being limited to 6 houses because of the Borough's immunity.

There are certain points that we held out on but we had to compromise. Nothing is perfect. Mayor LaBarbiera expresses his

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frustration with Councilman DiPiazza's opinion and points out that all the Council members will have to face the public. It will be a negative for Paramus if this does not go through and we will fail our residents. He was under the impression that the Council negotiated this collectively and crafted an excellent deal. We are going to lose the opportunity.

Mr. Kaufman believes not passing this will look like bad faith on the part of the Borough. The immunity from builders remedy lawsuits will not be extended. He believes we are going back on our good faith. Councilwoman Bellinger agrees that it would be in bad faith not to pass this. She would understand if Councilman Vartolone abstained as he wasn't part of the negotiations the whole time, but if the rest of the five Councilmembers aren't unanimous, she cannot understand that and believes the residents will be at risk. She believes it needs to be figured out tonight. She strongly believes the Borough cannot lose its immunity. The Council has been fighting so hard to protect them and she does not want to fail them. It would be bad faith not only for Fair Share Housing, but for our residents. Mr. Placek explains that every municipality has paid fees to Fair Share, except Paramus. That negotiation was very firm.

Mayor LaBarbiera asks the opinion of the Borough Attorney. Mr. Lagana expresses that the judge will definitely take this as bad faith and will not extend immunity. That is a big fear. Paramus will be a prime target. Mr. Placek explains that every nursery will be a target.

Mayor LaBarbiera believes the benefits of this settlement are abundantly clear. He is now looking at it from a political perspective. It was an excellent agreement and it's being politicized. He does not understand how anyone could not be in favor of this.

Mayor LaBarbiera would like to take a straw vote. Councilwoman Bellinger is for the settlement and wants it to be unanimous. She cannot believe we are even considering not passing this. Councilwoman Tedesco-Santos agrees with Councilwoman Bellinger. Councilman DiPiazza believes such an important decision should require a second opinion. Mayor LaBarbiera does not even want to vote because he does not see the point. Councilwoman Weber thinks 259 is a good number and was present for the negotiations. She does not want to be open to builders remedy lawsuits. If the residents complain, we have to tell them what the big picture looked like. She believes that everyone has the right to vote the way they want and it should not have to be unanimous. Councilwoman Tedesco-Santos agrees with her if it was for the right reasons. Mayor LaBarbiera thinks this is for the wrong reasons and wants to wait for Councilman DiPiazza to get his second opinion. When the Borough loses its immunity it will be on Councilman DiPiazza's lap. Councilwoman Bellinger believes Mr. DiPiazza wants the rest of the Council to vote yes tonight so he can say the other side passed the settlement.

Councilman Verile believes this is disrespectful to the councilmembers who have worked so hard on this and worked together for two years plus. Now that we are on the brink of getting what we want, we are pulling out. It's unfair to the Council's intellect and responsibility to the residents. A second opinion should've been done a year ago.

Mayor LaBarbiera asks if Councilwoman Bellinger is ok with holding off on the vote. Councilwoman Bellinger is not ok with losing immunity. She wants to know if Mr. DiPiazza is getting this second opinion by Friday and who is paying for it. Councilman Verile expresses his unhappiness with Councilman DiPiazza's actions.

Council discusses loudly. Inaudible.

Councilwoman Bellinger does not care about making this Councilman DiPiazza's fault. She cares about the residents. She does not need to be able to say it's his fault, she lives in Paramus and she is a resident as well.

**Mayor LaBarbiera asks for a motion to release all closed session minutes during which Fair Share settlement was discussed.**

Councilman Vartolone doesn't see what this would accomplish. Mayor LaBarbiera explains that releasing closed session minutes would clarify any questions from the public that could come forth regarding the Council's position on this topic up until now.

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Mayor LaBarbiera apologizes to Councilman Vartolone for his passionate response. He points out that he is offended by Councilman DiPiazza's insinuation that this settlement was Mr. Kaufman's doing. Mr. Kaufman acted every time on the recommendation of the Council. He believes Councilman DiPiazza's actions are disingenuous.

Councilwoman Weber believes everyone should be able to vote however they want, as they always do. Why does tonight's vote have to be any different? She believes a vote should be taken tonight, unanimous or not.

Release Closed Session Minutes

Motion: Councilwoman Bellinger

Second: Councilwoman Weber

Yeas: Councilwoman Bellinger, Councilman DiPiazza, Councilwoman Tedesco-Santos, Councilman Vartolone, Councilman Verile, Councilwoman Weber

Nays: None

**Motion carries 6-0**

Mayor LaBarbiera does not believe there is a point in continuing tonight's meeting as any vote would not be unanimous. He would like to adjourn.

Councilwoman Bellinger would like to know why Mr. DiPiazza didn't ask for a second opinion earlier. If this isn't about politics, then she does not understand what it is.

**Mayor LaBarbiera asks Councilman DiPiazza for a motion to get a second opinion.**

Mr. Kaufman advises that Councilman DiPiazza must specify who will be designated as doing the second opinion. Councilman DiPiazza asks Mr. Kaufman for suggestions. Mr. Kaufman states that the Borough has already had the opinions of the best professionals out there.

Mr. DiPiazza suggests Pierce Law Firm in Hackensack.

Motion: Councilman DiPiazza

There is no second. Motion fails.

Mr. Kaufman and Mr. Placek exit the meeting at 7:06 PM

Councilwoman Bellinger is not comfortable with leaving the Borough open to builders remedy lawsuits.

Councilwoman Weber agrees and is very concerned with losing immunity. She thinks there should be a vote whether it is unanimous or not. She does not mind if Councilman DiPiazza votes no. Mr. Vartolone agrees we should not be forcing a unanimous vote.

Councilwoman Bellinger does not feel comfortable leaving without voting. Councilman Vartolone believes in the future the Council should behave more professionally when it comes to raising their voices and making certain comments. He is ok with passing the resolution but would like to find some way in the future to hold the 259 number firm.

**Mayor LaBarbiera asks for a motion to adjourn as there will be no unanimous vote.**

Motion: Councilman DiPiazza

There is no second. Motion fails.

Councilwoman Bellinger is not comfortable with the Council leaving and not holding a vote tonight. She truly believes this settlement is in the best interest of the residents of the Borough and knows she will be able to stand by this decision. She makes a motion to vote on 20-01-105.

**RESOLUTIONS:**

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**RESOLUTION NO 20-01-105:** RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A SETTLEMENT AGREEMENT WITH FAIR SHARE HOUSING CENTER (carried from 1/21/20 Regular Meeting).

Motion: Councilwoman Bellinger

Second: Councilwoman Tedesco-Santos

Yeas: Councilwoman Bellinger, Councilwoman Tedesco-Santos, Councilman Vartolone, Councilman Verile, Councilwoman Weber

Nays: Councilman DiPiazza

**Motion carries 5-1**

**Motion to Adjourn**

Motion: Councilwoman Bellinger

Second: Councilwoman Weber

Yeas: Councilwoman Bellinger, Councilman DiPiazza, Councilwoman Tedesco-Santos, Councilman Vartolone, Councilman Verile, Councilwoman Weber

Nays: None

**Motion carries 6-0**

**ADJOURNMENT: 7:16 PM**

APPROVED: FEBRUARY 18, 2020

Respectfully submitted:  
Annemarie Krusznis, RMC  
Borough Clerk