

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

Mayor Karlovitch read the requirements of the Open Public Meetings Act and said in light of the public health emergency caused by Corona Virus the Council meetings will continue on their regular scheduled meeting dates. Please note the time for the work session has been changed to a new commencement time of 6PM, the regular council meeting will continue to commence as soon as possible after the work session.

The Salute to the Flag was led by Mayor Karlovitch.

ROLL CALL

Roll Call at 8:00 P.M. showed the following Council Members present: Kaye Ceceri, , Mark David, Joseph Finistrella, Gerry Laudati, Scott Pentz, Fred Pugliese.

MINUTES

It was moved by Councilman David, seconded by Councilman Laudati and carried that the minutes of the Work Session/Executive Session and Regular Council Meeting of January 27, 2021 be approved as submitted. (Copies furnished each Council Member prior to the meeting).

COMMUNICATIONS AND PETITIONS

- NJSLOM Notices (emailed to all)
- Comcast 2020 Municipal Rights-of-way fee
- Department reports for January 2021 from: Clerk's Office, Court, Finance Department, Fire Department, Planning & Zoning, Police Department and Public Works (emailed)

It was moved by Councilwoman Ceceri, seconded by Councilman David and carried that the above communications be received and filed, and any money amounts indicated be spread over the minutes. All in favor.

MAYORS REPORT

Mayor Karlovitch said Kenilworth currently has a total of 757 COVID19 cases that are being reported to our Health Department, 94 of these cases have fallen in the past 30 days with 17 new infections in the past 7 days. In the past month Kenilworth has been ranging between 20 and 30 new cases per week. She urged all residents to please follow all protocols to keep yourself and your family safe. In celebration of Black History Month, ethnic and racial identities are important for people, particularly for those members of minority groups. Personal identity generates a sense of belonging. Knowing our past opens the door to our future, black Americans have had major and lasting influences on American culture, especially through art, literature, poetry, fashion, dance and perhaps the greatest influence through music. The recent historic inauguration of Kamila Harris as the first woman and the first woman of color to become the Vice President of the United States shows that we as a nation are working harder to create a more inclusive and loving nation. There have been many influential black men and women in our history who stand out, one for the Mayor personally is Rosa Parks. Her strong spirit and audacity always impressed her the Mayor and one of the greatest quotes that she ever said that still sticks with her is "I had no idea that history was being made, I was just tired of giving up". The Mayor said she thinks that is a lesson we can all benefit from. If many of you are unaware, the Park on 9th Street was originally named for Martin Luther King but was renamed in 1977 to honor Thomas Urgard for his community mindfulness to the local children and for taking care of the park. Thomas lived across

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

the street for many years, he lived his life caring for others and contributed to a true sense of community in our Borough. It is a nice coincidence that we also celebrate Valentine's Day in February, love is powerful because it transforms and evolves throughout the course of relationships and the journey of human life. Love is seen by everyone as the most important thing in life, happiness is hugely linked to giving and receiving love. If we want to live peacefully, we must be tolerant, we must accept each other's opinions and preferences even if they are in a way we personally don't agree with. Many of us think that if we believe something to be true, we should proclaim it to the world and never stop, even when we begin to wear down relationships. The more we let that happen, the less peace we have and the less happy we become. Let's spend our time loving and helping people, it is vital that we, as a community, develop a commitment to being respectful and understanding of others. For Valentine's Day the library is offering a free Valentine's Day craft for ages 6 to 8 when you check out a book. Residents who are interested in participating must call the Library at 276-2451 to reserve their craft for curbside pick-up. You may have read the new article regarding the sad incident of Judge Theresa Mullin and our St. Theresa's School. Less known is that the prestigious Supreme Court Committee on Judicial conduct which conducted the investigation, praised the work done by our own Police Department. In addition to Chief Zimmerman, Detective Grady, and Patrolman Kaverick, they were praised for their good judgement and their credibility. As was said to me, these men can tell their grandchildren someday of the high praise that was given to them by our top court. She said congratulations. The Mayor commended our Senior Director Kathleen, during a recent Union County Community Development Administrative Committee Meeting she was praised for her diligence and performance. On behalf of the Borough, please accept her sincere gratitude for your service, especially for our senior community. She said in regard to our senior community there will be a free tax preparation service offered to all Kenilworth Seniors and Veterans on February 16th. There will be 2 sessions from 9AM to 1PM and 2PM to 5PM. Please call 908-422-1724 to schedule your appointment today. This event is sponsored by Louis DeMondo Civic Association and Popal Financial and Veterans of Foreign Wars of the United States. She is grateful for the generosity of those involved in organizing this event for our community. She hopes our veterans and our seniors take advantage of this opportunity. She wished everyone a Happy Valentines Day and said to please stay safe and well and be kind to one another.

REPORT OF COMMITTEES

FINANCE

Councilman Laudati reported the Finance Department met tonight at 5:00 for the initial meeting with the CFO. We discussed future dates and the RVSA and he will have more on that prior to our next meeting. He thanked Councilman Finistrella and Councilman Pugliese for attending, sandwiches were provided by Laura. The Finance Department has been processing first quarter tax bills for 2021. The last day to pay without interest is Wednesday, February 10th. All payments received after 4:30 pm will be subjected to interest retroactive back to February 1st. The 2019 Senior Property Tax Reimbursement (aka Senior Freeze) application deadline was February 1st, 2021. The 2020 Senior Property Tax Reimbursement Applications are anticipated to be mailed starting on or about February 12, 2021 from the State. Please allow several weeks for mailing. If you do not receive your booklet by March 5th, you may contact the State customer service center at [1-800-882-6597](tel:1-800-882-6597) - Office hours are Monday through Friday 8:30 a.m. to 5:30 p.m., except State holidays. The Tax/Finance office will be closed on Monday, February 15th in observance of President's Day.

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

DEPARTMENT OF PUBLIC WORKS

Councilman David said as everyone knows, the last couple of weeks we have had 2 snow storms, one major blizzard and one not so bad. The streets could be a little better as far as car removal, there are cars that are still snowed in. He suggested that all residents try to clear them out so the DPW can do a better job getting curb to curb. You have had plenty of time to move your cars by now. The DPW did a great job, they spent a lot of time out there salting and snow plowing and put a lot of effort into it. He said there is a report that there is possibly more snow coming.

PUBLIC SAFETY

Councilwoman Ceceri reported there 1583 calls for service during the month of January and 154 9-1-1 calls and 63 traffic summonses issued. The Kenilworth Police Department would like to welcome its newest police officer, Officer Frank Crisafulli whom is being sworn in at tonight's council meeting. Frank Crisafulli grew up in Newark, New Jersey and moved to Kenilworth when he was 18 years old. Frank's uncle was a Newark Police Lieutenant who influenced and inspired him to become a police officer. His law enforcement career began with the New Jersey Dept. of Corrections as a State Corrections' Officer in 2014 and he transferred to a police officer position with the East Orange Police Dept. in July of 2019. Frank stated that he has purchased a home here in Kenilworth and values being a member of this community. On January 31st Glenn Pulvermuller from Parlin, New Jersey was arrested by Officer Leo Felipe for Driving While Intoxicated in a Kenilworth Motor Vehicle Accident along with an active \$1,000.00 Kenilworth Warrant. On February 6th 2021 Jordy Pintado was arrested by Officer Anthony Tancs for an active no bail warrant out of Newark – New Jersey for Aggravated Assault.

DEPARTMENT OF PLANNING, ZONING & ORDINANCE

Councilman Finistrella reported the January Construction Report, building fees \$11,018.00, trust state fees 784.00, miscellaneous fees \$1235.00, foreclosure and vacant properties \$3,000.00 and trailer storage fee of \$4800.00.

DEPARTMENT OF RECREATION AND FIRE

Councilman Pentz reported the Recreation Committee had a zoom meeting on January 4th. They discussed having their art snowflakes with their valentine hunt on Saturday, February 13th between the hours of 9AM to 12 noon you can pick up your paperwork. Further instructions and details are on their Facebook page. They are trying to meet with the school baseball and softball coaches to get the season going.

DEPARTMENT OF HEALTH, EDUCATION & HUMAN SERVICES

Councilman Pugliese reported the Library Board of Trustees will be meeting tomorrow, February 11th at 6:30PM. If you would like to attend via zoom you can call the Library at 908-276-2451 and they will get you the zoom information.

There was a request to remove Resolution #5 from the consent agenda.

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

CONSENT AGENDA

Resolutions No. 1 thru 4 are listed on Consent Agenda and will be enacted by one motion in the form listed below. All items will be recorded individually in full in the minutes.

Councilman David moved that all items under the Consent Agenda be approved, seconded by Councilman Laudati. All in favor.

RESOLUTION NO. 1

BE IT RESOLVED, that the Chief Finance Officer be authorized to make payments and transfers for necessary obligations prior to the next regularly scheduled Council Meeting.

BE IT FURTHER RESOLVED, that the Governing Body authorizes, Assistant Finance Officer Lisa Wood to carry out the duties and responsibilities of the Chief Financial Officer as outlined in Borough Code Chapter 5-34, in the event of his absence.

RESOLUTION NO. 2

WHEREAS, Police Chief John Zimmerman has notified the Borough of Kenilworth of his intention to retire effective March 1, 2021; and

WHEREAS, Chief Zimmerman is entitled to Terminal Leave pay as per his contract, as follows;

<u>Type</u>	<u># of days</u>			
<u>Rate</u>			<u>Total</u>	
Terminal Leave 31 Years x 2 days = \$40,605.66	62		\$654.93	
2021 Personal/Holiday <i>prorated 1</i> \$1,421.20	2.17		\$654.93	
2022 Vacation Days \$16,373.25	25		\$654.93	
2021 Vacation Days	25		\$654.93	\$16,373.25
2020 Unused Sick Time	5		\$654.93	\$3,274.65
			119.17	\$78,048.01

WHEREAS, the Kenilworth Police Chief has certified that number of days and amounts due are correct; and

WHEREAS, the Borough’s Labor Attorney, has reviewed the conditions above and has certified that the amounts due are consistent with the local PBA contract; and

WHEREAS, Chief Zimmerman has requested to receive this payment in two equal installments with the first payment being due March 1, 2021 and the second and final payment being due by January 1,2022.

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Kenilworth that the Payroll Department is authorized to make payments as indicated above based on a final calculation upon his retirement.

RESOLUTION NO. 3

WHEREAS, that Public Safety Committee and Police Chief met to discuss the transfer of an officer to fill a vacancy in the Kenilworth Police Department; and

WHEREAS, that at the regular meeting of the Kenilworth Council of January 13, 2021, approval was unanimously granted to hire a police officer who is already appointed permanently as a police officer in the East Orange Police Department and is willing to transfer to the Borough of Kenilworth

NOW THEREFORE, BE IT RESOLVED, that Frank Crisafulli of Kenilworth, NJ be and is hereby appointed as Police Officer in the Kenilworth Police Department, effective February 15, 2021 and subject to a one-year probationary period; and

BE IT FURTHER RESOLVED, that Frank Crisafulli shall start at the 2nd Year of the Borough's Collective Bargaining Agreement with PBA Local #135 salary guide for Officers (\$52,419.50); and

BE IT FURTHER RESOLVED, that the hiring of said officer is subject to the terms and conditions of the Borough's Collective Bargaining Agreement with PBA Local #135 and any memorandums of understanding thereunder; and

BE IT FURTHER RESOLVED, that this offer of employment is contingent upon successful psychological exam/evaluation, medical exam, and criminal and background investigation.

RESOLUTION NO. 4

BE IT HEREBY RESOLVED that **JOHN SUTHERLAND, 223 North 15th Street, Kenilworth** be appointed **an Alternate Crossing Guard** effective **February 10, 2021** a rate of \$18.58.

Councilman Laudati and Councilwoman Ceceri asked why is Resolution #5 being pulled from the Consent Agenda?

Councilman Pugliese said number one, he never gave consent to put it on the consent agenda and number 2 our point is pretty clear as to why we are voting against it.

RESOLUTION NO. 5

Introduced by David

Seconded by Ceceri. Roll Call: Councilwoman Ceceri voted yes, Councilman David voted yes, Councilman Finistrella voted not, Councilman Laudati voted yes, Councilman Pentz voted no, Councilman Pugliese voted no. Mayor Karlovitch voted yes.

WHEREAS, the New Jersey Local Redevelopment and Housing Law ("LRHL"), NJSA 40A:12A-1 et seq. authorizes municipalities to determine whether certain parcels of land within the municipality constitute "an area in need of redevelopment" as described in Section 5 of the LRHL; and

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

WHEREAS, to determine whether a certain parcel of land constitutes “an area in need of redevelopment”, the Borough Council of the Borough of Kenilworth (“Council”) by way of Resolution #8 , dated February 26, 2020, authorized and directed the Kenilworth Planning Board (“Board”) to conduct a preliminary investigation to determine whether the area identified as Block 183, Lot 9 as shown on the Tax Map of the Borough of Kenilworth consisting approximately of 3.79 acres, commonly known as 15 North 26th Street property, meets the criteria as set forth in Section 5 of the LRHL and should be designated as a “non-condemnation are in need of redevelopment”; and

WHEREAS, on December 10, 2021 the Planning Board unanimously endorsed a Resolution of Memorialization, “**Recommendation Determining that Block 183, Lot 9, is a Non- Condemnation Area In Need of Development, and Approving the Preliminary Investigation Study With a Recommendation to the Borough Council to Proceed with the Determination of the Need of Redevelopment and to Authorize the Redevelopment Plan, Preparation and Adoption**”, and directed Harbor Consultants, Inc. to perform a preliminary investigation as to whether the Study Area, or any portion thereof, constitutes an “area in need of redevelopment” in accordance with LRHL; and

WHEREAS, the LRHL requires the Board to conduct a public hearing prior to making its determination whether the Study Area should be designated as “an area in need of redevelopment” at which hearing the Board shall hear all persons who are interested in or would be affected by a determination that the Study Area is a redevelopment area; and

WHEREAS, the LRHL requires that the Board, prior to conducting such public hearing, publish notice in a newspaper of general circulation in the Borough once each week for two (2) consecutive weeks, with the last publication made not less than ten (10) days prior to such public hearing; and

WHEREAS, the LRHL further requires that such notice be mailed at least ten (10) days prior to such public hearing to the last owner(s) of the relevant properties in accordance with the Borough’s assessment records; and

WHEREAS, the Board held a public hearing (“Public Hearing”) to determine whether the Study Area is a “non-condemnation area in need of redevelopment” under the criteria set forth in Section 5 of the LRHL at a regular meeting of the Board held December 10, 2020; and

WHEREAS, notice of the Public Hearing was provided in the official Borough newspaper on two (2) consecutive weeks, the last being not less than ten (10) days before the Public Hearing; and

WHEREAS, the Board also provided notice to property owners in the Study Area; and

WHEREAS, at the Public Hearing Kevin O’Brien, PP, AICP of Shamrock Enterprises, Ltd presented a report dated December 10, 2021 entitled “Planning Report Concerning the Determination of the Proposed Block 183, Lot 9 Study Area, (Commonly Known as 15 North 26th Street, Kenilworth, NJ 07033) As A Non- Condemnation Area in Need of Redevelopment”; and

WHEREAS, at the Public Hearing, the Board reviewed the Report, heard the testimony of Mr. O’Brien, as well as testimony of members of the public who were given an opportunity to testify and ask questions of the Board and Mr. O’Brien; and

WHEREAS, after the conclusion of the Public Hearing, and the in consideration of the Report and the substantial and credible testimony presented, the Board, on December 10, 2020, determined that the Study Area be designated as “an area in need of redevelopment”, which determination was memorialized by Resolution of the Board on December 17, 2020; and

WHEREAS, the Borough Council agrees with the recommendation of the Board that the Study Area be designated as “an area in need of redevelopment” pursuant to the LRHL; and

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

WHEREAS, the Borough Council now desires to authorize and direct the Mount Laurel Subcommittee also known as the Affordable Housing Committee (established by resolution 2017-17 on January 25, 2017) to cause a redevelopment plan to be prepared for the Study Area and to present same to Borough Council for its consideration.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Kenilworth Council of the Borough of Kenilworth, County of Union, State of New Jersey, that:

1. The Borough Council does hereby designated Block 183, Lot 9 as shown on the Tax Map of the Borough of Kenilworth consisting of approximately 3.79 acres, as “an area in need of redevelopment” (the “Determination”) pursuant to the LRHL
2. The Determination shall authorize the Borough of Kenilworth to use all of the powers provided by the Legislature for use in a redevelopment area excluding the use of eminent domain, thus designating it a “Non-Condernation Redevelopment Area”
3. The Borough Clerk is hereby directed to transmit a certified copy of this Resolution by regular and certified mail to the Commissioner of the Department of Community Affairs (“Commissioner”) for review. The Determination of the Study Area as a “non-condemnation area in need of redevelopment” shall not take effect without first receiving the review and approval of the Commissioner. If the Commissioner does not issue an approval within thirty (30) calendar days of transmittal, the Determination shall be deemed to be approved
4. Notice of the Determination (“Notice”) shall be served within ten (10) days of the Determination, upon all record owners of property located within the delineated area, those whose names are listed on the tax assessor’s records and upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which the notice of Determination may be sent
5. A property owner who received notice of Determination as set forth above who does not file a legal challenge to the Determination affecting his or her property within forty-five (45) days of receipt of such notice shall thereafter be barred from filing a challenge.

OATH OF OFFICE – FRANK CRISAFULLI

Mayor Karlovitch administered the Oath of Office to Police Officer Frank Crisafulli.

PROCLAMATION –

WHEREAS, the observance of Black History Month calls our attention to the continued need to battle racism and build a society that lives up to its democratic ideals; and

WHEREAS, in the face of incredible prejudice and hardship — African Americans have enhanced and advanced every aspect of American life through courage, determination, faith, and resolve. Their fight for equality, representation, and respect motivates us to continue working for a more promising, peaceful, and hopeful future for every American; and

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

WHEREAS, we honor the extraordinary contributions made by African Americans throughout history to our economic, cultural, spiritual, and political development, and we renew our commitment for equality, representation, and respect for all.

WHEREAS, the Borough of Kenilworth continues to work toward insuring a community in which all citizens—past, present, and future—are respected and recognized for their contributions and potential contributions to our community, the state, the country, and the world; and

WHEREAS, the Borough of Kenilworth is proud to honor the history and contributions of African Americans in our community, throughout our state, and nation.

NOW, THEREFORE, on behalf of the Borough of Kenilworth and the Council, I, Mayor Linda Karlovitch do hereby proclaim February 2021 to be Black History Month, and I encourage all citizens to celebrate our diverse heritage and culture, and continue our efforts to create a world that is more just, peaceful, and prosperous for all.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of February 2021

MEETING OPEN TO THE PUBLIC

Motion was made by Councilman Laudati, seconded by Councilman Pugliese to open the meeting to the public. All in favor.

Robert Herbert – 14 North 12th Street - Mr. Herbert suggested you talk to the building inspector and sub code officials and when they do interior inspections of open permits, even if they don't want to get involved with the residents, they can take a note and report back to Lou. That may be a way to help addressing the sump pump being hooked to our sewer drainage. Mr. Herbert corrected in the Mayor's report saying that our Vice President is the first female Vice President and he said it is a little hard for her to claim that when president Biden and his administration doesn't recognize gender. Mayor Karlovitch said she see's her as a female and she celebrates women and she recognize' s gender. Mr. Herbert asked the Council to talk to people in Trenton and convince them to not open the boarders during COVID19 because we will be living the way we have been living for the last year and half. because if they do that COVID19 will spread. He said they should go through the immigration system.

Police Chief John Zimmerman welcomed our newest officer, Frank Crisafulli to the Kenilworth Police Department, our family. He said he knows he is going to do a great job. He did a great interview when we interviewed him last year, his reputation is spotless. He wished him a safe

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

and successful career here in Kenilworth. He started with corrections and then with West Orange. He said he is going to do a great job.

Mr. Capece asked to have Mr. Mistretta come up and speak. He said an adverse vote tonight is disappointing and maybe reckless on the Redevelopment Plan. He is hoping that all in the community will listen carefully to what Mike has to say, Mike is an expert in this area. He is asking that Mr. Mistretta briefly summarize where we go now that the Redevelopment Plan has been adopted. He said it was truly disappointing.

Mike Mistretta said he is a licensed Professional Planner and he works for Harbor Consultants and is your consulting Affordable Housing Planner, he represents the Council. His responsibility for the Council is to assist and work with the Governing Body and address the compliance issues that we have with respect to our Affordable Housing obligation. The Redevelopment Study that was in front of you this evening declared one piece of property as an area in need of redevelopment. That was the very first stage of a Redevelopment process that is intended to move that project forward so that the town can move forward to the next step which is a Redevelopment Plan. The Redevelopment Plan is essentially a mini master plan, if you will, that will create a zoning and design standard for this property for an inclusionary housing project. That is a project that includes a mixture of market rate units, market rate family rental apartments and a mixture of low and moderate and very low-income affordable units that are mixed within the project. He has been working on this project for this one particular property for going on 4 years. It has pulmonated in a negotiation that has put this property in front of us now and the next step is to adopt a redevelopment plan. Why is this so important? He said this is the first step in the process of putting together what is called a housing element and fair share plan which is essentially, otherwise known as an Affordable Housing Plan. It is a plan that your planner puts together, works with your Planning Board and your Governing Body and it is designed to satisfy our Borough's constitutional obligations. We as a Borough have this constitutional obligation, which is the numbers that we have to address within our plan. Mr. Mistretta gave some high level numbers, he will not go too far into all these numbers, he is happy to answer any questions you may have but a long story short, Mount Laurel Four came down from the Supreme Court in February, 2015 and it essentially said the COAH process (Council On Affordable Housing) in Trenton was not doing it's job and was basically defunct. They took the responsibility from COAH and moved it over to the local courts and that is where we are right now. The courts were assigned the responsibility for overseeing these plans. This Affordable Housing plan that we have a responsibility to, a constitutional obligation to address, includes a series of numbers. It is very complicated but there have been a number of court decisions on this, the one we need to rely on throughout the State is known as Judge Jacobson's numbers that came down in March of 2018. It essentially said, our Borough was assigned a prior round obligation, a gap period obligation and a perspective need obligation, what does that mean? Those are the time periods when COAH was first implemented until now. 1997 to 1999 is known as the prior round, then there was a gap period from 1999 to 2015, where I am sure a lot of you read about the back and forth between State Legislature and the Court and the Governor, it went around and around and was challenging rules, they came out with a set of rules, they were appealed, it went through this whole process where the rules were ultimately not adopted and then they came down with a decision in 2015, that is called the gap year which was a 16 year period. He said then we have the new perspective period which is known as the third round, it goes from 2015 to 2025. We were assigned an obligation of 354 units, that is our obligation. He is not here to argue that, that is the number that we have been assigned. His responsibility to the Borough is to put together a plan that starts to address that number. He said that very large number of 354, he has a developer ready willing and able to construct and has brought forth an inclusionary project that is going to have a mixture

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

of market rate and affordable units on this one particular property and that is the first cornerstone of our plan.

Mr. Capece asked a specific question, because the Borough took action tonight, he asked Mr. Mistretta to respond, based on his professional experience, you need to know that this Governing Body has been getting a number of letters back and forth regarding the experience of other towns in dealing with this issue, he asked Mr. Mistretta to explain to the Governing Body, your opinion, if the Governing Body did not adopt a Redevelopment Plan, we came very close tonight, if we had not done that, what is your opinion as to what the Union County Courts would have done? Mr. Mistretta said he just wanted to give a little bit of a flavor of a background on that but putting together this plan leads to the question, tonight you had in front of you, which is this resolution to support the area in need of redevelopment designation. He said he strongly encourages and he strongly supports that resolution, it is in the best interest of the Borough to move forward with the redevelopment process on this property because he just went through all these numbers and obligations but this is the property that we have in front of us to start to address our needs. If this does not move forward, he cannot speak for the developer, he represents the Borough but he would imagine, we have been working under this quote unquote good faith up until now. Fair negotiation back and forth between the developer and the Borough to put together what we think is the best project for the Borough while still addressing our needs. To answer the question if we don't move forward on this what would happen?? He said somebody else should answer that question rather than him because the developer or one of his representatives but he would imagine that our next step is instead of having this presentation tonight in front of this Council we would have this conversation in a court room.

Mr. Capece said let me make it simple, if in fact a plan is not developed, would you briefly explain to this Governing Body how a court appointed Special Master would affect this Borough. Mr. Mistretta said exactly and that is why he went through all the series of numbers.....Mr. Capece said that is what this Governing Body needs to understand. Mr. Mistretta said, as your representative, he has a responsibility to put this Affordable Housing Plan together and we are trying to do it through good faith negotiations with this one developer, that is not our only responsibility, he put those numbers out there for a reason, 354 is a large number. The number that we are talking about with this one particular development we would capture 25 potential units with bonus credits, we are still looking at a gap of 322. We have to put together an affordable housing plan, if we don't do it on a voluntary basis, with all of us in this room, with the assistance of the Planning Board professionals, other people will do it for us, that is the Special Master which Mr. Capece mentioned. The Special Master is the court-appointed professional planner who is assigned to our Borough, who will look at our zoning, look at these numbers, they start with those numbers and that is why he keeps going back to them because that person will have these numbers and he can't argue those, 354 is our obligation and is a rather very large number. The Special Master would come in and they would start to tell us how to adjust this number, tell us how to rezone our town, tell us what the height, density, standards are going to be. He said he can promise you that they are not going to be as careful and protective of your Borough as he would be.

Mr. Capece said he has another question, he asked Mr. Mistretta, based on his wide experience, how would you assess where Kenilworth stands right now, before this vote tonight compared to the other affected municipalities in Union County? Mr. Mistretta said his office represents a number of municipalities in Union County, Berkeley Heights, Springfield, Scotch Plains, Kenilworth, Garwood and a number of others and they have all settled. We have all prepared our plans, gone in front of the court and have had a Fairness Hearing, then a compliance hearing, the plan has been reviewed by Fair Share Housing Center by the court, by the Special Master and

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

they have been adopted, they are in place. He went through this time period for a reason because the perspective need, the third round what we are in the middle of right now started in 2015 and it culminates in 2025, we are six years into the third round and we don't have our plan yet. Mr. Capece asked if there was any other community, based on your professional experience, assessed as being in the same position that Kenilworth is in right now? Mr. Mistretta said he believes right now the number is Fair Share Housing Center has settled with approximately 325 Municipalities state wide right now. That might actually go up a little bit because there were some recent settlements, he is actually working on a couple of them. There are a few municipalities that are exempt, we are not one of them but we are the last group. He said he strongly encourages you to work together on this issue, he can't emphasize it any more that we have this obligation, it is not going away and the best advice that he can give you is that you maintain control of your municipality by voluntarily putting this plan together to meet this obligation. Put the zoning in place through overlay Zones, through redevelopment like we talked about tonight, there is going to be a whole combination of different mechanisms that comprise this plan.

Mr. Capece said to Mr. Mistretta, you have experienced other towns and other towns who have not followed this path and have litigated and he knows you have been involved as a witness in a number of these cases and to her credit, he knows the Mayor studies what is going on these other towns, his question to you is, what is the cost to a Municipality if they do not conform to the Mount Laurel responsibilities and more importantly when they don't respond what ends up happening? Councilman Pugliese started laughing and Mr. Capece said this is not a laughing matter. Mr. Mistretta said the bottom line is we would be found to be noncompliant, there is a potential that this Governing Body, along with the Planning Board would start to lose it's zoning power, at least over this affordable housing plan and other professionals would have a large influence or take over that responsibility. To answer the question on litigation, yes he is involved in municipalities that did challenge and did not adopt a plan and went through the whole litigation process over a three plus year period, the numbers in that particular municipality, the litigation fees for professionals exceeded 5 million dollars, just to give you some flavor. Others were more around 1.5 to 2 million who have challenged, it all depends on how complicated it gets but it quickly escalates, and you quickly loose control of your zoning and that is the part he wants to emphasize. You are going to pay a heavy financial price, but you are also going to lose the ability with the power to zone and the power to dictate how we comply with these numbers. It is very large and very complicated, what you had in front of you tonight was one resolution for one redevelopment area for one piece of property. It is in his opinion critical that this moves forward to the next stage now that it is declared in need of redevelopment and that we work with the developer and the planning board professionals and put together this redevelopment plan in a good faith manner and a very quick time, that is not the only thing that he is going to come to you and ask you about because that is one property and we have a very large number, he is going to need more but he will get into that on another evening. All of this will come together in what is called an affordable housing plan that will ultimately be filed with the court.

Mayor Karlovitch said the last thing she would like to see happen in Kenilworth is a court take over, it is very irresponsible for our Governing Body to do something like that. She agrees with what Mr. Mistretta is saying, she has studied this, and she has watched it in Cranford and over and over these builder's remedy lawsuits where the town loses every single time. She can't name one town where they have won. She said we must be responsible to our community and for the future of what is going to happen in this community. She wants to point this out clearly because she knows what can happen, she saw it, she has been reading about it for 20 years.

Mr. Finistrella asked something about the number 354 and the space in town.

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

Mr. Mistretta said our number is 354 but we are what is called a developed municipality or a built-out municipality, a land poor municipality. What you do then is you do a vacant land adjustment and you look at all the property in the town and look for opportunities where you can bring in overlay zoning or other mechanisms to be put in place on top of our existing zoning to collect what is called an unmet need, which is we don't have the land, we have this big number that the court assigned our town but we are developed, we don't have all this vacant land so it goes into a different category that is called unmet need, it's a lesser number that we have to address within our plan. We still have to provide opportunities for it, for example some of the towns where they don't have enough land to put in mixed use overlay zoning in our downtown that allows for an incentive bonus for apartments on maybe 2nd or 3rd floor above a commercial building downtown and we would slowly capture units in that manner. Those are the type of mechanisms that we would have to put in.

Mr. Capece asked how compassionate is the Special Master to unmet needs? Mr. Mistretta said the biggest take away from tonight is the Mount Laurel Doctrine is supposed to be a voluntary process where municipalities are supposed to be doing this on their own in putting this plan together. This round is 2015 and we are already 6 years into it and it's 2021 and he doesn't have a plan yet, he needs a plan, we are already at a disadvantage, he has one project but he needs to put together a plan quickly with the Governing Body and the Planning Board Professionals and move this forward. He said 330 towns have already settled and filed their plans, we are one of the last groups out there. Mr. Finistrella ask if he foresees eminent domain? The Mayor said if there is a court takeover, they could. Mr. Mistretta said eminent domain is the taking of property, they are not going to do that, the court is not going use eminent domain. What the court will do is they will assign a Special Master who is a planner just like me, but that planner doesn't represent the Borough of Kenilworth he will represent the court. That person will come here and, he doesn't want to say they will take over the process, they will have a heavy hand on this process that you will not like. He said right now we are trying to do this in a voluntary manner, good faith efforts, those are the two keystones throughout this doctrine, we are supposed to be working together as a community and putting this plan together to meet our obligation. They strongly encourage you do it through a voluntary process. The court does not want to come here and tell you how to zone your community, but they will. We need to act, and we need to act quickly and professionally and show good faith and continue to move this process forward, particularly on this one piece of property. It is critical and in the best interest of the Borough. Now that we have the area in need of redevelopment, the next step is we need to come together and put together a redevelopment plan for this property, that is critical, it has to move or else someone else is going to do it for you.

Motion was made by Councilman Laudati, seconded by Councilman David to close the meeting to the public. All in favor.

GENERAL BUSINESS

Councilman Laudati said the current President of Merck retired and the he will get the new person's name tomorrow. He said maybe we should send a letter of congratulation and invite him to Borough Hall, or we could go there and meet him to see where he is coming from. He said he heard he is pretty strait laced. The Board of Education is having their budget meeting tonight, maybe Frank or Ken can help him out, they talked about Chapter 78, the new revisions as of July 1st and teachers opting out of that which is probably going to cost the Borough ¼ million dollars just on that aspect. He said we need more information and we need to sit down with the Board of Ed because 53% of our budget is going to the school. He said he knows we can't do anything about their numbers, but we can talk to them about it and try to help us out. We have had a bad

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, FEBRUARY 10, 2021. MAYOR LINDA KARLOVITCH PRESIDED.

year with the pandemic and so have they, we need to sit down with them and find out why towns are making out with this new revision of 78 and why Kenilworth is not getting their fair share of the pot.

Mayor Karlovitch said she wanted to circle back to the Engineers Report about the recommendation to proceed with the sewer work with the health issue.

Motion was made by David, seconded by Ceceri to go with the engineer's recommendation. Upon roll call, all in favor.

Mayor Karlovitch said at our last meeting Dr. Foreman was mentioned to be the President of the Board of Health and actually the President of the Board of Health is Randy Moscaritolo.

Councilman Pugliese said David Brearley Class of 2022 will be hosting a clothing drive on Saturday, March 20th from 8AM to 11AM at the Harding School parking lot on the Boulevard. They will accept all gently worn clothing from men, women and children also accessories like belts, shoes, handbags, ties, backpacks, blankets, tablecloths and curtains. They will not accept books, electronics, appliances, furniture. You can do a drop-off, so you don't have to get out of your vehicle. They sell the cloths by the pound, the heavier the items the more money comes to the school.

ADJOURNMENT

There being no further business to come before the Council, it was moved by Councilman David seconded by Councilman Laudati and carried, that the meeting be adjourned to the call of the chair.

Respectfully submitted

Kathleen Moschitta
Deputy Borough Clerk