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BOROUGH OF MONTVALE
COUNTY OF BERGEN
MAYOR AND COUNCIL

COUNCIL MEETING : TRANSCRIPT OF AUDIO
: OF PROCEEDING
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Tuesday, September 26, 2017
Council Chambers
12 Mercedes Drive
Montvale, New Jersey 07645

B E F O R E:

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COUNCIL MEMBER ELIZABETH GLOEGGLER
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1 (The following has been transcribed from
2 an audio file.)

3 (Agenda)

4 Resolution 186-2017, resolution approving
5 the settlement agreement with Intervenor, the S.
6 Hekemian Group, LLC to partially resolve the Borough's
7 affordable housing declaratory judgment action.

8 The motion.

9 MALE BOARD MEMBER: So move.

10 FEMALE BOARD MEMBER: Second.

11 MAYOR GHASSALI: We have a discussion and
12 before we go through a discussion invite our Special
13 Counsel, Mr. Jeff Surenian to make few comments and
14 then we'll open it to the public for public comments
15 which normally, with resolutions, we don't do but we
16 will do for this one. And then the Council will have
17 their comments and then we will vote on this
18 resolution.

19 Mr. Surenian is our Special Counsel.

20 MR. SURENIAN: My name is Jeff Surenian.
21 I'm from Jeffrey R. Surenian & Associates. My law
22 firm is located in Brielle, New Jersey. We represent
23 municipalities all over the State. We represent
24 probably over 60 municipalities. I would venture to
25 say we represent more municipalities than any other

1 two law firms combined.

2 This is all we do. We do it all over the State.

3 We're only involved with representing the
4 municipalities. We only represent them on affordable
5 housing matters.

6 FEMALE BOARD MEMBER: I'm sorry to
7 interrupt. Excuse me. But, Mr. Surenian, is there a
8 way that you can kind of direct your face and voice
9 out to our audience?

10 MR. SURENIAN: Hello.

11 FEMALE BOARD MEMBER: Yeah. Not that your
12 back isn't attractive.

13 MR. SURENIAN: I don't want to offend you
14 but if that's okay...

15 FEMALE BOARD MEMBER: Okay.

16 MR. SURENIAN: My name is Jeff Surenian
17 and, as I indicated, my law firm is in Brielle, New
18 Jersey. We represent only municipalities only on
19 affordable housing. We represent them all over the
20 State.

21 What's before this town tonight is they need to
22 make a decision on a matter that's been around for
23 awhile involving a possible settlement with the
24 Hekemian Group.

25 Mount Laurel matters are very difficult and this

1 matter has been difficult as well. But at the end of
2 the day what, what needs to happen is your elected
3 officials need to make a judgment about what's best
4 for your community. And often times the impulse is to
5 say no and fight, fight, fight. But there are
6 consequences to how a town votes. And a -- and so I
7 think that a town could just say no and have, have no
8 consequence would be a grave mistake.

9 If, if this case doesn't settle, the town is
10 looking at full scale litigation. And that litigation
11 could forever impact your community.

12 If you were my sister, if you were my brother,
13 I'd say make this deal because the consequence of not
14 making the deal is you force the developer to come at
15 you full scale and the laws are toted against you in
16 the Mt. Laurel venue. The Supreme Court has set up a
17 body of law that is set against you. You have a fair
18 share housing center in this case which is very
19 aggressive, is either going to be, help you settle
20 this whole case or is going to team up with the
21 developer and make your life very significantly
22 different and significantly impact the town.

23 So I'm recommending the settlement. The
24 settlement involves 350 units on the Mercedes sites,
25 the two Mercedes sites and on, and on the Glen View

1 site. It's a total of 350 on both sites. It's a 15
2 percent set aside.

3 The affordable units on the Mercedes site will
4 be for sale. The affordable units on the Glen View
5 site, there is only nine, would be either rental or
6 for sale. They don't know yet. It all depends on
7 where the market shapes up.

8 This case is part of a larger case where the
9 town is trying to get approval of a plan to meet all
10 of its obligations but the developer has been at this
11 a long time. The developer is frustrated as is the
12 town and the developer's position is, look, if this
13 deal is not going to go through then we're just going
14 to come to litigation and let the chips fall where
15 they may.

16 As someone that is in the trenches every day and
17 fights these every day, I just got through a 41 day
18 trial on, in Mercer County on one aspect of what's the
19 Fair Share formula. It's extremely expensive and very
20 difficult litigation.

21 So I would rather this town spend its money on
22 things that benefit the community than on my law firm
23 and on other experts. It's a better use of your
24 money.

25 So, the -- there are also economic consequences

1 to how the sight gets developed. If it gets developed
2 the way it's proposed in the settlement, it would be a
3 substantial non-residential component that would
4 generate ratables. If this goes into the war zone and
5 the whole site is developed for residential, it will
6 have the opposite consequence. So even from that
7 narrow perspective of the, of the economics of the
8 community and, and the tax consequences of the
9 community, this is more beneficial than a project that
10 would be a hundred percent residential.

11 You know, as I said, we came in at the tail end
12 and had we come in any earlier, I don't know if it
13 would have been any different. Frankly, I think your
14 attorney, Joe Boyd (phonetic), did a good job in
15 negotiating this. But we're at a point, we're at a
16 day of reckoning where a choice needs to be made.

17 So it is my recommendation that this town adopt
18 this, this agreement, move on and try to wrap up this
19 whole Mount Laurel issue so you can take control of
20 your community. If you don't do that, I'm afraid
21 you're going to lose control.

22 There is, there is applications for immunity
23 that we have to periodically make and what will happen
24 in that setting is we'll make an argument that the,
25 that the court should keep us insulated from Mount

1 Laurel suits and in the litigation mode the developer
2 would make their argument that we should lose
3 immunity. Heaven forbid you lose your immunity.

4 There is a case called J. W. Field versus
5 Franklin where 11 developers brought suits against the
6 town, the town lost control. You don't want to be in
7 that, in that position.

8 You don't want to suffer that risk. What you
9 want is you want to try to put this to bed on the best
10 terms you can get which are the terms in front of this
11 council right now and move on and settle the other
12 piece of this case and get this behind you.

13 2025, when that comes around, we'll see what the
14 world looks like at that point. But right now you're
15 at a crossroads and at a critical point in the
16 evolution of your community. You have a beautiful
17 community and I encourage you to maintain control of
18 it.

19 MAYOR GHASSALI: Jeff, can you talk to the
20 difference between the one that we voted down on June
21 27th and this one?

22 MR. SURENIAN: Yes.

23 As you know, there was a vote on a similar
24 project but not the identical project recently. The
25 agreement that is before the town tonight is far

1 preferable than the one that was before the town that
2 it voted down. And the difference is the agreement
3 that the town voted down, it was the community that
4 bore the financial risk that the hundred percent
5 affordable project on Glen View would be funded. And
6 there's a lot of risk involved with that.

7 If, if you can get funding, you can minimize
8 your risk but if you don't get funding what happens in
9 these cases is a court requires you to commit to bond
10 to cover the gap in financing. The difference between
11 this project and, and the project that was voted down
12 is you don't have that risk in this project because
13 the developers are required to build the units and
14 integrate the affordable units through the project.
15 So that's another very significant benefit to this
16 project compared to the one that you had before.

17 MAYOR GHASSALI: Thank you, Jeff.

18 At this point I open the meeting to the public
19 for your, for the questions and comments to, try to
20 limit it to five minutes and then we'll come back to
21 the council if we have any questions to the council.

22 Motion to open the meeting to the public.

23 MALE BOARD MEMBER: So move.

24 FEMALE BOARD MEMBER: Second.

25 MAYOR GHASSALI: Vote.

1 (Aye)

2 Members of the public who wish to speak, step up
3 to the podium.

4 MR. SURENIAN: I'm sorry. I misspoke.
5 The affordable units on Mercedes are rental, the
6 affordable units on Glen View are either to be rental
7 or for sale.

8 MAYOR GHASSALI: Your name, please.

9 FEMALE SPEAKER: I'm sorry. All are
10 rental on Mercedes Benz? Every single one, 360?

11 MR. SURENIAN: It's a rental project, yes.
12 The affordable, affordable units, the affordable units
13 are, are rental on the Mercedes site.

14 FEMALE SPEAKER: What about the rest of
15 these?

16 MAYOR GHASSALI: Your name, please. Your
17 name, please. Your name.

18 MS. FERRARA: Renee Ferrara, on Montvale
19 Terrace in Montvale.

20 Well, I guess my first question now is directly
21 to that, so the affordable units on Mercedes are
22 rental.

23 What about the rest of the units?

24 MR. SURENIAN: So there, there, under the,
25 under the agreement there would be a total of 308

1 units on Mercedes-Benz, there would be affordable
2 units associated (inaudible).

3 FEMALE BOARD MEMBER: We can't hear you.

4 MR. SURENIAN: Is this live?

5 Okay. On the Mercedes-Benz site there would be
6 a total of 308 units. Those would all be rental, both
7 the market rate and affordable and on the Glen View
8 site it would be 42 total units either for sale or
9 rental for both and nine of those would be affordable.
10 So on the other site you would have 44 affordable.

11 MS. FERRARA: And has anyone tried to
12 negotiate that some of those be ownership versus
13 rental?

14 MR. SURENIAN: So, as I said, as to
15 Glenview, they would be either rental or for sale.
16 And as to the remaining portion of the site, yes, we
17 did try to negotiate it, A.; and, B., there's a
18 significant benefit to having rental as opposed to for
19 sale. You get --

20 MS. FERRARA: (Inaudible) so let the --

21 MAYOR GHASSALI: Let him finish, please.

22 MR. SURENIAN: You get a one-for-one
23 credit. You have a quota you have to meet. For every
24 rental unit you do as opposed to for sale you get
25 two-for-one.

1 MS. FERRARA: What is that? Right now are
2 you prepared to enter into the settlement? Do you
3 know our quota?

4 MR. SURENIAN: This will not dispose of
5 that portion of the litigation.

6 MS. FERRARA: So basically if this is
7 approved the only thing that happens is Mr. Hekemian
8 is no longer in the action that he was just brought
9 into a couple weeks ago? That's it? It doesn't
10 satisfy --

11 MR. SURENIAN: Consequence -- okay. So,
12 so this is the situation. Your total number, the Fair
13 Share housing center, is 779.

14 MS. FERRARA: And what were our numbers?

15 MR. SURENIAN: Our expert is around 550.

16 MS. FERRARA: That's Econsult?

17 MR. SURENIAN: That's Econsult, that's
18 correct. Just let me, just let me finish.

19 If we settle with the Fair Share Housing Center
20 which is what we are anticipating if we can wrap up
21 the agreement with Hekemian and wrap up the agreement
22 with Cornwrap (phonetic) which is not on for tonight,
23 we would be well-poised to enter into a settlement
24 with the Fair Share Housing Center. If we entered
25 into a settlement with the Fair Share Housing Center

1 we would be able to negotiate 30 percent off their
2 number.

3 So their number would be our number were we to
4 litigate.

5 So the cost of litigating fair share which could
6 cost you over a half million dollars, you would be
7 able to, if you decide that, you can settle with Fair
8 Share Housing.

9 MS. FERRARA: And if you went to trial are
10 you forced to use Econsult or don't you have a right
11 to obtain any expert you so choose.

12 MR. SURENIAN: The matter you are ending
13 up with Econsult -- I just went through a 41 day trial
14 in Mercer County. There is no other expert out there
15 that has done a fair share formula that could defend
16 it in, in court.

17 MS. FERRARA: What town is that, the 41
18 day?

19 MR. SURENIAN: The 41 started out with a
20 number of Mercer County trials. And by the end of the
21 case it was down to two municipalities, Princeton and
22 West Windsor.

23 MS. FERRARA: So the towns in Mercer
24 County joined forces?

25 MR. SURENIAN: They joined forces.

1 MS. FERRARA: And they collectively shared
2 in the -- (inaudible).

3 MR. SURENIAN: That's right. That's
4 right.

5 And that has not happened in Bergen.

6 And as far as, as far as I know, what's
7 happening in Bergen is Judge Toskos is making Park
8 Ridge, for example, litigate Fair Share issues all by
9 itself. So it's an enormous cost to the citizens of
10 Park Ridge.

11 MS. FERRARA: Well, are they making the
12 Fair Share -- are they making Park Ridge or did Park
13 Ridge so choose? (Inaudible)

14 MR. SURENIAN: My understanding from that
15 is the judge did not do what I would have wanted him
16 to do which was to make, you know, spread the cost
17 around. He's making Park Ridge do it alone is my
18 understanding.

19 MS. FERRARA: So what is Darlene Greene's
20 (phonetic) numbers at the Fair Share plan.

21 MR. SURENIAN: She's working with -- look,
22 there's going to be a number (inaudible) --

23 MS. FERRARA: I just want to know her
24 number.

25 MR. SURENIAN: She doesn't have her own

1 number. She works off the Econsult number.

2 MS. FERRARA: Well, she had a fair
3 share plan in 2015.

4 Right?

5 MS. FERRARA: With an RDP of 15.

6 Right?

7 MR. SURENIAN: Those numbers all change.

8 MS. FERRARA: But, but the question then
9 becomes where is, where are those changes because the
10 public has a right to see the numbers and the numbers
11 that we see are in the 2015 Fair Share Plan --

12 MR. SURENIAN: Yeah.

13 MS. FERRARA: -- that, that was a very
14 long time ago, before Mr. Hekemian purchased the
15 property.

16 MR. SURENIAN: Wait. So hold on. You
17 are (inaudible) two different things.

18 So there's a fair share, right. There's a Fair
19 Share Housing number. Darlene Green didn't come up
20 with the Fair Share Housing number. In 2015 or at any
21 point after that, those numbers were on the table that
22 I just articulated to you.

23 MS. FERRARA: So what is Darlene Greene's
24 numbers? (Inaudible) our Fair Share Housing plan.

25 MR. SURENIAN: She's working with -- look,

1 there's going to be a number.

2 MS. FERRARA: I just want to know her
3 number.

4 MR. SURENIAN: She doesn't have her own
5 number. She works off of Econsult's number.

6 MS. FERRARA: Well, we had a Fair Share
7 Housing plan in 2015.

8 Right?

9 MR. SURENIAN: Well --

10 MS. FERRARA: With an RDP of 15.

11 Right?

12 MR. SURENIAN: Those numbers all change.

13 MS. FERRARA: But, but the question is,
14 then becomes, where are those changes because the
15 public has a right to see the numbers and the numbers
16 that we see are 2015 Fair Share Housing Plan.

17 MR. SURENIAN: Yeah.

18 MS. FERRARA: That (inaudible) have been
19 struck a very long time ago is before Mr. Hekemian
20 purchased the property.

21 MR. SURENIAN: So hold on. You are
22 conflating two different things. So there's a Fair
23 Share Housing, there's a Fair Share Housing number.
24 Darlene Greene didn't come up with that.

25 The Fair Share Housing number in 2015 or any

1 point after that those were the numbers that were on
2 the table that were just articulated to you. RDP is,
3 RDP, realistic development potential is an adjustment
4 to those numbers but the residual portion of the
5 obligation remains. It's called eminent need. It
6 leaves you exposed to developers in your community.

7 MS. FERRARA: So, for example, Darlene
8 Greene says RDP of 15 which is basically a
9 recommendation, you need to build 15 and then the
10 residual is your unmet need that may be built in the
11 future but you don't have to develop it today.

12 Correct?

13 MR. SURENIAN: So the RDP is a product of
14 vacant land. Right. So you take -- I don't want to
15 get too far down this road but --

16 MS. FERRARA: I think the public needs you
17 to go down this road because, unfortunately, a lot of
18 people do not understand this and we are told, a lot
19 of either I don't know or you don't get it. I get it.
20 I have read it all. I know what I'm talking about.

21 And to go back to my question was anyone
22 negotiating a deal back in 2015 when the RDP was 15
23 and there was potential for future unmet need and
24 maybe a developer would come in and maybe build on
25 some overlay zones.

1 MR. SURENIAN: Right. Okay. So RDP is a
2 very fluid number. That No. 15 that you keep
3 referring to was, was not endorsed by the court. It's
4 not like it was a COAH number. It had never been
5 litigated.

6 So in these settlements you take your number of
7 vacant, underutilized sites, you apply presumptive
8 density to it and you assume a 20 percent set-aside.

9 That sounds very simple but in fact it's not
10 particularly when you have redevelopment sites.

11 The Supreme Court in the infamous case, the
12 Cherry Hill decision said, if you have a change in
13 circumstances you have to reopen that RDP
14 calculation --

15 MS. FERRARA: Okay.

16 MR. SURENIAN: -- and when and if it
17 happens and you have developers who are proposing,
18 they're not vacant, that's a change of circumstances,
19 your RDP goes up --

20 MS. FERRARA: That's why you should have
21 settled before this.

22 MAYOR GHASSALI: Excuse me. Your time is
23 up. Your time is up (inaudible). We will go around.

24 MS. FERRARA: (Inaudible).

25 MALE SPEAKER: (Inaudible).

1 MR. SURENIAN: Excuse me.

2 MS. FERRARA: Their own, there
3 (inaudible).

4 MALE BOARD MEMBER: That's why there's --

5 FEMALE BOARD MEMBER: Can I -- someone
6 else's settlements --

7 MAYOR GHASSALI: Finish your --

8 MS. FERRARA: A couple other questions.
9 So are there any trials that you're aware of
10 that moved forward in Bergen County?

11 MR. SURENIAN: No. My understanding is
12 what trial is coming up is Park Ridge.

13 MS. FERRARA: Okay. But they don't
14 actually have a trial date.

15 Right?

16 MR. SURENIAN: I don't believe they have a
17 trial date.

18 MS. FERRARA: Okay. Do we have a trial
19 date?

20 MR. SURENIAN: We do not have a trial
21 date.

22 If this thing blows up, the developer is going
23 to ask for a trial date.

24 MS. FERRARA: Of course. When is our
25 immunity extended until?

1 MALE SPEAKER: October 31.

2 MS. FERRARA: When was it extended,
3 recently?

4 MR. SURENIAN: Yes.

5 MS. FERRARA: One thing that I think the
6 public needs to understand are the numbers, all people
7 here are, you either give Mr. Hekemian everything he
8 wants or you will get hit for a thousand units.

9 What basis do we have for that?

10 Are you relying solely on what, relying solely
11 on this South Brunswick trial that you had tried?

12 MR. SURENIAN: No.

13 MS. FERRARA: So what is the basis for the
14 litigation, Judge Toskos --

15 MR. SURENIAN: We didn't try South
16 Brunswick. We tried Mercer.

17 MS. FERRARA: Okay. You are the attorney
18 of record on the decision, Judge Wolfson?

19 MR. SURENIAN: No. I was not. I
20 challenged Judge Wolfson's decision which is another
21 matter altogether.

22 MS. FERRARA: You
23 represent South Brunswick?

24 MR. SURENIAN: Not in that trial. I
25 represent them now challenging Judge Wolfson's right

1 to make those decisions but I did not represent South
2 Brunswick in that trial.

3 MS. FERRARA: Is that on appeal?

4 MR. SURENIAN: No, it's not on appeal
5 because the case is, still hasn't reached a final
6 judgment yet.

7 MS. FERRARA: Okay. Are there any other
8 towns in New Jersey, besides South Brunswick, that
9 have reached that stage of litigation?

10 MR. SURENIAN: The closest one is Mercer.
11 We're awaiting a decision of Judge Jacobson. The
12 trial ended mid June and I would expect that we'll
13 have a decision by the end of the year.

14 MS. FERRARA: So basically three out of
15 the 565 towns have voted (inaudible) so far.

16 MR. SURENIAN: Well, even now in the South
17 Brunswick case it was one town was at trial. In the
18 Mercer case, it was for all the Mercer County towns.

19 In the Bergen case, right now, it's just one
20 town, Park Ridge.

21 MS. FERRARA: Okay. What is the basis for
22 anyone's belief that Judge Toskos would order that
23 1,000 units be built on the Mercedes-Benz property?

24 MR. SURENIAN: I, I have never said that
25 Judge Toskos would order 1,000.

1 What I would say is in the trial it is possible
2 that Judge Toskos is going to order that you satisfy
3 your obligation and we could have such a large RDP
4 that you would have to use that site to evade the
5 chance -- if that site was slated for development it
6 would be all residential. There wouldn't be a mix of
7 non-residential and residential because the developer
8 could say I want to use all of my site for
9 residential. And we'd be fighting for a thousand, we
10 would be fighting for a lower number. It would be a
11 lot more than 350.

12 MS. FERRARA: And if it were more than
13 350, there would be no commercial aspect.

14 Right?

15 MR. SURENIAN: Right.

16 MS. FERRARA: So it's not necessarily that
17 the (inaudible) it's either a thousand apartments or
18 370 apartments plus a bunch of retail, hotel and those
19 other things. It's really something more in the
20 hundreds, something above 300 less than a thousand but
21 no commercial.

22 MALE SPEAKER: Yes.

23 MR. SURENIAN: So, so, yeah. I mean it's
24 350, first of all, and a thousand but when you say a
25 thousand that's only Mercedes-Benz. There was also

1 Glenview, so it's really a thousand fifty, what it
2 shakes out to, what it translates out to, what it ends
3 up costing in litigation between 5, 600, a thousand,
4 whatever we negotiate down that is, yes, the proper
5 way to think of this is all residential versus mixed
6 use, apples to apples or --

7 MALE BOARD MEMBER: (Inaudible) I would
8 expect in litigation, residential to 1,000 or lower
9 density and we're now in the judge's hands.

10 (Inaudible).

11 MS. FERRARA: How many were (inaudible) on
12 Mercedes Benz?

13 MR. SURENIAN: I don't know the number
14 offhand. I'm guessing 22, 25, something like that.

15 MALE BOARD MEMBER: 23.

16 MR. SURENIAN: The engineer indicated 22
17 acres so I was in the ballpark.

18 MS. FERRARA: Okay. How many units are
19 you proposing per buildable acre?

20 MALE SPEAKER: (Inaudible).

21 MR. SURENIAN: What, what's it now, 350
22 units between the developer -- well, there's only 308
23 on Mercedes so 308 divided by 22 --

24 MALE SPEAKER: (Inaudible).

25 MR. SURENIAN: 308 divided by 22.

1 MALE BOARD MEMBER: (Inaudible).

2 MALE SPEAKER: 14 units an acre on
3 developable property.

4 MR. SURENIAN: 14 units an acre on
5 developable property.

6 MS. FERRARA: So the 350 building
7 (inaudible) on the 22 acres or is the commercial part
8 the 22 acres you're talking about?

9 MR. SURENIAN: The commercial is probably
10 22 acres.

11 MS. FERRARA: So how many acres is
12 reserved for the 350? (Inaudible)

13 MALE BOARD MEMBER: I don't know if we got
14 the plans (inaudible).

15 MR. SURENIAN: You have a concept plan.

16 MALE BOARD MEMBER: Actually (inaudible)
17 plan.

18 MS. FERRARA: So it's not 14 actually
19 units per acre because within 22 that you have
20 (inaudible) commercial.

21 MR. SURENIAN: Yes.

22 MS. FERRARA: Okay.

23 MALE BOARD MEMBER: Commercial (inaudible)
24 residential. I think -- I'm not the developer. But
25 one would thing, the reasoning is residential above

1 commercial (inaudible).

2 MS. FERRARA: Shouldn't we notice
3 (inaudible) prepared to enter into a settlement?

4 MR. SURENIAN: We -- there's been a
5 concept plan. We've been presented that concept plan
6 before. It's been -- it was here before, you know.

7 MS. FERRARA: Okay.

8 MAYOR GHASSALI: Do me a favor, let's hear
9 from more people and then you can come back again. I
10 promise you.

11 MS. FERRARA: Sure.

12 MAYOR GHASSALI: Anybody else?

13 Good evening.

14 MR. BUCKNER: Good evening. My name is
15 Dan Buckner, (phonetic) Cole Schotz. I don't have a
16 problem with anything that was said today. Everything
17 is a hundred percent accurate and I'm sure the
18 business implement is the right thing to do.

19 The problem I have is that the number of housing
20 that's being forced upon us keeps going up. And some
21 developer comes in, picks a piece of land and forces
22 us to be right in this situation where we are now.

23 So, I, I don't see how this is ever going to
24 stop if we continue to give in to the developer and
25 after developer, after developer and I think we should

1 in (inaudible) with Park Ridge before that idiot
2 Toscos decides to kick in and allow that to happen. I
3 don't know how he could do that, frankly. It seems to
4 me if two towns have the same problem why shouldn't
5 they be able to litigate it together.

6 MR. SURENIAN: There, there is something
7 that is significant about what you said that I'd like
8 to respond to about, you know, how does a community
9 take control so that it's not beholding to any
10 developer that comes along. And the answer to that
11 question is you try to get this case to the point
12 where there's a final judgment.

13 In the Mount Laurel case the final judgment is
14 called the Judgment of Repose and it is that judgment
15 that you use to try to defend you if other developers
16 come along. It's possible that there may be changed
17 circumstances even after you get a final judgment and
18 you have to deal with the developer. But if you have
19 that Judgment of Repose in hand, that's a very
20 powerful weapon to insulate you from any developer
21 that would try to leverage you.

22 And even under that circumstance, if you had to
23 recalibrate your number, the Judgment of Repose would
24 entitle you to decide how to meet that additional
25 number. It would not give the developer the leverage.

1 That's why you want to get this case settled, you want
2 to get it to the point where it's settled with
3 everyone and the judge enters an order and says, I
4 declare you have satisfied your obligations to 2025.

5 MR. BUCKNEL: To 2025. Thank you. In
6 seven years we'll be right back here talking
7 (inaudible).

8 MR. SURENIAN: That, that is the nature of
9 this beast.

10 MR. BUCKNEL: That's, that's my point.
11 The beast is not going away. It's just pushing you
12 off into the future.

13 MR. SURENIAN: Look the one thing that I
14 would say to you is I'm shocked that there hasn't been
15 Mount Laurel legislation, you know. The realtor is,
16 the legislature, if you want to change the structure
17 of the laws right now which every 10 years you get a
18 new number and you have to deal with it.

19 MR. BUCKNEL: Well, maybe we need to be a
20 little more (inaudible). I don't know what the answer
21 is, is here. But as far as I'm concerned, the
22 developer is going to come in, maybe you should be
23 outside and not let him come in.

24 I don't know. It just seems to me it's got to
25 stop at some point.

1 MR. SURENIAN: Well, I think what you need
2 to do is you need to get ahold of the situation in
3 front of you right here right now. And unless you
4 want to be part of a larger movement to change the
5 laws of the State I'm all for it. I think that the
6 laws are unreasonable. I think we have come a long
7 ways from what was ever intended.

8 MAYOR GHASSALI: Thank you, Jeff.

9 MR. BUCKNEL: Thank you.

10 MAYOR GHASSALI: Thank you.

11 FEMALE SPEAKER: Hello. How are you. My
12 name is Anne (inaudible) and I live on (inaudible)
13 Road. What I am here (inaudible) about getting
14 figures, started asking non rentable units. First 308
15 and then there's another --

16 MR. SURENIAN: Let me give you the
17 numbers.

18 FEMALE SPEAKER: So --

19 MR. SURENIAN: Hold, hold on. I wrote the
20 numbers down.

21 FEMALE SPEAKER: That's okay. (Inaudible)
22 about.

23 MALE BOARD MEMBER: (Inaudible).

24 FEMALE SPEAKER: Okay. With that --

25 MR. SURENIAN: Yeah. Let me, let me

1 repeat it again. The 350 is a number on both sites,
2 Mercedes and Glenview.

3 FEMALE SPEAKER: Total?

4 MR. SURENIAN: 350 is total count.

5 FEMALE SPEAKER: 308.

6 MR. SURENIAN: Let, let me just finish
7 this. You are getting confused. Let me clarify that.

8 350 is the total number on both sites.

9 MALE BOARD MEMBER: Total combined
10 numbers.

11 MR. SURENIAN: It's everything.

12 FEMALE SPEAKER: 350 that's real
13 definitely (inaudible).

14 MR. SURENIAN: Hear me out. Let me just
15 finish.

16 MALE SPEAKER: Let him finish.

17 MR. SURENIAN: 308 on Mercedes.

18 FEMALE SPEAKER: Um-hum.

19 MR. SURENIAN: 42 on Glenview. The split
20 from market to affordable on Mercedes 264 market, 44
21 affordable. The split from market to affordable on
22 Glenview, 33 market, nine affordable. Okay.

23 FEMALE SPEAKER: Are they all rentals?

24 MR. SURENIAN: The Glenview site is either
25 going to be for sale or for rent. We don't know yet.

1 The Mercedes site is a rental project.

2 FEMALE SPEAKER: So you're going back to
3 the numbers I just gave you. The 308 are definitely
4 rentals.

5 MR. SURENIAN: That's my understanding.

6 FEMALE SPEAKER: All right. So can, just
7 can I mean (inaudible).

8 MR. SURENIAN: Okay.

9 FEMALE SPEAKER: (Inaudible).

10 MR. SURENIAN: Okay.

11 FEMALE SPEAKER: The only thing you start
12 out by saying -- I did a calculation -- there was
13 going to be 14 units per acre not including the
14 commercial. So we're talking approximately four
15 stories?

16 MR. SURENIAN: I believe that's the case.

17 FEMALE SPEAKER: What are the -- how many
18 bedrooms are the units? How is this (inaudible) how
19 many legalities (inaudible) I am very aware of
20 (inaudible) schools so how many bedrooms are going to
21 be (inaudible).

22 MR. SURENIAN: The, the affordable units
23 there's a formula that the developer has to comply
24 with. No more than 20 percent of the affordable units
25 can be three bedroom units and I believe that it's no

1 more than 20 percent can be one-bedrooms and then the
2 rest can be two-bedrooms is I believe where the
3 numbers come out on the affordable.

4 FEMALE SPEAKER: The average is
5 two-bedrooms?

6 MR. SURENIAN: Whatever that -- I don't
7 know exactly what the average is but it's always 20
8 percent three-bedrooms that the formula requires and I
9 believe there's a 20 percent limit on how many
10 one-bedrooms.

11 FEMALE SPEAKER: (Inaudible) pretty much
12 even and then the rest would be --

13 MR. SURENIAN: Yeah. That's what I would
14 anticipate.

15 FEMALE SPEAKER: So that is a very likely
16 (inaudible) on our school system because is that
17 something we need to consider because you're saying
18 2025 (inaudible) our Housing Center in 2025
19 (inaudible) and again between what you said here --

20 MR. SURENIAN: You have twice as many
21 residential units on that site at the end as you do
22 now it's (inaudible) impact.

23 FEMALE SPEAKER: Correct. And we don't
24 have the room for that.

25 MR. SURENIAN: Unfortunately, they can't

1 go to the court and say our schools can't take it,
2 reduce my number. That's not part of the law.

3 FEMALE SPEAKER: I understand that but,
4 again, (inaudible) my numbers and I'm thinking
5 financially we're paying for the (inaudible) as well.

6 MR. SURENIAN: Yeah. Well, it's a, it's a
7 fair consideration. You have every right to, to be
8 concerned about that and that is a concern that, that
9 we, as a community, would have in trying to limit to
10 the extent we can the total number of units.

11 FEMALE SPEAKER: (Inaudible).

12 MAYOR GHASSALI: Thank you. (Inaudible).

13 Good evening.

14 MALE SPEAKER: Mr. Mayor. (Inaudible)
15 road.

16 I have a question. You said 350 units to be
17 used as affordable total. The Board is (inaudible)
18 Mayor and Council voted on it their resolution
19 tonight, I have a copy of the resolution (inaudible).

20 MR. SURENIAN: Right.

21 MALE SPEAKER: It says the (inaudible) 70
22 units. So if the council was going to vote on this I
23 would like --

24 MR. SURENIAN: Let me, let me --

25 MALE SPEAKER: Excuse me. Could I finish?

1 MR. SURENIAN: Sure.

2 MALE SPEAKER: To match your numbers so
3 that we're not approving 70 units instead of
4 (inaudible).

5 MR. SURENIAN: Okay. Let me explain.
6 There is a different standard that's used to determine
7 the set-aside from the standard that's used to
8 determine what's called the RDP that the site would
9 generate. The standard that's used to used to
10 determine the RDP for the site is 20 percent of the
11 units. That's why the resolution says 70. That's why
12 it has to say 70. We're getting 53 units but what
13 those 53 units are is the rental units so those units
14 will be eligible for a rental bonus. And it is
15 possible that we'll end up with even more credits than
16 70 as a result of the rental bonus.

17 MALE SPEAKER: Okay. My suggestion
18 (inaudible) because there is the nothing in the
19 resolution that the council is going to vote on
20 tonight that says 53 units rental (inaudible) sale.
21 (Inaudible). It just says 70.

22 My feeling is when you vote on something the
23 number that you're approving or denying should equal
24 the same number.

25 MR. SURENIAN: I'll take another look at

1 the resolution before the vote is taken and if there's
2 any issue with it, I'll make sure it's correct. The
3 RDP attributable to the site is 70, the number of
4 units that will be generated by the project is 53. To
5 the extent --

6 MALE SPEAKER: (Inaudible).

7 MR. SURENIAN: To the extent that that's
8 not clear in the resolution, I am providing you my
9 personal assurances and I'll make sure that it's
10 clear.

11 MALE SPEAKER: Will it be (inaudible).

12 MR. SURENIAN: Yes. That's what I just
13 said.

14 MAYOR GHASSALI: Thank you.

15 (Inaudible)

16 MR. SURENIAN: Okay. You know, you know,
17 let me just get to this. I, I'm thinking I have a
18 follow-up comment to the comment I just said about the
19 RDP. The RDP, if there's 350 units is 70. Heaven
20 forbid that the developer got a thousand units, the
21 RDP for this site would be 200 units. So, so
22 (inaudible).

23 FEMALE SPEAKER: (Inaudible).

24 MR. SURENIAN: So one of the values of
25 this settlement is it fixes the RDP attributable to

1 the site. So it facilitates your ability to get
2 certainty on the adjustment to which you are entitled
3 to. It's very significant because whether your RDP is
4 200, 400 or 73 is, is determines what -- how much of
5 an adjustment you have and how much you have to do so
6 it is, so it is extremely important and valuable that
7 that RDP be fixed at 70 and essential and non
8 severable condition of the agreement is that the court
9 rules that we get is only 70 unit RDP from that site
10 not a bigger RDP.

11 FEMALE SPEAKER: Hi.

12 MR. SURENIAN: Hi.

13 FEMALE SPEAKER: (Inaudible) I wanted to
14 clarify -- I understand set 20 percent of the
15 affordable (inaudible).

16 MR. SURENIAN: There's not a limit on the
17 market. The Mount Laurel laws don't limit the bedroom
18 mix on the market.

19 FEMALE SPEAKER: (Inaudible) I'm asking
20 about what's in the proposal. (Inaudible)

21 MR. SURENIAN: There's just a concept plan
22 at this point. There's, there's not a specific number
23 of bedrooms as far as, as far as I know.

24 FEMALE SPEAKER: And the (inaudible).

25 MR. SURENIAN: Well, there's an ordinance.

1 The ordinance will be introduced. It will then be up
2 for a hearing at which point it will be a hearing on
3 the ordinance and once it's adopted it will set the
4 standards but it's not going to limit bedrooms. It's
5 going to limit things like height, setbacks, bulk, all
6 those kinds of things.

7 FEMALE SPEAKER: So there is
8 (inaudible) developer (inaudible).

9 MR. SURENIAN: It, it always is up to the
10 developer. I'm not aware of any, of any case where
11 someone limited the bedroom mix on the market units.

12 FEMALE SPEAKER: I personally think Mr.
13 Del Vecchio is doing a fine job
14 (inaudible) representing the Borough of Montvale.

15 MR. SURENIAN: I am. And if you were my
16 sister, I would tell you to make this deal.

17 MAYOR GHASSALI: (Inaudible).

18 MS. MORRIS: Morris (inaudible) Road. You
19 talked about there is some favorable agreement
20 (inaudible) doing the rental versus purchase.

21 MR. SURENIAN: Okay.

22 MS. MORRIS: Just explain again
23 (inaudible).

24 MR. SURENIAN: Okay. So let's say that we
25 end up with an RDP -- are you familiar with that?

1 Okay. So let's say we end up with an RDP of 200 when
2 the smoke clears the battle field. 25 percent of that
3 number must be rental. So that means that we could
4 get, rental bonuses for up to 50 units. So this
5 project would generate at least 44 rental units on the
6 Mercedes site which would be which, which could
7 generate a rental bonus depending upon the ultimate
8 RDP.

9 MS. MORRIS: Let just say Montvale
10 (inaudible) said to Hekemian (inaudible) purchase
11 condos. And you had 350 units, what number would be
12 affordable (inaudible) 15 percent? What is that?
13 (Inaudible).

14 MR. SURENIAN: If 20 percent of the units
15 were for sale?

16 MS. MORRIS: What I'm trying to say is why
17 are we making the same deal that we turned down in
18 May?

19 MR. SURENIAN: You're making a better deal
20 than you turned down in May.

21 MS. MORRIS: Let me just say (inaudible)
22 scale of the project is five floors is too much, we
23 don't know. It could be four floors. We still don't
24 know what the total (inaudible) is. It's all rental
25 it was all rental before.

1 What my dream project would be and I know
2 (inaudible) get developed here is, why can't we have
3 350 purchased condos, have some percentage of them be
4 affordable at both sites? Why should we (inaudible)
5 you know, even if the number if we went back and said,
6 you know, there are 65 units in affordable at Glenview
7 and Mercedes let's have (inaudible) because it's all
8 purchased, let's say the affordable number of units is
9 30, is half, I still think it's a better deal.
10 Because, because just as that gentleman said, we're
11 going to (inaudible) five years, 10 years, we sold the
12 Sony property. We have Annie Sez (inaudible) there
13 are buildings all over the place. Why can't we just
14 make, you know, a stand here or at least I don't want
15 to say a stand enter into a mutually beneficial
16 agreement with Hekemian which benefits the town by
17 making a purchased condos and not rental. Rental
18 takes it down a very different path (inaudible).

19 Is that possible?

20 MR. SURENIAN: At this point I don't think
21 it's possible. And the reason why I say that is
22 because we've come in at the tail end and we've
23 reached a point in the negotiations where the
24 developer has said this is it. I've been negotiating.
25 I'm done negotiating. This is it. If you want it,

1 I'll live up, I'll live up -- I'll give my word, I'll
2 implement this deal. If you don't want it, I'm going
3 to court.

4 So we can't tell the developer don't go to
5 court. The developer has made it very clear that he's
6 out of patience. You know, his lawyers are probably
7 whispering things in his ears that are encouraging him
8 to litigate and, and we think that there is great risk
9 in litigation. That's why we, that while we litigate
10 these things all over the State we think it's very
11 risky to get yourself in a litigation mode. We think
12 there's great risk of losing control of your
13 community.

14 MS. MORRIS: Again, let me just ask you,
15 have you ever (inaudible) Hekemian and asked for an
16 agreement that (inaudible) that involved condos and
17 not rentals? Did we ever ask him that? Did we ever
18 enter into a discussion about this?

19 You know, I hear what you're saying and, you
20 know, I don't know. It's game over (inaudible) I mean
21 I --

22 MR. SURENIAN: You know why I think it's
23 game over? It's game over if you lose control, if you
24 lose your immunity or, or if they argue --

25 MS. MORRIS: It doesn't matter because,

1 because you're going to come back and it's going to be
2 (inaudible). It's going to be this one (inaudible) so
3 we made a deal with the devil instead of crushing him,
4 moving forward you (inaudible) you can't get this
5 genie back in the bottle.

6 You have an opportunity here. I wish they would
7 be good neighbors and come to the table and say,
8 listen, you know, we were saying we would like to do
9 something that's perhaps more in keeping with, with
10 this community. You know, it's too bad. I don't know
11 why we haven't had this conversation unless you say,
12 yes, we did (inaudible).

13 MR. SURENIAN: We did. We did, as a
14 matter of fact, as of 2:00 this afternoon, we were in
15 conversations. We were trying to make a deal.

16 MAYOR GHASSALI: We were trying to make it
17 palatable as much as we can. But he would not budge.

18 This is it. This is the ultimatum. Either we
19 vote on this or (inaudible). We have been calling.
20 Jeff has been talking to him. Most of us have -- any
21 member of the council here spoke to Jeff Surenian and
22 we try to get to the developer to try to come up with
23 something that we can live with and he is not budging.

24 MS. MORRIS: Thank you.

25 MALE BOARD MEMBER: (Inaudible).

1 MAYOR GHASSALI: Okay. So, Jeff or Mike.

2 MR. SURENIAN: Okay.

3 MAYOR GHASSALI: Thank you.

4 Anybody else? Your name.

5 FEMALE SPEAKER: (Inaudible).

6 MAYOR GHASSALI: Thank you. Anybody else?

7 Name.

8 THERESA: Theresa (inaudible) Well, first
9 of all -- the first thing I'm going to ask (inaudible)
10 I know this develop (inaudible) development has been
11 (inaudible) I hear about the 350 units and I haven't
12 heard anything that (inaudible) what their going to
13 get. 90 percent (inaudible).

14 (Inaudible)

15 MALE BOARD MEMBER: Okay. Do you know
16 what the mix (inaudible) is on non-residential
17 development. (Inaudible).

18 FEMALE BOARD MEMBER: It will sit right
19 there.

20 MALE SPEAKER: That: --

21 MALE BOARD MEMBER: Speak into the mike.

22 MAYOR GHASSALI: Councilman.

23 FEMALE SPEAKER: Just go ahead.

24 THERESA: Can you hear me now?

25 FEMALE BOARD MEMBER: Yes. Thank you.

1 THERESA: Okay. Thank you. My name is
2 Theresa Volk, 26 McGuire Court and I started to say
3 that I know there's going to be 350 units and all of
4 that of which I believe you said 54 would be the
5 affordable homes.

6 MR. SURENIAN: 53.

7 MS. VOLK: 53. And how much does that
8 satisfy of what we need to do in town?

9 MR. SURENIAN: That's a 15 percent set
10 aside.

11 MS. VOLK: 50.

12 MR. SURENIAN: 15.

13 MS. VOLK: 15. 15, one five. Okay.

14 We're talking about what the censorship of the
15 property that's going to be built on with these 350,
16 if only 53 of 15 percent is going to be affordable
17 housing. So thank you very much developers for
18 significantly taking care of that for us.

19 MALE BOARD MEMBER: Yeah. (Inaudible).
20 The development that you're discussing right now, 15
21 percent of the 350 set aside for affordable. That's
22 (inaudible).

23 MS. VOLK: That's the right question.

24 MR. SURENIAN: The total re-- I would say
25 this, in a litigation mode the Fair Share Housing

1 Center will argue that the total obligation for Round
2 3 of town is 779.

3 In a settlement mode, the Fair Share Housing
4 Center will say that the settlement number is 545.
5 You know their standard position in settlement is 30
6 percent off. Our expert says that the number is 548.

7 MS. VOLK: Okay.

8 MR. SURENIAN: So, you know, so if you can
9 wrap up this, wrap up Cornrock (phonetic), wrap up
10 Fair Share Housing Center you can get a fair share
11 number that would be the best you could hope for if
12 you had this 41 days of trial and won every argument.

13 MS. VOLK: Okay. Now the property size of
14 these 350, I think I brought this up the last time.
15 I'm still kind of not understanding this big picture.
16 I'm still not understanding the (inaudible) --

17 All right. Thank you.

18 I'm still not understanding this big picture.
19 This is a very large piece of property.

20 MR. SURENIAN: Okay.

21 MS. VOLK: Again, we're back to where we
22 were the last time but we are only talking about 8
23 percent of the land. All right. So we have 93
24 percent where the property still has to be developed.

25 Has anything changed as to what they are going

1 to be able to get to satisfy this? I suppose now
2 we're back to the (inaudible) what you said, 10, 15
3 percent number or it's even lower than that.

4 What are they getting out of this deal? Are
5 they still building banks and something, interested in
6 the hotels and stuff like that?

7 MR. SURENIAN: Yes but it's a mixed use
8 project.

9 MS. VOLK: Okay.

10 MR. SURENIAN: So they're getting a
11 residential yield count and they're getting non
12 residential.

13 For example --

14 MALE BOARD MEMBER: (Inaudible) example.

15 MS. VOLK: Thank you.

16 MR. SURENIAN: Yeah. I was about to read
17 from the ordinance.

18 MALE BOARD MEMBER: Just (inaudible).

19 MR. SURENIAN: Yeah. The principal,
20 permitted principal uses minimum 40,000 square feet of
21 professional, medical, educational and general
22 offices. Hotel with a minimum of 150 rooms and 8,500
23 square feet of conference room and retail component
24 with a minimum of 30,000 square feet in the aggregate
25 inclusive of -- I can go through the list if you want.

1 MS. VOLK: No. I understand you don't
2 need to go -- a lot of people got the picture. I
3 think you may --

4 MR. SURENIAN: Okay.

5 MS. VOLK: I think what I want to see the
6 ratio was 350 units as compared to what they're
7 developing, how much of the property is that? That's
8 92 percent. We're getting only 8 percent being built
9 for the affordable homes.

10 Correct?

11 MR. SURENIAN: I don't know.

12 MS. VOLK: Did you understand the line --
13 what they're developing, all right, they really are
14 only satisfying about 10 or 15 percent of the units of
15 affordable housing. They're getting a lot out of this
16 deal from us. I'm still kind of lost in this picture.

17 MR. SURENIAN: Okay. Hold on. Hold on.

18 MS. VOLK: I still don't understand. So
19 if --

20 MR. SURENIAN: So just quickly. If there
21 were 53 affordable let's say for argument's sake your
22 RDP was 212.

23 MS. VOLK: Right.

24 MR. SURENIAN: That would mean you are
25 eligible for 53 bonus credits.

1 Right?

2 MS. VOLK: Right.

3 MR. SURENIAN: So we would be getting 106
4 credits towards your RDP, in the context of your RDP,
5 50 percent of your RDP.

6 MS. VOLK: All right. Okay. Well my
7 point is this. I understand. I just --

8 My point is this I just don't see how this is a
9 fair share for Montvale. All right. Such a large
10 piece of the property is going into retail value for
11 their profits. Plus I, personally, am looking at the
12 hotel that's on my side because that's what I'm
13 involved.

14 There was a meeting last night in two hotels. I
15 work with one of the hotels, all right, and I'm going
16 to say it again, all right, we have, we have 184
17 rooms, we have (inaudible) over 200 rooms, people at
18 these hotels have put almost \$8,000,000 in
19 renovations. All right. The occupancy is
20 significantly down. All right. And now you're going
21 to start building another hotel and more retail.

22 You're going to start putting people out of
23 work. And I think that needs to be looked into also
24 as well as (inaudible). It really needs to be
25 seriously considered.

1 There's not one iota of marketing statistics as
2 far as all of these retails coming in, Wegman's opened
3 but you didn't open restaurants, you didn't open
4 anything else that's on that property. We still don't
5 know what's going to happen. All we have is one store
6 open. The entire property not opening up yet.

7 So traffic is not an issue yet because we still
8 don't know what's going to happen. Mercedes I hear
9 all of this about, 90 percent of the land, all right,
10 that's going to be developed on for, I don't think
11 much of a return to Montvale. All right.

12 Beautiful property that has incredible trees
13 that all we can see is pictures of big apartment
14 buildings and retail. There's no discussion on what
15 we'll get in return not just in the homes but on a
16 ground level as well. All I see a (inaudible)
17 developer saying you need help, we're going to give
18 you two but we're going to take so much more from you.
19 And we don't care. This is what I see.

20 I don't hear anything about, anything about
21 taking care of the look and the feel of Montvale.

22 We are not Fort Lee and I will fight to the
23 death to not be Fort Lee so enough with this and let's
24 take care of what we need to take care of as far as
25 the way this town looks, sounds and feels.

1 We're not even close to what's going to happen
2 when all of the Wegman's retail opens up. God knows
3 we don't need another bank. All right.

4 So, fine, you made your negotiations but I don't
5 hear anything about how it's going to look. I don't
6 hear anything about how it's going to effect the
7 traffic. I don't hear (inaudible).

8 I'm not worried about having more students. We
9 have a good town. We have a good school system.
10 (Inaudible) kids going to get to school. How are they
11 going to get to school?

12 Again, we're talking about 8 percent of our
13 property being built for us, big deal. They're still
14 getting 90 percent, what it's going to look like,
15 what's going to happen. All right.

16 Are businesses going to come in? This is
17 (inaudible) in the town and everyone (inaudible) so
18 many ships that we're all going to drown together. I
19 don't think any of that was taken into consideration
20 in this retail.

21 That's all I have to say.

22 MAYOR GHASSALI: Thank you. You're next.

23 MR. TALBOT: Good evening. Hi. Jerry
24 Talbot (inaudible) here in Montvale. I want to make
25 sure I heard you correctly. The (inaudible) the total

1 number of units here is, total 350 give or take.

2 Is that correct?

3 MR. SURENIAN: 350 on the money.

4 MR. TALBOT: Okay. How many units are
5 currently in Montvale? How many homes, units? About
6 2,000?

7 (Inaudible)

8 MR. TALBOT: So has anyone here ever heard
9 of a 10 percent increase in the number of units in the
10 town with one development?

11 Is that normal in these projects because I have
12 never heard of that.

13 MALE BOARD MEMBER: Yes.

14 MR. TALBOT: In New Jersey?

15 MR. SURENIAN: Yeah.

16 MR. TALBOT: So we're going to increase
17 our properties by 10 percent based on our developer at
18 least.

19 MR. SURENIAN: It happens. You know it's
20 not, it's not --

21 MALE BOARD MEMBER: But the answer is yes.

22 MALE SPEAKER: But it's not an unusual
23 thing.

24 MR. TALBOT: And our schools already have,
25 the highest level it ever did in the history of

1 Montvale. In fact, I was told so is it possibly true
2 that we're at or near capacity in all our public
3 schools. And (inaudible) increase that by 10 percent
4 as well in basically about two years in the time it
5 takes to do this whole development, give or take,
6 Dereck. Give or take?

7 DERECK: We don't know. It could happen
8 five years from now. I don't know.

9 MR. TALBOT: Two years to build condos,
10 houses, apartments.

11 MALE SPEAKER: I don't know.

12 MR. TALBOT: So how long is it going to
13 take to increase the size of the schools to
14 compensate? (Inaudible) how long until the schools
15 are expanded (inaudible). Because the way I see it
16 three years from now we're going to have 350 units,
17 the schools are going to be 10 percent busier, it's
18 not going to be until about eight or nine years until
19 the schools catch up in size. I don't know about
20 anyone else but my kids only go to each grade once so
21 by the time school is expanded it's too late for them.

22 MR. SURENIAN: Look. The consequence of
23 not making this deal is you could have substantially
24 more units so the very concern that you have with the
25 influx of school age children could be dramatically

1 worse.

2 MR. TALBOT: Is the State court system
3 perfectly willing to say that it doesn't matter
4 (inaudible) schools (inaudible).

5 MR. SURENIAN: Yes. The State court
6 system says exactly that, we don't care about your
7 schools. That's what the State court says. That's
8 what your laws say.

9 MR. TALBOT: Because we are not close to
10 full, we are full.

11 MALE BOARD MEMBER: We are not all full.
12 Just for the record the information we have from the
13 superintendent of both schools is that we are on a
14 decline for the next five years but after five years
15 they are expecting it to go back up again.

16 MALE BOARD MEMBER: Hold on. Let's back
17 up. So in terms of the school statistics this not me
18 offering an opinion. This is just factual
19 information. So the school enrollment over the past
20 four or five years you saw a dip across Bergen County.
21 Not just in Montvale.

22 The reason why you saw that dip in enrollment is
23 because it coincided with the recession in 2009, 2010,
24 people stopped having children. So nationwide birth
25 rates were at all time lows.

1 Those children who would have been born in 2009,
2 2010, 2011 were children who were coming into schools.
3 So my son was in fifth grade in school or is
4 currently. When he started kindergarten there were 85
5 children in his class. He's now in fifth grade.
6 There are over a hundred.

7 When you look at the current, I think, second,
8 third and fourth grade, they started at around 80 and
9 they have increased as, as residents have moved in. I
10 believe the current kindergarten class I have twins in
11 kindergarten is 120. Is 120. So 80 children six
12 years ago in kindergarten, 120 now.

13 MR. TALBOT: So that's a 50 percent
14 increase.

15 MALE BOARD MEMBER: So just in terms of,
16 again, factual information, that's consistent across
17 Bergen County.

18 Speaking to the question about schools, you
19 know, I work in Fair Lawn. I'm a school
20 administrator. We are currently planning for a
21 \$25,000,000 referendum to add 16 classrooms to our
22 middle schools to accommodate for the influx that
23 we're currently seeing and the influx that we
24 anticipate and that, that cost will be passed along to
25 the taxpayer.

1 MR. TALBOT: Taxpayers and proportionally
2 the (inaudible) is it fair to say that the taxpayers
3 that are here now pay a higher percentage of that than
4 people who are --

5 MALE BOARD MEMBER: I'm not offering an
6 opinion whether it's right or wrong. Factually,
7 that's correct. That's the reality of the situation.

8 MR. TALBOT: The people, proportionately
9 350 units are not going to pay proportionately the
10 cost of the schools.

11 MALE BOARD MEMBER: I don't think it's
12 fair.

13 In speaking with the superintendent to
14 accommodate for and then anticipated increase in, in
15 enrollments. Let's say enrollment increased by a
16 hundred to 200 students you are probably looking at
17 adding six to eight classrooms at Memorial and six to
18 eight classrooms at Fieldstone. Memorial you would
19 build up on the kindergarten wing and at Fieldstone
20 you would build out on the grass area between the
21 building and the turf. That's, again, just factual
22 information, conversation.

23 That would roughly cost anywhere from 20 to
24 \$25,000,000 because, remember, you're not just
25 building classroom space when you add students,

1 science labs, cafeteria to accommodate multipurpose
2 rooms so it's not just classroom space. It's, it's
3 all of the other pieces that go along with it.

4 MR. TALBOT: So just quick math, 2,000,
5 each household will be on the hook for 3,035 hundred
6 by the time development happens.

7 MALE BOARD MEMBER: So 3,500 to \$4,000
8 residents would be on the hook for \$25,000,000.

9 And, remember, the school board can't just spend
10 that money. They have to go out for referendum and
11 they have to get the public to vote to be able to
12 spend that money. So if the public votes it down
13 you're stuck with the space that you have.

14 MR. TALBOT: Does anyone see an issue
15 where -- hypothetically to 10 percent of the tax
16 increases by this development and another 10 percent,
17 five years or seven years because of the development,
18 maybe because they're rentals, they are using schools.
19 They don't live here permanently. They vote no for
20 the expansion and those of us here who want
21 (inaudible) we can't have that option.

22 MALE BOARD MEMBER: It's a definite
23 concern. It's a definite concern not just in Montvale
24 but anywhere you're doing the school referendum you
25 need to sell it to the public.

1 MALE SPEAKER: I think you need some
2 perspective here. And let me just give you some
3 perspective. You're focusing on one aspect of this.
4 (Inaudible) and I don't, I don't need to, I don't --
5 look, I don't mean to minimize the, the significance
6 of the concern. I do not mean to minimize it but I do
7 mean to put it in context.

8 Here's the context. This is the law in Mount
9 Laurel. You comply voluntarily or you comply
10 involuntarily. So, so, so, so let me just, let me
11 explain what that means.

12 Let's say that you tell every developer that
13 comes along, we don't want you. We're not going to
14 comply because whether you do it on this site or
15 whether you do it on the other site, you have the
16 identical problem that you put your finger on. So
17 your options to deal with your problem is to say no to
18 Mount Laurel, to say we don't, we don't want anymore.

19 MR. TALBOT: That's, that's my final
20 question. If we were to litigate this indefinitely --

21 MALE BOARD MEMBER: Right.

22 MR. TALBOT: -- as far as far as we
23 possibly can, we say no to what the cost, (inaudible),
24 what's the cost in dollars, what's the cost of that,
25 how, how much would we have to pay?

1 MALE SPEAKER: Depends. A thousand units,
2 it cost a lot more.

3 MR. TALBOT: No. The PO --
4 (Speaking at the same time.)

5 MALE BOARD MEMBER: Hold on.

6 MAYOR GHASSALI: Hold on. Hold on. Hold
7 on, guys.

8 Can you just put the question to me, the Chair,
9 and I'll point the question to --

10 MR. TALBOT: What is the theoretical cost
11 per year.

12 MAYOR GHASSALI: Based on some of the
13 towns we have heard, a half a million dollars.

14 MR. TALBOT: I'm sorry. Say it again.

15 MAYOR GHASSALI: A half a million dollars.

16 MR. TALBOT: Half a million dollars a year
17 to fight?

18 MAYOR GHASSALI: Jeff is that, is that
19 (inaudible).

20 MR. SURENIAN: You could easily spend a
21 half million dollars to litigate just the Fair Share
22 issue. And then, and if you lost your immunity you
23 could be fighting multiple builders remedy lawsuits.
24 And, and that cost would be substantial because if I
25 could describe what a developer's proposal is in a

1 builder's remedy lawsuit, the word is shameless,
2 they're outrageous and towns dig in and they fight and
3 it's a long, expensive battle where the playing field
4 is totally against you.

5 MAYOR GHASSALI: Okay.

6 MR. TALBOT: Okay. Thank you.

7 FEMALE BOARD MEMBER: I have something
8 nice to say first, to thank Mr. Hekemian for building
9 and developing Wegman's for us. We fought for
10 Wegman's because we didn't want apartments on that
11 site. We fought for Wegman's because it would bring
12 revenue to the town and it is (inaudible) million
13 dollars. We fought because Wegman's is going to be a
14 community minded citizen and they are.

15 We fought for Wegman's because it was going to
16 offer jobs and they have, over 500. And that's what I
17 kind of -- I guess I'm a prisoner of hope, kind of try
18 to empty myself of all my prior thoughts about this
19 before I came this evening.

20 But I find that kind of offensive to hear that
21 we are here on impulse, as you said impulse. I copied
22 down your words.

23 MALE SPEAKER: I don't.

24 FEMALE BOARD MEMBER: You also said you're
25 doing what's best for our community and you mentioned

1 that it would be a grave mistake for us to follow
2 through with this.

3 Indeed, as an attorney, I could understand. You
4 are, you are being paid to advise your clients.

5 MR. SURENIAN: Right.

6 FEMALE BOARD MEMBER: You don't want to
7 cost us a lot of money. But as I heard the cost of an
8 additional school and whatever that cost may be, did
9 you say \$32,000,000.

10 MALE BOARD MEMBER: 25.

11 FEMALE BOARD MEMBER: 25 million give or
12 take, so \$25,000,000 for us to pay for an additional
13 school eventually here in town for which is the reason
14 most people moved to Montvale besides low property
15 taxes. So \$500,000 a year is not a great, great
16 difference for us to absorb.

17 My husband used to call me Dona P. Hote
18 (phonetic). So I do believe that there is a need for
19 us to, to fight.

20 And, and I, and once again I know Mr. Hekemian
21 is in the audience and someone stated an attorney may
22 be whispering in his ear and he probably is, I'm if he
23 go to appeal to his higher sense. If he could build
24 something as wonderful as Wegman's and that community,
25 and I'll never cook again because of Wegman's, that I,

1 I would appeal -- we don't want to deal with Soviet
2 negotiating. We don't want to have to say it's either
3 this or that, is that there's still, as a person of
4 hope -- and I hear Amazon wants to find a place to
5 build in New Jersey or, or Deblasio wants it in New
6 York, who says they wouldn't want to build in Montvale
7 other than their competitors that, now with Whole
8 Foods, and I think that, and we very intimidated by
9 the, the legal, the litigator -- I have a daughter who
10 is an attorney and a big one, I understand full-well
11 that the full power of the law when you're dealing
12 with ruthless judges, literally, supremacists that we
13 have, we are, we're up against a very difficult
14 decision.

15 But once again, a prisoner of hope and appealing
16 to are Mr. Hekemian's higher sense of purpose is that
17 he has great opportunity to find us someone for that
18 area that will not hurt our school system, that will
19 not hurt our property taxes and one of the reasons we
20 did not choose to -- I remember what former
21 Councilwoman, who is sitting here, used to work for,
22 used to volunteer for the tri-borough ambulance
23 (inaudible). I met her if Wegman's today and she said
24 that they got no volunteers out of rental units and
25 certainly that's another consideration for us, too. I

1 still think that's true now.

2 And as much as I'd like to live in Montvale for
3 the rest of my days, which are growing shorter, I tend
4 to think that we have an opportunity here yet to fight
5 the good fight, to be prisoners of hope to appeal to
6 Mr. Hekemian's higher sense of purpose and in regard
7 to what he's heard tonight and, and hearing that we
8 have gone from 350 units to 1,000 units and back to
9 350, perhaps there is still room for further
10 compromise.

11 I don't -- I used to, my last job with Citi was
12 in the real estate department so I was in the consumer
13 aspect of it. I would deal with the, with the
14 corporate developers, though, and I will say they are
15 rather ruthless and they're very difficult to deal
16 with. But, nevertheless, with the relationship that
17 you develop with them I think that we can perhaps
18 still work with the Hekemian organization, still find
19 a happier compromise and still have hope for something
20 far greater for that site than what we're hearing
21 tonight.

22 Once again you heard people not speaking on
23 impulse tonight but coming forward with very sincere
24 research , questions, love of town, love of community,
25 dedication to community, dedication to their children,

1 dedication to our wonderful form of governance in this
2 country that we can speak so freely and openly.

3 But we can see that nationally people have
4 rebelled. People have rebelled against touch down
5 governance, out of control judges.

6 And I am going to be hoping that you, once
7 again, did as you did the last time, you may have made
8 your decision before you come before us tonight.

9 Thank you for the opportunity for letting me
10 speak.

11 As you know, I don't hesitate to speak but I
12 would hope that you would not consider us being an
13 impulsive community.

14 You may not have heard it. I did. And I voted
15 it down. I write down key words. It's my way of
16 remembering how to address you, not impulse, sir, no.
17 That's, that's not (inaudible).

18 MR. SURENIAN: I don't know that I used
19 the world impulse but it doesn't matter.

20 FEMALE BOARD MEMBER: But I do.

21 MR. SURENIAN: Okay. (Inaudible).

22 FEMALE SPEAKER: I think the main thing
23 here for me, I have a kindergartner so I'm, I'm
24 beginning my time here in Montvale. We've been here
25 since 2009. I plan to stay here. And the schools are

1 a big reason. And I watched those ratings they are
2 going up.

3 I work in the district and we were No. 1, were
4 No. 1.

5 And I watched my high school go from 800 kids to
6 1,202 kids as of today in less than eight years and a
7 lot of that is because of the rentals. So I need --
8 that's the part that bothers me. I guess I can kind
9 of understand even the condos, someone buying into
10 this town and really digging their heels in, saying
11 I'm going to be in Montvale for years. Rentals,
12 you're not going to get that. Theoretically go to
13 Pascack Hills for four years and then leave. I see it
14 every day in my job and that's what I'm also concerned
15 about, is that piece.

16 And, yeah, my son has six kindergarten classes.
17 They only have six rooms. So I don't know what
18 they're going to do next year if there's more than
19 that.

20 So I just -- the rental piece is the real
21 concern for me. I'm just wondering if Woodcliff Lake
22 has any feelings about Hills and the High School.
23 They all go to that High School. I'm wondering if
24 Woodcliff Lake has any thoughts.

25 MAYOR GHASSALI: Yeah. They have their

1 own issues, too.

2 FEMALE SPEAKER: It will effect them, too.

3 And I watched our ranking go from one to much lower
4 than that. And property values go along with that.

5 And I don't think I have to say, from my
6 personal experience, they're not coming from Bergen
7 County where the students are coming from because
8 we're trucking in population and the bubble in New
9 Jersey and the demographics, that's not where my
10 students are coming from. They're coming
11 internationally. They're being advertised in
12 International Papers to come into the district and
13 that's where these students are coming from for four
14 years and then they're going back to their country.

15 So it's not New Jersey numbers that you're
16 looking at, the numbers we probably shouldn't have but
17 they're not in New Jersey.

18 MAYOR GHASSALI: Okay.

19 Mr. Mocker: Good evening, Judd Mocker
20 (phonetic).

21 So I come to just about every meeting that, I've
22 been to meetings related to the Mercedes property.
23 And I first came to the meeting with that point it was
24 in the community center and not really having too much
25 of (inaudible) way. And speak with many of you.

1 Pretty much the reality of the situation is that we
2 fight and probably lose, we take the deal and those
3 are really our options and that's the reality that
4 keeps being said at meeting after meeting, we should
5 take this deal.

6 I know it's not the popular one. I know
7 everyone wants to find and spend whatever money they
8 think is possible because at the end the day how many
9 of these cases have been on and have been favorable
10 for the town?

11 MR. SURENIAN: The playing field is
12 totally heavily against the town.

13 MR. MOCKER: So I'm not a lawyer. I'm a
14 CPA so most of my job is about minimizing the risk and
15 the risk currently seems to be 50 units or we spend
16 money and potentially eventually compromise on
17 something that's more than 350 units.

18 MR. SURENIAN: Substantially more.

19 Mr. Mocker: With that --

20 MR. SURENIAN: Yes.

21 Mr. Mocker: So take the deal. I know
22 from the last time there is a lot of words about
23 density and in our town it's money for the schools.

24 The risk, if we lose, is much, much greater than
25 if we take this deal. I, I'm just going to keep

1 saying that we need to take this deal, we need to take
2 this deal.

3 The amount of units if we lose -- I'm not, I'm
4 not coming up as a proponent of development. I'm here
5 as trying to bring across the reality of the situation
6 that I have heard for the last year and a half that if
7 we don't take the deal it's going to be more than 350
8 units. It's going to be more than 350 units. It's
9 going to be more than 350 units.

10 I don't think everyone is hearing me. Because
11 everyone keeps coming up and saying, well, if we
12 finagle it this way and reality is different we could
13 win. The reality of the situation is based on what
14 all of these people who have been dealing with this
15 for the last at least two years has been, the reality
16 of the situation is settle or we're forced to take a
17 lot more units.

18 I know I'm not the majority, in the majority
19 here. But part of governance on your part is to make
20 the decisions that are right for the town that might
21 not be the most popular ones.

22 Thank you.

23 MAYOR GHASSALI: Thank you.

24 MR. PERINI: Thank you, Mr. Hekemian.

25 (Inaudible).

1 Mr. Mayor, thank you.

2 MAYOR CHASSALI: Name.

3 MR. PERINI: Oh, Tom Perini (phonetic)
4 from Montvale Avenue.

5 I want to say mostly, I know I came for a
6 totally different reason. I'm going to ask you for a
7 favor later on not to be too obnoxious but I just
8 wanted to cover a couple things real quickly. I agree
9 with the woman earlier who mentioned 90 percent
10 development. I think that's really, I think that's
11 really a bad job there. You go around New Jersey and
12 you look at some of the most desirable development
13 locations and down Weehawkin you see developers
14 building these, these complexes in some of the most
15 expensive real estate in New Jersey and they're
16 building little league fields, community centers right
17 on the Hudson River, staring at Manhattan giving and
18 giving back a huge amount of expensive real estate in
19 these towns doing it at the expense (inaudible).

20 We're getting a hotel. I agree is going to be
21 empty every night is kind of mind blowing to me. In
22 addition, I think, I think the wheels of this movement
23 are moving in our favor. I think if you look at some
24 of the things Assemblywoman Shefcy (phonetic), I don't
25 know if you're familiar with her work and movement, I

1 think she was in Upper Saddle River recently and she
2 was basically she's got two bills in front of the
3 State Assembly I believe which were addressing the
4 very concerns you're saying we can't address with the
5 court and it's possible we can, Assemblywoman maybe
6 can. We can talk about the apocalyptic damage this
7 can be doing to the State schools population wise
8 right across the State. She's asking the State
9 financier on this by the end of the year which in New
10 Jersey is probably a decade but at the same point
11 these are things that are developing situations.

12 You have a situation in Lakewood which is kind
13 of related to our stuff that you have going on here.
14 What's happening with the schools there in Lakewood
15 and everything with the prosecutors finally cracking
16 down on those people and everything that's happening.

17 So there's people that are actually starting to
18 look at (inaudible) what a sham this is and what's
19 happening. So I think the waves are starting to come
20 and I think people are jumping on this right now
21 there's no reason why that might not be a good idea
22 for us including we might gain momentum on our side
23 for this.

24 So when you start talking about and the stuff
25 about the two-bedrooms versus three-bedrooms honestly

1 and when you look at Riverdell High School you look at
2 these people paying taxes an River Edge and they have
3 20 kids using the address in River Edge living at that
4 school so two-bedrooms three-bedrooms it doesn't
5 matter. This is an invasion. That's what it is.
6 Let's be real about it. It's nonsense. So that kind
7 of stuff doesn't matter.

8 Talk about losing control, the way it sounds
9 tonight is that ship has sailed.

10 So at this point I don't know, I guess Mr.
11 Hekemian is here. I don't know who he is and Wegman's
12 also. And I just went there for the first time.
13 That's cool. But, at the same time, thank you for
14 that but, at the same time, I can appeal to his senses
15 like she did earlier.

16 I could also say (inaudible) willing to go to
17 the mattress on this, too. I mean \$500,000 a year
18 sounds like a good deal to me as opposed to entering
19 into this hell hole that we're going into, you know,
20 with the enormous (inaudible) with this town
21 especially when the momentum, like is said, several
22 factors going with us.

23 Let's kick the can down the road and see what
24 Hekemian is willing to give us. Both in 15 years
25 about appeals and everything else and, and let's see

1 how long you want to go with this.

2 That's my vote.

3 MAYOR GHASSALI: Thank you.

4 Good evening.

5 MR. PAULSEN: Hi. Brian Paulsen from
6 Eagle Ridge.

7 Sir, a few questions. I, I didn't quite get
8 some of the numbers straight. The housing, how much
9 this would count towards affordable housing and how
10 much was leftover. It sounds like we would have 50
11 units that would come for it but even if this, we
12 agree with the Fair Housing Commission and the other
13 developers, our, our total amount, that would be
14 required would be 550.

15 Is that correct?

16 MR. SURENIAN: In a settlement mode 550,
17 in a litigation mode they would argue like 749 --
18 (inaudible).

19 MR. PAULSEN: What about the other 500
20 units? That doesn't sound --

21 MR. SURENIAN: Let me, let me -- this is
22 kind of complicated but let me explain this.

23 The way it works is, you get an allocation. And
24 once you have your allocation you either have enough
25 land to meet your allocation or you don't. If you

1 don't you say I want a vacant land adjustment and you
2 adjust that number down.

3 And so let's say that the number was 500 just
4 for round numbers and let's say that we adjusted it
5 down to 200 in a settlement mode. In a litigation
6 mode you lose control of these numbers. But let's say
7 that that's a settlement mode. So now we have the 200
8 unit RDP otherwise known as Realistic Development
9 Potential. You have an obligation to create a
10 realistic opportunity for your Realistic Development
11 Potential. The 300 that you don't have enough land to
12 meet that, that's called unmet need. That's
13 nomenclature. Okay. And that's a different -- it's
14 more aspirational than it is hard. And so the courts
15 are looking for you to, you know, make an effort to
16 try to do what you can to the, for the unmet need. In
17 many instances you never achieve it.

18 So that's, that's the way it works.

19 So, in a settlement mode we'd be trying to
20 control the RDP and we would be trying to find means
21 to address the unmet need that have the least impact
22 on the community.

23 In a litigation mode that, you get arguments at
24 each stage. You get arguments at what your allocation
25 is, we say 550, they say 780. The judge comes out

1 wherever he comes out. After a half million dollars,
2 \$600,000 spent.

3 The next layer is what, your RDP. Let's say we
4 say 200, they say 400. They mercilessly attack the
5 town at every point to try to jack that number up.

6 MR. PAULSEN: Just one question. You say
7 they would say 400. Is that the Fair Housing or is
8 that the developer or --

9 MR. SURENIAN: That's the developer.

10 And what you would basically be doing in a
11 litigation mode is forcing the developer to join hands
12 up with the non profit and try to jack that RDP up as
13 high as possible. And they would argue for sites that
14 you would say you got to be kidding me. But that's
15 where that fight would go. Okay.

16 And then at the end of that unmet need there can
17 be significant flexibility or there can be
18 ruthlessness. Okay.

19 And those are the risks of litigation. You get
20 fought at all three levels where in a settlement mode
21 you can control that. You have a much better chance
22 of controlling that at all three levels and
23 controlling the future of your community.

24 MR. PAULSEN: So let's say hypothetically
25 we go with the settlement mode is expectation then

1 that we would come out of this meeting all the need up
2 until the next 2025?

3 MR. SURENIAN: The, the plan would be to
4 resolve this, to resolve Hornrock, to go to Fair Share
5 Housing Center which we have had discussions with and
6 say, hey, this is what we can do, let's wrap this in a
7 bow. Let's put this behind us. Here's our whole
8 plan. And it would be a very different plan in a
9 settlement mode than in a litigation mode.

10 They have been very clear, hey, we're
11 litigating, you know, we're going whole hog on every
12 issue. We're leaving no stone unturned.

13 I don't know if you've been in the, if you've
14 been in the bow of the Fair Share Housing Center
15 before but they can make, they can really make demands
16 that are really unreasonable in my opinion.

17 And, unfortunately courts are often receptive.
18 I mean sometimes I'm looking at the judge saying are
19 you serious? But the answer is yes.

20 MR. PAULSEN: No, I understand the, the
21 risks of the litigation mode.

22 What I'm trying to understand there, the risks
23 of the settlement mode. So, you know, it doesn't
24 sound like if the council votes let's, let's agree to
25 this, let's try to settle. It doesn't sound like this

1 is a done deal yet.

2 Right?

3 This is a deal we should go to Fair Share
4 Housing. We try to get that are them to come down on
5 their number as well. It sounds like a fairly
6 significant --

7 MR. SURENIAN: Well, for example, for
8 essential and non severable condition of this
9 agreement is that we have a fixed RDP attributable to
10 this site of 70. Okay.

11 In a litigation mode they're going to be arguing
12 there could be a thousand units and it should be 200.

13 MR. PAULSEN: So what stops another
14 developer coming in between the time that the
15 settlement, let's say the council agrees to take this
16 on, we're trying to negotiate with all the different,
17 Hornrock and them and Fair Housing, some other
18 developer comes in, hey, you have this new site here,
19 I want to -- there isn't anything formalized, why
20 can't they come in and also say let's reopen all the
21 litigation and they can try to develop, too.

22 MR. SURENIAN: Well, well --

23 MR. PAULSEN: How quickly does this get
24 wrapped up when you say we have immunity against
25 further development.

1 MR. SURENIAN: Well, if we get to the
2 point that we have the Judgment of Repose -- that's
3 the goal. The goal is settle, settle, settle,
4 manageable number, our number were we to litigate it
5 a, a, an RDP that we can handle, measures to address
6 the unmet need that we may not like but we can handle
7 and now we have a Judgment of Compliance and Repose.

8 I can't guaranty that after that Judgment of
9 Compliance and Repose, after the ink has dried, that
10 someone doesn't come along and say, well, that was
11 then now is now. There's another site you could do
12 more.

13 But what, what you can do, what you can manage
14 in a Judgment of Repose is you can say I'm in control
15 of my community and if another guy comes along and
16 says, you know, I can do this, I can do that, you
17 know, you can, if you think the site is unsuitable you
18 can say it's unsuitable, you can litigate that. If
19 you are successful there would be no RDP generated by
20 the site. If you're not successful you can control
21 how that RDP is satisfied. If you lose control of, of
22 your community -- I'll give you the nightmare
23 scenario.

24 You lose, you lose your immunity. You know what
25 this town is going to look like if you lose immunity?

1 The locusts will descend from the heavens and they
2 will pour over every square inch of this town and
3 they'll find every site that's developable and they'll
4 try to say, look, I'm willing to do it. It will be a
5 horror show.

6 And that's what happened in J. W. Field
7 versus -- 11 developers sued the town, 11 builders
8 remedy lawsuits.

9 MR. PAULSEN: So is it fair to assume then
10 if the Council votes for this, that the expectation
11 then is that this would all be wrapped up before our
12 immunity ends which is October 31st?

13 MR. SURENIAN: Well --

14 MR. PAULSEN: Or if it's not done, what
15 happens after October 31st and developers say, hey,
16 your immunity is over, the locusts are descending?

17 MR. SURENIAN: Right. I'll take you down
18 the settlement road. I'll take you down the
19 litigation road.

20 In a settlement mode we would try to very
21 quickly settle with all three, get a Judgment of
22 Repose as quickly as possible.

23 MR. PAULSEN: And from your experience how
24 quickly does that -- give me a ballpark range, I
25 guess. Are we talking weeks, months?

1 MR. SURENIAN: Well, we have had, we have
2 had discussions with Fair Share Housing Center. And
3 we think that if we can resolve these two cases we
4 could get to a Judgment of Repose quickly.

5 You know, I, I hesitate to give you a number in
6 the Mount Laurel world because things, you know,
7 sometimes you have to notice these, people come, they
8 object and sometimes it gets ugly.

9 In the best case scenario six months, worse case
10 scenario it could be much longer. I can't control who
11 responds to a notice. That's in a settlement mode.

12 Your costs are under control. You have the
13 maximum opportunity to control the future of your
14 community.

15 In a litigation --

16 MR. PAULSEN: Sorry. One question. In
17 the settlement mode, is there the expectation then
18 that our immunity would be extended?

19 MR. SURENIAN: Yes. Yes. Yes.

20 In a -- judges want settlements. Okay. Judges
21 put enormous pressure on you to settle cases. Some of
22 that mode you have a very happy judge that, and a, and
23 a master that's going to be very happy and, and
24 recommending to the judge, you know, these guys have
25 done what they needed to. It's a bitter pill. Extend

1 immunity. Don't expose them to litigation.

2 So that's, that's, yes, part of the, of the
3 picture in a settlement mode is extensions of immunity
4 that I've, that I don't really think would be a
5 problem at all.

6 MR. PAULSEN: If this were to go to
7 litigation or say some other town (inaudible) some
8 other town goes to litigation, is it possible that
9 those judgments then let's say it goes all the way to
10 final judgment, is there a possibility that gets used
11 as a precedent for other towns or does each judge tend
12 to -- because I know we're in kind of this new world
13 where the judges are deciding what's proper and what's
14 not.

15 MR. SURENIAN: Yeah. That's a good
16 question.

17 For the life of me, I don't know why the judges
18 in Bergen County didn't consolidate all the cases that
19 they had. They must have had 40, 50 or more.

20 The D. J. action, I don't know the exact number.
21 If I was a judge, this is not something I would want
22 to do twice. It's very complicated.

23 It's 41 days over six months in Mercer County.
24 It was really hard on the judge. It was hard on the
25 attorneys but that's what this judge said.

1 So, in theory, yeah, the judge would be doing it
2 as, you know, all over again unless at some point the
3 judge changed his mind and said I'm going to
4 consolidate all and did it once.

5 But right now Park Ridge is on a path to
6 litigate by themselves.

7 MAYOR GHASSALI: You need to wrap up,
8 please. You need to wrap up.

9 MR. SURENIAN: Let me just, unless you
10 have another question, I have to explain the
11 litigation.

12 So the litigation road, the problem is that you
13 risk, you have risk -- there's a guy that was manages
14 risk before. And I look at it as Risk Management as
15 well. In a litigation mode you're litigating the
16 number, you're litigating the RDP, you're litigating
17 the adequacy of what you can do on the unmet need and,
18 and you're doing it and, and you're litigating your
19 entitlement to immunity and you're doing it where
20 you're forcing developers and Fair Share Housing
21 Center to create this alliance to leverage you.

22 It is a nightmare scenario whereas Fair Share
23 Housing Center, we could try to make a deal with to
24 get this done and, and have them support us. We would
25 force them to dig in and be our enemies in a

1 litigation mode.

2 MR. PAULSEN: Let me just wrap up with a
3 few comments for the Council.

4 I know you guys have been probably talking about
5 this for years or, or 18 months I think it was I have
6 heard. I'm not going to pretend I understand the
7 concept and all the issues involved as, as you must.

8 I do know this is an extremely hard decision. I
9 do not envy the spot you are in.

10 Either way you vote for or against it's going to
11 change the character of this town. I, I'll be one
12 that's in the minority here. I kind of think that
13 voting against this is going to lead us down the dark
14 path of legislation that, under the current
15 environment, we're probably going to lose and it's
16 going to look bad for our town in terms of what gets
17 developed at the end the road. Voting for it is a
18 different deal with the devil.

19 And, like I said, I just really don't envy your
20 decision.

21 I'm going to trust that we voted in wise people
22 that can make what they feel is the right decision
23 however, however that means. God help us whatever
24 that, whatever happens at the end of this.

25 Thank you.

1 MALE BOARD MEMBER: Thank you.

2 FEMALE BOARD MEMBER: Thank you.

3 FEMALE BOARD MEMBER: Thank you.

4 (Inaudible).

5 MAYOR GHASSALI: Hold on. Hold on,
6 please. The lady comes.

7 MALE BOARD MEMBER: I would like to throw
8 out a different scenario. We seem to be very, very
9 concerned about being a defendant in a case which we
10 will most likely lose.

11 Two questions, what if we were to be a plaintiff
12 by getting together with a dozen other towns which are
13 in exactly the same situation which we are and sue the
14 Fair Housing Center? And, Question No. 1.

15 Question No. 2, would that potentially put all
16 these other litigations on hold until that was
17 settled?

18 MAYOR GHASSALI: Let me take that for the
19 first question.

20 We did talk to the other towns. We formed an
21 alliance and we've been meeting and talking. The fact
22 of the matter is every town is in at a different stage
23 of settlement with Fair Share and it seems that it's
24 good to talk, it's good to share some information but
25 it seems every town is looking out for their own just

1 like we were looking out for our own.

2 Where if we were to join, we would probably lose
3 the most because we have more buildings available.

4 To have the joint force that was the idea, we
5 loved that, we had six towns sign on and then as we
6 started to discuss it, everyone seems to be pulling to
7 their side and saying, well, I don't want to talk
8 about this because this will effect me, and it came to
9 us and we don't want to talk about that either because
10 I was the most if we were to join in a joint
11 settlement so that didn't go too well.

12 MR. PAULSEN: I wasn't talking about
13 settlement. I was talking about that, being a
14 plaintiff and sue the Fair Housing Center. That's a
15 totally different way to look at it.

16 MAYOR GHASSALI: Like they did in Mercer
17 County at the, whatever county they did.

18 MR. SURENIAN: The problem and first of
19 all we are a plaintiff. We brought a Declaratory
20 Judgment action.

21 But the problem lies in, in the law itself, the
22 way the law has been established. There were Supreme
23 Court decisions and then the legislature enacted the
24 Fair Housing Act in 1985.

25 So right now if you wanted to change the law and

1 the law is absolutely ready for a reset because it's a
2 different world in 1980 -- in 2017 than it was in
3 1985. But, no one, the legislature has not tried to
4 rework the Fair Housing Act which has been extremely
5 unfortunate because I had hoped that that would happen
6 and we could have more reasonable standards.

7 Right now we're operating under the standards
8 that had been established in that legislation and
9 unless that legislation is changed, the courts are now
10 relying on that legislation. When, when this issue
11 came up before the Supreme Court in 2015 and 2016, the
12 Supreme Court went from saying, you know, this is our
13 doctrine and here's how it's going to be to say and
14 the legislature has spoken and here's how worry going
15 to operate given what the legislature has said. And
16 the Supreme Court said the legislature wants to change
17 it, that's fine with us. We'll review it. If it's
18 legal we'll uphold it. If it's not, we won't.

19 But it's really in the lap of the legislature
20 right now.

21 The other thing that went wrong in the history
22 of this doctrine and went terribly wrong is the
23 Council on Affordable Housing decided to lock its
24 doors and put a gone fishing sign on its door.

25 Had that agency been in place and had that

1 agency done its job, you wouldn't have to spend a half
2 million dollars, no town would have to spend a half
3 million dollars litigating what the Fair Share was.
4 There would be an entity with institutional knowledge
5 that could be making these judgments and be, and then
6 it could go to that agency and try to persuade that
7 agency to have standards that are more favorable than,
8 than not.

9 And, in fact, what's happened is COAH was on the
10 verge of adopting regulations that were, were fairly
11 municipal friendly. And they deadlocked 3-3 and they
12 didn't do anything to reconvene and try to solve it.
13 And the Supreme Court came in and said I'm not waiting
14 anymore, I'm sending this back to the courts.

15 So if you're looking for something to have more
16 permanent change in how these laws operate your two
17 targets should be having COAH open its doors again and
18 have a debate in front of the public about what
19 regulations it adopts and also having the legislature
20 change the legislation. But there has been very
21 little activity legislatively. I really had hoped for
22 much, much more.

23 MR. PAULSEN: It just seems to me and I'm
24 not (inaudible) all right, but the legislature, too
25 many people who want to push the whole concept more

1 and more and more and more out (inaudible) so it's not
2 fair but it seems to me if there was a court case, all
3 right, with a large enough basis of plaintiffs, it
4 would kind of force --

5 MR. SURENIAN: Let me, let me, let me give
6 you an example. I handled this GAP Decision and the,
7 the argument that I made is the question about should
8 there be an obligation that emanates from what
9 happened between 2008, the end of Round II, and 2015.

10 I made an argument that it wasn't part of the
11 prospective need and it wasn't part of the present
12 need.

13 I was right. The Supreme Court revoked the Fair
14 Housing, revoked the law and created another category.
15 And said, oh, yeah, we have a new Category of Need.

16 So, you know, this is not a sympathetic Supreme
17 Court to making significant changes to the Mount
18 Laurel doctrine.

19 MAYOR GHASSALI: Thank you, Jeff.

20 MR. PAULSEN: Thank you.

21 MS. TUCHMAN: Debra Tuchman.

22 So my first question I guess is I find this
23 highly unacceptable. I'm an attorney. I work for the
24 Attorney General's office for over 10 years. I have
25 plaintiff background, labor background, government

1 practice. I'm very disappointed one being the fact
2 that I still don't know what our RDP is? What's our
3 RDP?

4 Then my, my issue with that, my issue with that
5 is, how do we settle anything prior to knowing what
6 that number is?

7 MR. SURENIAN: Well, so, a couple things.
8 Initially, you know, someone had referenced earlier a
9 15 unit RDP. That number was never subject to any
10 litigation in this concept that, that, oh, if we had
11 settled the RDP then we wouldn't be in this situation.
12 There is a Supreme Court case directly on point, when
13 and if a site becomes available, suitable,
14 developable, it then contributes to the RDP whether
15 it's now or five years from now.

16 Secondly, the settlement agreement tries to
17 secure at least RDP as to this site because it could
18 go up depending on, you know, crafty arguments,
19 different litigants, the number could go up so as a
20 non severable part of this agreement we say the RDP
21 has to be 70 units attributable to this site.

22 We have had preliminary discussion with Fair
23 Share Housing Center about what an acceptable RDP
24 would be and really one of the primary incentives for
25 entering into a settlement would be that we can

1 solidify the RDP as opposed to opening up to
2 litigation and debate where that number could get
3 very, very scary very quickly.

4 MS. TUCKMAN: I know exactly what
5 settlement agreements are for and they are very
6 necessary in certain circumstances. I also do know
7 that and I know Pete Hekemian. He may not remember
8 me. (Inaudible) I'm Armenian. Somehow we know each
9 other. But --

10 MALE SPEAKER: You don't know me.

11 MR. PAULSEN: No, I don't because you're a
12 South Jersey guy. That's a different State as far as
13 I'm concerned.

14 So that's another issue, you know. We are in
15 Bergen County. We have, we have, we have a much
16 different area than -- like I said, I work down if
17 Trenton. It's a completely different area.

18 I worked in the courthouse. I clerked for
19 several judges. So I do know that they live in Bergen
20 County. They understand where we live. They know the
21 towns. They know our landscape.

22 And my major issue with this is, you know, we
23 have to realize we do have a Master Plan and although
24 I do understand and we know there's an affordable
25 housing obligation, absolutely, but we also have to

1 respect our Master Plan and we have to -- and what is
2 in the spirit of our Master Plan and where our town
3 needs and what we can cope with and I don't think that
4 we're in a totality of what you have put forth, that
5 you have taken everything into account.

6 And, again, you know, this is -- Pete Hekemian
7 is a good guy. I know he will come forth and sit down
8 with you again.

9 And I just don't think that we've gotten to the
10 point where everyone is happy.

11 Is everyone happy with this agreement?

12 AUDIENCE: No.

13 MS. TUCHMAN: No. I don't think we have
14 reached that point yet and I think that he would be
15 more than willing to come back to the table and sit
16 down and agree with some of this.

17 MALE BOARD MEMBER: So, a couple things.

18 We have had mediation today. And I think it's
19 pretty clear, A., that this has been the subject of
20 on-going negotiations. Yes, we came in at the 11th
21 hour but this has been negotiated ad nauseam for two
22 years so I mean in every, every avenue was explored.

23 MS. TUCHMAN: With the wrong people.

24 MALE BOARD MEMBER: I have -- I think your
25 municipal attorney did a great job of getting you a

1 favorable -- let me back up for a second.

2 I don't think I have ever sat in front of the
3 public and maybe Jeff would say the same thing where
4 affordable housing is a popular project.

5 And, you know, COAH didn't do any favors by
6 going out of business for 16 years and then 16 years
7 later, after not absorbing it in a rational way, and
8 say, oh, you owe me affordable housing for 10 plus
9 years into the future.

10 There's no great answer. I don't think anyone
11 in this room would say we're thrilled, you know, to
12 change the entire character of our town or, you know,
13 provide a ton of affordable housing with a ton of
14 associated market rate units. I don't mean anybody is
15 thrilled with that prospect.

16 But the bottom line is, you have only so many
17 choices and there's not a lot of maneuverability. You
18 have a lack of land, a large obligation and a lot of
19 office space that's going to be redeveloped.

20 MS. TUCHMAN: Yet you have not told us
21 your obligation. You're guessing. It's not, it's not
22 legit. It's not, it's not --

23 You have a number. What's the number? 70?

24 MALE BOARD MEMBER: For this site.

25 MS. TUCHMAN: For this site.

1 I don't know what the town --

2 MALE BOARD MEMBER: We told you. We have
3 litigation. We have told you that your allocation
4 ranges from roughly 780 to roughly 550. We have told
5 you that. We think we're entitled to an adjustment.
6 We will try to adjust it down roughly 200 in a
7 settlement -- in a litigation mode developers are
8 going to try to jack that up over 400 and, who knows.

9 You know, (inaudible) in a settlement mode we
10 can control how we address the (inaudible) area of
11 more discretion area, more flexibility.

12 In a litigation mode, I've been in situations in
13 a litigation mode where it is unbelievable the demands
14 that are made on a community to address that. So, so,
15 to me there's really two very clear paths.

16 I've been doing this for 34 years now, 1983. I
17 think it's 34 if my math is right. And this is all I
18 do.

19 (Inaudible) Judge Serpentelli. I worked for a
20 judge as well. I worked for Judge Serpentelli. He
21 was one of the judges who shaped this area overall. I
22 was on that side of the bench. I spent my whole
23 career wondering how do you just look at this. And
24 it's very clear to me that the litigation is fraught
25 with risk, fraught with potential that you lose

1 control of your community and it's very clear to me
2 that our best chance of avoiding that is settling with
3 this developer, settling with Hornock (phonetic),
4 settling with Fair Share Housing Center, trying to get
5 you a Judgement of Repose so you have some measure for
6 at least some area of (inaudible).

7 And the gentleman with the red shirt, I
8 encourage you to go down to your legislature and go
9 down to COAH and have some wholesale change to this
10 doctrine because this doctrine has run amuck.

11 I don't think this is really what Wilentz
12 intended when he wrote Mount Laurel II in 1983.

13 But that's the avenue that you need to change
14 the legislation. You know, that's, that's what you
15 have to do if you're going to change.

16 MS. TUCHMAN: We're working on that.

17 But, in the meantime, our township will suffer
18 because of that. So I think that we need to revisit
19 the settlement because I don't think in the eyes of
20 everyone around here, to our Mayor and Council, I
21 don't think that this is it. And I may think that we
22 need to revisit it.

23 And I think that, being that this was so rushed
24 and, you know, rushed in less than 24 hours notice to
25 get to this hearing and learn all of this stuff when

1 we thought for most of this was put to bed in June.

2 Now this was a big surprise on everyone.

3 So, thank you.

4 MAYOR GHASSALI: Thank you.

5 We are going to have to hold on. Hold on. Hold
6 on.

7 We have a request from a couple of the council
8 members to take a short break so they can make the
9 right decision when they come back.

10 So we'll take a five minute recess.

11 (A recess is taken.)

12 MAYOR GHASSALI: Okay. All right. We're
13 back in session. Please come in.

14 Here we go. Okay. All right. We're back in
15 session. Please, come.

16 FEMALE SPEAKER: (Inaudible), Acres
17 Avenue, Montvale. I'm not an attorney. I'm a citizen
18 of this town for 30 something years. I, I dare say
19 that a lot of us are missing the point.

20 These attorneys have made great points. People
21 in the audience made great points.

22 Everybody is frustrated and angry. I think it's
23 all being routed in the wrong way. None of us is
24 happy with what we're seeing but instead of putting
25 it -- we're all looking at it very locally.

1 Guess what, the answers aren't local. This is a
2 matter of, I think, as a citizen, lousy laws and so if
3 we have lousy laws and I want to know how many people
4 in the audience have so far and if they haven't
5 there's tonight and tomorrow. I think the guy's name
6 is Prieto. I emailed him after the very first
7 meeting.

8 Everybody must, must contact the law makers and
9 tell them how stupid is this. The judges, they all
10 live in towns in New Jersey and my understanding is
11 that every town is being faced with similar garbage.
12 It makes no sense. It's lunacy. But fighting it
13 here, amongst us, what we have to do right now is do
14 what's right for Montvale.

15 The first meetings I went to we were talking
16 much bigger numbers. They have come down. That's a
17 good thing and this shows, I think, good faith here
18 and they're still not so happy with it. But, please,
19 if nothing comes across, if everyone is here tonight,
20 goes on their computer and tells a friend who tells a
21 friend and I have friends that live in probably 50
22 towns in Bergen County so I should tell them because
23 they, they (inaudible) unless I'm thinking contact the
24 law makers and tell them how stupid is this.

25 I don't think that the Hekemian group is a bad

1 group.

2 As a matter of fact, I, I liked how we, as a
3 town, said let's go with them because they're stand up
4 people. I'm hoping they can stand up for a little bit
5 more. And I'm hoping we can come together but, again,
6 we've got to change the laws.

7 Thank you.

8 MAYOR GHASSALI: Thank you.

9 Counselor, you're on the clock, buddy come in.
10 Also for the public. (Inaudible).

11 MS. MENAY: Can I go ahead of him?

12 MAYOR GHASSALI: Okay. All right. Go
13 ahead.

14 MS. MENAY: All right. The reason I asked
15 the questions I asked in the beginning of this, I
16 already know the answers to all of them.

17 I am an attorney. I'm a litigator. I actually
18 don't typically talk in terms of settlement mode
19 versus litigation mode because there is only one,
20 litigation.

21 Once a lawsuit is filed, once Declaratory
22 Judgment is filed, you're in litigation and all but
23 probably 2 percent of cases settle at the end.

24 I, for one, have never said go to trial
25 tomorrow, litigate to the end because I am very

1 reasonable, I am very realistic. I know the laws. I
2 have read the Fair Share Act. I have read our plan.
3 I know all the tort cases. I have read every opinion.

4 I do recommend that we resolve this.

5 What I am upset about is I don't feel that we
6 have been adequately represented. I don't feel that
7 anyone has fought for us and I hate when people
8 (inaudible) that for us means that we have to, you
9 know, hate Peter Hekemian and go to trial. No one
10 said that. You can advocate for your client by coming
11 up with your best defenses, with your best arguments
12 and if you need to argue, argue PF-15 to jump start
13 negotiations then that's what you have to do when
14 you're a skilled negotiator.

15 I represent apartment owners, that's actually
16 who I represent, property owners and property managers
17 and every time a lawsuit is filed and I file an answer
18 defending them, don't you think every person comes to
19 me and says I want a million dollars and do you think
20 that I go back, even though I know the New York City
21 laws and I know what they say and I know that my
22 client is in trouble, don't you think that I defend
23 them vigorously and come up with the best settlement I
24 can.

25 So that's what we are talking about here is

1 coming up with the best settlement and I just think
2 what's happened unfortunately is you're stepping in
3 this in August of 2017. You guys are coming in at the
4 11th hour. So in one sense I can't really blame you
5 because, quite frankly, that's what everyone does so
6 when they pick up a file right now before trial, they
7 just go you should settle because I'm panicked and
8 it's a lot to catch up on in a short amount of time
9 and you really can't undue all the mistakes that were
10 done over the years.

11 But so far all I've heard tonight is you have to
12 take this exact deal. End of story. It's either that
13 or a thousand.

14 But then when I questioned you kind of
15 admitted --

16 MR. SURENIAN: I never said it was a
17 thousand. I said their demand is a thousand. I've
18 never thought that was real.

19 MS. MENAY: Right.

20 MR. SURENIAN: But I do think it's
21 substantially more than we can settle, yes.

22 MS. MENAY: So right now --

23 MR. SURENIAN: And, and can I just
24 respond?

25 I appreciate you came up here. I appreciate you

1 saying you're an attorney, I appreciate where you're
2 coming at it because you'll understand what I'm going
3 to tell you.

4 So when -- this is all I do. My firm doesn't
5 spend a penny on advertising. It doesn't spend a
6 penny on political campaigns. We represent more
7 municipalities than any two towns combined.

8 So when I come at this, I don't come at it from
9 any political perspective. I come at it as someone
10 who studied this law, who knows this law, who
11 understands this law, whose been doing this law for 34
12 years.

13 And the only thing that I have to trade on is my
14 reputation. That's it.

15 So, so I come at this and I look at it and I
16 say, okay, if we go to war -- and I like to fight.

17 MS. MENAY: (Inaudible).

18 MR. SURENIAN: I mean it doesn't put me
19 off. I know that when I go in that courtroom I know
20 as much as anyone in that courtroom including the
21 judge. I know that.

22 But I make an assessment. And I make an
23 assessment about where are we in the settlement mode,
24 where are we in the litigation mode.

25 MS. MENAY: This all litigation mode you

1 either settle during litigation or you go to trial.

2 Those are the --

3 MR. SURENIAN: The, the bottom line is
4 this, the developer is right, as is his right to say
5 here's my final offer, take it or I'm litigating. I
6 can't control what position the developer has taken.

7 MS. MENAY: Absolutely.

8 MR. SURENIAN: So the developer has taken
9 that position.

10 MS. MENAY: Sometimes I wonder if you're
11 not suited and some people are not suited to really
12 work with Peter Hekemian because back when things
13 started and people were saying we don't want to go to
14 trial, let's work this out with Peter Hekemian and
15 there was an idea that he is a reputable developer.
16 He's from the area. He'll be reasonable.

17 And what I'm a little bit concerned is what's
18 been happening with the back deals over the years that
19 he is so upset right now.

20 Why aren't we negotiating a good deal for
21 everybody? Why don't we make him some money and also
22 come up with something that we can all live with less
23 maybe more ownership, less rentals or rentals less,
24 less --

25 MR. SURENIAN: Look, we came in at the

1 11th hour. There was extensive negotiations that
2 resulted.

3 MS. MENAY: Who negotiated that, Joe
4 Boidus (phonetic).

5 MR. SURENIAN: Yeah.

6 MS. MENAY: Joe Boidus negotiated with
7 Peter Hekemian? Give it a shot.

8 MR. SURENIAN: Hold on. I think he did a
9 pretty good job --

10 (Speaking at the same time)

11 MAYOR GHASSALI: Jeff, Jeffrey, please.
12 Hold on.

13 MR. SURENIAN: Yes.

14 MAYOR GHASSALI: Miss Menay, can you get
15 to the question rather than pointing fingers to other
16 attorneys who are not here?

17 MS. MENAY: Actually, it's not that I'm
18 pointing fingers. It's that I, I love, I would love
19 to work something out with Peter Hekemian and all I'm
20 looking for is for, maybe it's too late but looking
21 for people who can advocate for us and really fight
22 for us and also work with him and I just don't think
23 that we have gotten that.

24 So with that said, I'm, you know, we would love
25 to continue working with Peter Hekemian. I don't

1 think anyone wants to go to trial and I'm really tired
2 of hearing everybody talk about do this or you go to
3 trial. It's absurd.

4 The other thing is that you need to settle these
5 things globally. It's crazy to think that we're going
6 to do things in piecemeal.

7 You know, Mr. Hekemian intervened not even a
8 month ago and here we are, have his settlement on the
9 table (inaudible) Fair Share Housing is not here. We
10 have to RDP globally. We have no negotiable plan.
11 We're basically, here's 70 Fair Share to start with.

12 What else did you want us to do, bid against
13 ourselves.

14 MR. SURENIAN: We have had discussions
15 with the Fair Share Housing Center and we have been
16 trying to come up with a global settlement. These are
17 essential pieces.

18 MS. MENAY: Did they tell you what the RDP
19 needs to be?

20 MR. SURENIAN: I don't know that we want
21 to get in a public forum those specific discussions
22 but, yes, we have discussed those kinds of issues.

23 MS. MENAY: And the other thing is, if the
24 public is not allowed to know any of these details
25 which is what the public is, is always told. This is

1 exactly the problem.

2 Someone like me stands up, starts talking,
3 everyone wants to shut me down and have me take a
4 seat.

5 The problem is the public doesn't know what's
6 going on half the time they're trying to understand
7 but everyone is blocking the right questions from
8 happening. People are blocking information from
9 getting out.

10 So if the public can't know the details, then
11 you know what, set up a mediation committee that we've
12 been asking for forever where the residents can be
13 involved and attorneys that people trust to, to work
14 the deals out, you know.

15 But that doesn't ever happen and it's just --
16 and we go round and round and round and we'll be back
17 here in six months to do the same exact thing. It's
18 ridiculous.

19 I think that if Peter Hekemian, he obviously
20 wants to make the most money possible and I don't know
21 which part of this aspect will do that, probably the
22 rental apartments. If that's his top priority then
23 why don't we start working from there and then see
24 where he can work with us in other areas or that's
25 gone (inaudible)? That's done?

1 MAYOR GHASSALI: That's done. But we
2 have, we have the settlement that we have here
3 tonight. It's either that or we go to court tomorrow
4 morning.

5 MS. MENAY: How do we go to court tomorrow
6 morning and when we have a meeting October 21st?

7 MR. SURENIAN: Well, we have immunity but
8 that doesn't mean --

9 MS. MENAY: I know. The thing is I'm an
10 attorney so I understand what the Mayor is saying but
11 the public doesn't.

12 When you tell the public it's either this or
13 we're going to court tomorrow, the public gets scared.
14 Because they believe that statement, they believe that
15 tomorrow we're going to court. They need to
16 understand this process the way it works.

17 I'm tired of everybody acting like we have a gun
18 to our head.

19 MR. SURENIAN: We do have a gun to our
20 head.

21 MS. MENAY: What, what --

22 MR. SURENIAN: Tomorrow they go to the
23 court and they ask for a trial date.

24 MS. MENAY: You know why? Because no one
25 is advocating for us and because of all the back deals

1 that are going on.

2 MR. SURENIAN: What do you mean no one is
3 advocating?

4 (Speaking at the same time).

5 MAYOR GHASSALI: Hold on, hold on, Miss
6 Menay (phonetic), Miss Menay. Hold on. Hold on,
7 please. I think two things.

8 The first one said no one said sit down. That
9 doesn't happen. The second one, there's no back room
10 deals. There's nothing happening behind the doors.
11 No negotiation behind the doors. And all this stuff
12 we always have the attorneys advice.

13 None of us are talking to him, to the developer
14 and making any deals. It's with the attorneys with
15 the guidance that we have from our Borough and the
16 special attorneys.

17 So to say there's back room deals. We don't --
18 we don't let you speak. Let's be reasonable.

19 MS. MENAY: I'm saying the public doesn't
20 know what any deals are. We ask for RDP, we can't
21 know. We can't know any of the information so how do
22 we know that anyone is doing a good job negotiating?
23 How do we know we have skilled negotiators working
24 on it.

25 MAYOR GHASSALI: You're going to have to

1 trust the council that you elected to make those
2 decisions on your behalf.

3 MS. MENAY: Then we want counsel in those
4 meetings. We want counsel present for every single
5 meeting with the attorneys, with Mr. Hekemian and
6 everybody. We don't want Joe Boidus, just one person
7 or even, you know, Darlene is consulting us. Let's
8 say we have our professionals. They consult. They
9 don't lead the negotiation. We lead the negotiation
10 so we want the council members to know that.

11 MAYOR GHASSALI: Noted. Okay. Any other
12 questions? Any more questions? Ask them. Go ahead.

13 MS. MENAY: I want the public to
14 understand all of this. And I want them to understand
15 what it all means.

16 And I just, you know -- again, they're, they're
17 scared. And they're intimidated and they are being
18 told all of these things about Peter Hekemian and what
19 he's going to do to us and how he's going to
20 annihilate us. I don't think that's really fair
21 because that's not truly how litigation happens.

22 I litigate every single day and that is not the
23 reality of it.

24 And you know what, I (inaudible) in the Bronx.
25 And we (inaudible) for \$8,000,000 and I'm settling

1 that for less than 500,000. You know why? Because I
2 worked my tail off to negotiate the very best that I
3 could. It's not like, yeah, we can't get hit but
4 admittedly if we get hit it's not going to be for a
5 thousand units.

6 So I mean our deal doesn't sound all that better
7 than if you did give us, you know, this many
8 apartments and then there was no commercial is what
9 I'm trying to say and, and everyone is trying to be
10 reasonable. No one says go to trial. Everybody said
11 let's work this out.

12 I just don't hear a ton of people saying any
13 arguments we have at all. I mean defend us, come up
14 with something. (Inaudible).

15 MALE BOARD MEMBER: You would, in an open
16 setting lay out all your arguments?

17 MS. MENAY: No. I would actually set up a
18 mediation committee and I would work the residents
19 that the people trust and I would work with the
20 council members, people that I have asked to be a part
21 of and, and that's what I'm doing and while Peter
22 Hekemian is here you shouldn't show your cards.

23 You know what? That's exactly the problem. We
24 keep showing our cards. We keep offering more and
25 more and more and that's what got us into trouble in

1 the first place.

2 MAYOR GHASSALI: All right.

3 MS. MENAY: (Inaudible).

4 MAYOR GHASSALI: We do have, we did have a
5 committee, a mediation committee, a COAH committee
6 where two council members and myself are on it. The
7 professionals are all on it. The settlement the, the
8 guidance that we give to get to the developer will
9 come out from this committee so this is not Joe or
10 Jeff or one of us going in. It's, it's the committee
11 that's made of those people.

12 So we have been working on this for 18 months.
13 We have been spending endless hours on this. We've
14 been negotiating. We've been talking, we've been
15 calling, weekends, nights, 3:00 a.m.. I take issue to
16 say we're not fighting for you. We are fighting for
17 you and this is, you know --

18 MS. MENAY: Mayor, I feel different about
19 this. I didn't say it about you. I do think that
20 you're fighting for us but you also are -- have your
21 hands tied a little bit because you are at the mercy
22 of advice from people, from negotiators that are
23 working for you, you know. That's the reality of it.

24 It's not like you're dealing with these type of
25 litigation issues every day, you know.

1 You know you have my support and I just want the
2 best deal we can get. I don't want to go to trial. I
3 don't want to fight. I want the best deal.

4 This is really the best deal?

5 MALE BOARD MEMBER: This is the best deal
6 at this juncture.

7 MS. MENAY: (Inaudible).

8 MAYOR GHASSALI: Okay. Thank you.

9 Anybody else?

10 FEMALE SPEAKER: Hi. Between, (inaudible)
11 I will be short. I do, I believe that (inaudible) the
12 best.

13 MAYOR GHASSALI: Speak up, please.

14 FEMALE SPEAKER: Thank you, Mayor and all
15 of you how on hard you are all working so I don't
16 think that that should be mentioned in a way I don't
17 think that you're not. I think we think everything
18 could be better. It always could be. All right.

19 What I'm here I just want to leave on a note
20 only because the last time we met and the council
21 members, this is about the council members right now,
22 the last time we met and you were taking your votes,
23 there was some negativity which I'm not going to go
24 major into. But I was kind of taken aback by it.

25 And knowing that the newspaper is in here, I

1 think that, hopefully I speak on behalf of everyone
2 here that I don't think anybody takes issue with
3 affordable housing so I don't think that is to be
4 written up in the newspaper that Montvale disagrees
5 with affordable housing. So I want to make that
6 point.

7 And for the very reasons we don't agree with it
8 is for the reasons somebody thinks we do disagree with
9 that. That's absolutely wrong. All right.

10 So I think that should be mentioned and I think
11 it's a good way to end if we're going to end at this
12 moment.

13 I think what's most important for me in
14 negotiations and what's truly trying to come out here
15 is trying to preserve the integrity of this town not
16 just for us but for the people who are seeking
17 affordable housing. They are trying to come out of
18 concrete homes and live among beautiful homes that
19 they can raise their children the way we do. The real
20 negotiation during this negotiation whatever we vote
21 on tonight, it's still going to continue even after
22 tonight. There's going to be all the little things we
23 have to discuss. I think we need to understand that
24 the whole point of the Mount Laurel is to give people
25 a better place and a better chance.

1 If you're going to build a concrete jungle and
2 you're going to take them out of one concrete jungle
3 and put them in another then you did not do your job.
4 That's what I have to say.

5 And we need to preserve this town and it's
6 integrity and (inaudible) the Master Plan, the way it
7 was done. These people deserve a chance. They
8 deserve jobs, they do deserve to look out their window
9 and see concrete between. Whatever we'll build,
10 whatever we're going to (inaudible) the house in
11 Montvale, New Jersey.

12 All politics is no good. So I agree with you.
13 (Inaudible) that's the whole that needs to be
14 negotiated you need to have a topic and also come up
15 with details and the topic at hand is who are we doing
16 this for. What already happened.

17 Do we have to bring ourselves down or bring
18 everybody down, too?

19 I don't think that was the purpose of this. The
20 purpose of this was to give people better lives and
21 (inaudible) our integrity. I (inaudible) understand
22 that that's what this is all about. And (inaudible)
23 we'll go back and negotiate (inaudible) again,
24 negotiate with Mr. Hekemian who I just met. By th
25 way, he's very charming.

1 All right. Let's keep that factor involved.
2 I'm not trying to tell people (inaudible) not the same
3 so let's keep this perspective. I know this is not, I
4 know this is all legalities so I don't come from that
5 avenue. I just felt I'm not going to (inaudible) the
6 school part. That's just the way I am.

7 But concrete to concrete (inaudible) that's not
8 what we're here for. So let's keep the integrity,
9 let's keep the (inaudible) out of this. Let's keep
10 the (inaudible) going around the whole country lately
11 out of it.

12 Montvale is in full favor of (inaudible)
13 component. Not a (inaudible). Let's negotiate on
14 those terms. (Inaudible) as well as our integrity.

15 Thanks.

16 MAYOR GHASSALI: Thank you.

17 MALE SPEAKER: Mr. Mayor, I'm sorry to
18 come up a second time. Paul Thorny (phonetic). I
19 live in Montvale, invested in Montvale just to -- I
20 disagree with affordable housing especially in the,
21 especially in the manner in which, in which it is
22 being put on us. And I further that, I just want to,
23 I just wanted to put that on the record and further to
24 that I just wanted to ask a question because I
25 generally don't understand and it may be, it may be

1 something that's already been reviewed here in the
2 past so (inaudible) wasting everyone's time. I don't
3 understand what the urgency is. I understand the
4 immunity, I understand talking about this emergency
5 court date tomorrow but I understand a little bit of
6 the legal system and I don't get that. It seems like
7 an ambush to me. It seems like -- 18 months, 3:00
8 a.m. and all that we're being thrown in here, it seems
9 to me there are lots of ways in this legal system,
10 especially in this State to kick the bucket down the
11 road. That's the New Jersey way.

12 Mercedes-Benz moved out of here. If the
13 governor was on the top of his game (inaudible)
14 nothing gets done in this state and we were told this
15 has to happen tonight.

16 MAYOR GHASSALI: It absolutely has to
17 happen tonight.

18 MALE SPEAKER: I don't, I don't -- with
19 all due respect, Mr. Mayor, you could get food
20 poisoning tonight and we could probably delay this
21 vote. There's lots of things that could happen, push
22 this thing around.

23 And what I said before about Assemblywoman
24 Shefsey's efforts on behalf of everyone in the State,
25 all the things that are happening, the tide is going

1 towards the people on this issue. And my biggest
2 concern is that we get rushed into something here
3 where there are, where there are tactics, either
4 legitimate or even dirty trick type of tactics, that
5 could put us in a more advantageous situation, come
6 down the road a couple months, we got rushed into,
7 forced into a deal here that a person of position,
8 when those better days come, we're locked into a
9 position, something that's not good for us.

10 MAYOR GHASSALI: We've been given an
11 ultimatum by the developer, either vote on this time
12 or by 12:00 a.m. it's off the table and they go to
13 court tomorrow.

14 MALE SPEAKER: So if we get a trial date
15 tomorrow when is that date going to be?

16 MAYOR GHASSALI: I don't know. That's
17 where we're at.

18 MALE SPEAKER: (Inaudible) it's going to
19 be six months from now.

20 MAYOR GHASSALI: Yes.

21 MALE SPEAKER: What happens in those six
22 months?

23 MALE BOARD MEMBER: It will be before
24 Holly's legislation is heard.

25 MALE SPEAKER: How many times --

1 MALE BOARD MEMBER: Nothing is happening
2 with Holly's legislation. Let's not talk about it as
3 a trend. It's not happening. Let's not talk about as
4 the winds are bringing change.

5 MALE SPEAKER: No happens (inaudible).

6 MALE BOARD MEMBER: Exactly. Settle in
7 the courts.

8 MALE SPEAKER: The only thing happening in
9 New Jersey is this thing tomorrow, that's what I would
10 believe. (Inaudible) timeless. We had time, use it to
11 create time. It may be late, too, (inaudible).

12 MAYOR GHASSALI: All right. Noted.

13 MALE SPEAKER: (Inaudible) you made these
14 people sit and wait, too.

15 MAYOR GHASSALI: Noted. Thank you.

16 Anybody else.

17 Thank you, sir. Thank you.

18 Carrie.

19 CARRIE: He mentioned integrity. My
20 friend mentioned integrity. That's terribly important
21 for us to remember because I do have many friends in
22 Newark.

23 And, John, when I was talking about something
24 like this is they don't necessarily want to come to
25 Montvale. They want to have the monies in their

1 community so they can build up their schools, be with
2 their relatives, go to their churches. They don't
3 necessarily want to come here and, indeed, it's not
4 everybody who is in a coalition of affordable housing,
5 my former friends (inaudible) are anybody I would be
6 ashamed to live next door to.

7 So keep this in mind that indeed the coalition
8 of affordable housing tends to always weave itself
9 into these conversations but for us to maintain the
10 integrity of our town overrides all of it.

11 And, and that is for you to consider this
12 evening if you have not already considered.

13 And as I mentioned the last time that we talked,
14 and I used to work with the UN delegates and they
15 would say to me, oh, Carrie, you know we don't make
16 our decisions on the general assembly, we would make
17 our decisions in the, in the cloakroom or, or in the
18 delegates assembly in the cocktail room.

19 So if you made your decision ahead of time,
20 that's not unusual. But I would trust that, once
21 again, you listen to the people that are here that
22 have spoken with their hearts and their minds and
23 their pocketbooks and that your decision will give a
24 sense to all of this if you have (inaudible) the
25 integrity as we have trusted you and elected you to

1 do. Thank you.

2 MAYOR GHASSALI: Okay. Thank you.

3 MR. ROSE: Chris Rose 5 Lark Lane, I just
4 have a question for you regarding the 350 units, has
5 already been established as far as rest of the
6 development. 3,000 square feet of medical and
7 educational.

8 MR. SURENIAN: I said the ordinance says a
9 minimum of 40,000 square feet in the aggregate of
10 professional/medical/educational and general office.

11 MR. ROSE: Okay. So we just changed our
12 zoning in Montvale, I believe, a year and a half ago
13 to prohibit educational in that zone. There's
14 supposed to be no educational between the Parkway and
15 (inaudible) the Parkway border up to Summit.

16 MR. SURENIAN: This settlement, like most
17 Mount Laurel settlements, involves an ordinance that
18 is the subject of, of a discussion and this ordinance
19 will be introduced and, you know, if it --

20 MR. ROSE: Okay. The 350 that's already
21 settled?

22 MR. SURENIAN: Yes.

23 MR. ROSE: The 40,000 then is to --

24 MR. SURENIAN: It's part of the ordinance.

25 MR. ROSE: We have to agree to that?

1 MR. SURENIAN: Yes. That's part of the
2 ordinance, that's part of this deal.

3 MR. ROSE: 40,000 square feet of possible
4 educational use?

5 MR. SURENIAN: An aggregate of
6 professional, medical, educational and general
7 offices.

8 MR. ROSE: (Inaudible) is that's what I'm
9 asking, you could put a school there?

10 That's what I'm asking. You could put a
11 school there.

12 I believe everybody on the Board who's been here
13 long enough understands --

14 MALE BOARD MEMBER: I suppose you could.

15 MR. ROSE: You could put a school there.

16 Okay. Thank you.

17 MAYOR GHASSALI: Thank you.

18 Anybody else? Anyone else?

19 MALE SPEAKER: Mr. Mayor, Counsel, I know
20 it's getting late and I know you have to (inaudible)
21 and I'm going to say this before you do. I know
22 everybody here knows that you have an impossible
23 decision tonight because (inaudible) a good thing for
24 Montvale tonight. It's either a bad thing or a very
25 bad thing and only a hand -- only in New Jersey is --

1 are we forced to say this is the least bad thing we
2 can do for our town so we take it. So essentially, as
3 you said many times tonight, we're negotiating
4 (inaudible) that the State has forced this upon us,
5 that nobody in Montvale wants this, (inaudible) nobody
6 wants this and have to do something, obviously.

7 And whether we do it tonight or down the road,
8 (inaudible) we're looking for the least bad apple, for
9 example.

10 And my plea to this council -- Mr. Lane, I know
11 potentially that you feel this way; Mr. Mayor, I know
12 you feel this way. I, I pray, I plea to you, please
13 go to Trenton, please speak to our governor, senators
14 because (inaudible) they won't listen to us.

15 We'll write, we'll advocate but you have their
16 ear, we don't.

17 So I, I beg you, please because tonight is not
18 the last time this is going to happen (inaudible)
19 2025. Seven years, eight years from now this is going
20 to come down with another property. If it doesn't
21 come up here, it will be Park Ridge, Woodcliff Lake.

22 But, please, you can speak to our, you can speak
23 to Trenton, you can speak to politicians. We can't.

24 So please, I beg you, because this is going to
25 happen again.

1 MALE BOARD MEMBER: You can speak to
2 politician and you can do that on election day and
3 something that was forwarded to me today and I was
4 unaware of is that I think our, our democratic
5 candidate for governor, Bill Murphy, is one of the
6 largest donors to Fair Share.

7 MALE BOARD MEMBER: Election Day is on the
8 7th.

9 MALE BOARD MEMBER: All right.

10 MALE SPEAKER: (Inaudible) you all know
11 how I'm going to vote, myself and hundred people in
12 this room.

13 MALE BOARD MEMBER: Noted.

14 MALE SPEAKER: I beg you, Montvale, not
15 just our town, it's all of New Jersey. How we vote,
16 unfortunately, we're not the majority of New Jersey.

17 MAYOR GHASSALI: Okay. Thank you.

18 MALE SPEAKER: One more?

19 MAYOR GHASSALI: One more. Because we
20 have --

21 FEMALE SPEAKER: I'll be brief.

22 It's just a quick follow-up because of Chris's
23 question.

24 With regards to that additional information
25 about medical offices, education and so on, why

1 specifically was that inserted into the language of
2 this, of this settlement? Who put it in there?

3 All right. I guess is what I'm asking. Why is
4 it required?

5 MR. SURENIAN: This was part of a package
6 that was negotiated.

7 FEMALE SPEAKER: By the developer so they
8 asked that this be inserted into the language of this
9 settlement?

10 MR. SURENIAN: Well, this negotiation has
11 been going on a long time between the developer and
12 the town.

13 FEMALE SPEAKER: I guess, I honestly agree
14 a year and a half ago there was a great deal of
15 discussion about this very issue and a great deal of
16 time and effort went into consideration.

17 So I'm wondering why this was slipped in and I
18 would please beg you to think about, you know, first
19 of all why it was put in but secondly think about it,
20 please.

21 MAYOR GHASSALI: Okay.

22 MS. BUTTON: Female speaker. Jeannie
23 Button. I promise I'll be real quick. I just want to
24 be heard tonight.

25 I'm not a lawyer, I'm not a realtor. I used to

1 teach kindergarten. I have a first grader in the
2 school at Memorial. And every so often we just give
3 the kids a break from homework and we do a family
4 night and tonight's family night so to do an activity
5 as a family shows how you make a difference in your
6 community so I find that (inaudible). I'm here.
7 (Inaudible).

8 But I just wanted to say that you are voting
9 tonight, have that same opportunity to make a real
10 difference for us. So I know that it might be the
11 road less traveled and it might be a harder fight but
12 it will be the one that will certainly make a
13 difference for our kids and for everyone in this
14 community. So I just beg you to consider that.

15 Thank you.

16 MAYOR GHASSALI: Thank you.

17 MS. THOMAS: Rita Thomas (phonetic), Eagle
18 Ridge. I just wanted to say my plea is not to the
19 Mayor and Council mit's to Peter Hekemian who I know
20 is sitting two rows in front of me. And we were told
21 tonight many times by Surenian and others that it's
22 the final deal or no deal at all.

23 And I just ask, since you are a neighbor of ours
24 in the neighboring town and you have children and you
25 understand what everybody here is saying that you will

1 continue to have conversations with us.

2 We're frustrated. We're angry. It's not really
3 at you although you may feel like it is. It's at the
4 process. We know you've been in this for two years
5 with us. I apologize that it's taken so long but we
6 are now just really getting into it so if you would
7 please come back to the table and have more
8 discussions with us, I know we can come to a better
9 settlement than what is on the table right now.

10 And the fact that that piece about the school
11 just got brought up between, it's makes all of us very
12 concerned and all on council and most of you
13 (inaudible) so I ask really Peter to have more
14 discussion with us. We're not unreasonable. We want
15 to settle. We know something has to happen on that
16 property, let it be something that we both could be
17 happy with.

18 Thank you.

19 MAYOR GHASSALI: Thank you.

20 All right. If there's no one else the process
21 now, Mr. Jeff Surenian will address the Council and
22 the Council will give their comments and put it to
23 vote.

24 Anyone else from the public, seeing --

25 If members of the Hekemian team would like to

1 talk to the public, this is your chance to talk to the
2 public.

3 Thank you, Mr. Del Vecchio.

4 MR. DEL VECCHIO: Thank you. Mr. Mayor,
5 members of the Council. I don't intend to shed any
6 light or discuss the negotiations leading up to this
7 moment.

8 The reason I did get up I wanted to plea for
9 council's benefit and the public's benefit, I guess
10 what is a scary thing for those who went through it in
11 Montvale a year ago on the educational issues relative
12 to schools potentially moving int the area. And the
13 ordinance as it's attached to the settlement agreement
14 and as proposed the following is an educational office
15 as a room or group of rooms used for conducting
16 corporate training which is generally consists of a
17 desk, table and communication equipment. It is not
18 the educational use or type of use that was of a
19 concern that generated public outcry and council
20 action in the past.

21 So the ordinance was tightly confirming
22 corporate educational use which was something the
23 business community had requested not something that we
24 had sought. And that was basically, Mr. Mayor, I know
25 at the round table for the business community and

1 their express needs of what they needed to be in
2 Montvale.

3 MAYOR GHASSALI: Thank you.

4 All right. A motion to close the meeting to the
5 public.

6 MALE BOARD MEMBER: So move.

7 MAYOR GHASSALI: Second?

8 FEMALE BOARD MEMBER: So move.

9 MAYOR GHASSALI: Mr. (Inaudible) do you
10 have any comments before we go to the Council?

11 MALE BOARD MEMBER: Before you start are
12 we going to hear anything more than we've already
13 heard? That's a serious question (inaudible).

14 FEMALE BOARD MEMBER: I would like to hear
15 the counsel.

16 MAYOR GHASSALI: Let him speak, please.

17 FEMALE BOARD MEMBER: Thank you, Mike.
18 Councilman Weaver, Councilwoman Curry.

19 MR. SURENIAN: You have a difficult
20 decision. You have a situation that replicates itself
21 all over the State where you're faced with a decision
22 where there is a lot of concerns with the public.

23 And -- but this process has gone on for a long
24 time. And it's pretty clear to me that this is the
25 end of the road, that we have to make a decision.

1 We're going to put this through or not.

2 We're not manufacturing a false perception that
3 there's a gun to our head. It's been made very clear.
4 The developer has been very frustrated because he was
5 now hoping to get a deal before. He's now hoping to
6 get a deal again, that, you know, his lawyers are
7 whispering in his ears saying fight, fight, fight, you
8 can make more money. Okay.

9 So you're facing a very difficult situation
10 where if you vote this down there is not any question
11 in my mind that what, we're going to be in a different
12 mode than we are now. They are going to be firing
13 their guns. I'm not going to go into the detail of
14 what you all know, more detailed letters and memos
15 about the risk involved in the litigation. You know
16 all that.

17 You have to understand. All that's been written
18 to you, explained to you. It's not for me to say in
19 the public.

20 MALE BOARD MEMBER: (Inaudible).

21 MR. SURENIAN: Not, not in the level of
22 details that you've heard it personally and in
23 writing. And so the point of the matter is we're at
24 the end of the road and, and for all the angst and I
25 don't mean to minimize that. I can understand how

1 members of the public have legitimate concerns about a
2 lot, a lot of this. The alternative is much worse.

3 And it's very clear what the alternative is.

4 And there's two roads for you, one road leads to
5 litigation where the developer has to pull out all the
6 stops and all the efforts, all the resources, all the
7 energy is spent on trying to get the court to make
8 decisions that you lose control of your community or
9 you go down a road that you can control what happens
10 on the site.

11 Is it perfect? Is it great? No, of course you
12 would want it different. But you have some measure of
13 control on this site and you have the opportunity to,
14 to control your community.

15 My biggest fear is that you lose control. My
16 biggest fear is that developers come in expensive real
17 estate and start dictating to you.

18 Heaven forbid you lose your immunity. You know,
19 you're an attractive community. It's a major concern.

20 So I know this is a difficult decision for you
21 but I, I still recommend that you put through the
22 settlement and that you move on and we try to wrap up
23 the other two pieces of litigation and put this behind
24 us.

25 And all this angst, all this effort really does

1 need to be directed to the legislature but that's not
2 going to happen before we need to decide this matter.
3 The decision needs to happen tonight.

4 And, and so I won't belabor it. There was a
5 question raised, by the about the resolution.

6 And we suggest that you make one change to the
7 resolution so that there's no question. And it's the
8 last whereas before now therefore.

9 I would suggest that you insert into this last
10 whereas the, the second line says agreement. I would
11 insert the words which requires 53 total affordable
12 units and, and I (inaudible) it, it just makes it
13 clear that it's 53 affordable units (inaudible) the
14 RDP.

15 That's the clarification.

16 MAYOR GHASSALI: Okay. Thank you very
17 much.

18 Okay. Let's start with the Council President
19 for some comments and then we (inaudible).

20 Council President.

21 COUNCIL PRESIDENT CURRY: I thank you,
22 Mayor. I want to thank everybody for coming tonight
23 and speaking what's on your mind, using the talents
24 that you have been given to bring out what's on your
25 mind. And to the point that was made, I believe it

1 was made about the public doesn't know what, what
2 happens. And the public wasn't in that room tonight
3 at the closed session when Mr. Surenian made it very
4 clear, very clear that if we don't settle on this we
5 will have other developers forming unholy alliances
6 with Fair Share Housing. And I am just not willing to
7 have that happen.

8 It will be irresponsible of me, as a council
9 person, to vote no on this. There is so much at
10 stake.

11 I want to keep control of the future development
12 in Montvale. This is one we settle for. We work --
13 the Planning Board works with the Hekemian developers.
14 We get the best for the town and we move forward
15 making sure that the next time we have a better idea,
16 a clearer idea of what's going to be coming down the
17 pike and not wait for seven years or eight years to
18 start making those decisions. That's what I mean.

19 So my vote is going to be yes.

20 Thank you all again for coming tonight and thank
21 you, Mr. Surenian.

22 MAYOR GHASSALI: Thank you. Councilwoman
23 Gloeggler.

24 COUNCILWOMAN GLOEGGLER: First I'd like to
25 thank everyone in town for coming here and talking to

1 us tonight. I appreciate hearing all the input.

2 You're friends and you're our friends and our
3 neighbors and I take everything you say very seriously
4 and have listened to input from all directions.

5 The second thing I would like to do is thank the
6 Mayor and my fellow council members because whatever
7 we decide here tonight there are no good choices here.

8 And for all of us, we're just doing our best to,
9 to do what we think is best for Montvale and there's a
10 few of us who would be in agreement that we don't like
11 any of the choices that are here in front of us today.

12 And, I certainly don't love this deal.

13 I stood here a couple months ago and voted no
14 because of the density of this project. And since
15 that time I still don't like the density of this
16 project but I've also worked very, very hard in the
17 meantime to listen, to ask for and listen to all of
18 the experts that could be here and have listened very
19 carefully to my fellow council members and to the
20 towns members.

21 And as much as I don't like this deal I also
22 want to make sure that I'm being responsible to you,
23 the people of Montvale, and make sure that we -- I
24 don't get a worse deal for us as time goes on.

25 And so as we decide what our decisions are going

1 to be tonight and as we decide what our votes are
2 going to be, we will all consider and think about what
3 is best for the town and what is best for everyone
4 here in Montvale.

5 MAYOR GHASSALI: Thank you.

6 Councilman Lane.

7 COUNCILMAN LANE: Thank you, Mayor. I sat
8 up here now going on 10 years and truly thought about
9 this affordable housing issue every year that I've
10 been on. Some of it was a little quieter because COAH
11 was sort of AWOL and then, at other times, the
12 situations would crop up where it definitely became a
13 part of our consideration.

14 I've tried to come up with analogies that I
15 could, you know, sort of try and grasp as, as I've
16 tried to explain this to people.

17 First of all, do you any of you drive Mercedes
18 and how come you haven't sold them yet. I'm just
19 trying to lighten the mood a little because they're
20 the real guys.

21 The fact is we didn't expect to lose Mercedes.
22 We did. And we may not lose another company, we may
23 lose, we may lose more. And every time that happens
24 this raises a tet and it's something we have to
25 consider.

1 You know, I've sent this to some of my
2 colleagues on the Council. I sent this to -- I said
3 try this out. I got this watching an American
4 experience special on George H. W. Bush when he had to
5 make an argument for Fair Housing in Houston in 1968.
6 You could imagine what forces were aligned against him
7 and it's a quote by Edmund Burke (phonetic).

8 It said, your representative owes you not his
9 industry only but his judgment and he betrays instead
10 of serving you if he sacrifices it to your opinion.

11 That doesn't mean that your opinions are wrong.
12 It doesn't mean that we know better than you. What it
13 means is that we're charged with making a decision
14 where we sometimes necessarily maybe not unnecessarily
15 have more facts and also where we take a lone view.

16 You know, in, in some ways it's a little bit
17 like -- we've all talked about, you know, this is a
18 tough decision. It's lesser of evils. We don't, we
19 don't like the situation we're in.

20 You know, in my view the Mount Laurel doctrine,
21 the decision was about making great towns like this
22 accessible to more people. That's certainly a notable
23 cause. The way they've done it I think is just
24 backwards.

25 I'm a republican. I would have a different

1 mindset about the way to do it. But I'm not going to
2 get political on it.

3 But make no mistake, they want to add kids to
4 our schools. That's part of helping people achieve
5 the American dream.

6 And on that issue alone, one of the reasons I'm
7 supporting this is because just on the pure valuation
8 of what 600 or 700 units would do to our schools, I'm
9 not going to say a thousand versus what 350 would do,
10 many of which are targeted at the older population,
11 people who are retired, don't have kids, some people
12 who are just starting out also don't have kids yet,
13 who don't have the older ones; obviously, the kids
14 have moved on.

15 I think we can manage the impact.

16 Many of you came up and talked about streets
17 that you lived on that were actually the results of
18 affordable housing mandate and settlement. And I
19 don't think any of you felt yourselves as being a
20 recipient of an affordable housing development.

21 That's, that's not a statement of anything other
22 than this is something we will adjust to.

23 We, as a town, we're a great town, we will
24 integrate what we do here into the way Montvale will
25 be for the next 20 years. I can guaranty you Montvale

1 will not be the same 25 years from now than it was 25
2 years ago. I also don't think Montvale is worse today
3 than it was 25 years ago. I think it's better.

4 And so I look at this as something we can, we
5 can handle, we can settle this issue, we can, as
6 Councilwoman Curry said, retain control and then and
7 move forward in a very proactive manner around the
8 overall development of this town.

9 I still believe we have to control development
10 but I do not, I do not think I can, it would be
11 responsible for me to risk losing that control from
12 this body. You may not be happy with this body and
13 but and it over to the courts.

14 So I am going to support the, the ordinance.

15 And I promise you we will work our butts off to
16 make sure that if you're gain for being involved, we
17 will keep you involved.

18 Thank you.

19 MAYOR GHASSALI: Thank you.

20 Councilman Arendacs.

21 COUNCILMAN ARENDACS: The politician in
22 Trenton that (inaudible) hear the Assemblywoman's bill
23 on affordable housing, the don't care. I voted this
24 down in June because the scope of the density appeared
25 unrealistic and unreasonable for our town.

1 You offered before us. It doesn't appear much
2 different than what was proposed in June.

3 I want to continue, I wanted to continue
4 discussions with Hekemian to come up with a realistic
5 and reasonable solution that we can all live with.

6 We have to build. I know that. It's incumbent
7 upon myself to expand responsibility, that the least
8 impact as possible on the infrastructure.

9 Based on the overflow of the parking on
10 Mercedes-Benz, I don't feel confident we can absorb
11 that magnitude of development directly across the
12 street.

13 There are too many projects going on in town at
14 the same time. I don't want to make any impulsive
15 decisions. I welcome comments or emails from
16 residents advising what they thought, think was
17 acceptable at that site.

18 I'm the voice of the people.

19 Hekemian is a taxpayer, a professional. I
20 respect him. He needs to respect us in Montvale.

21 I would like to personally meet him which I
22 didn't and continue discussions to come up with a
23 reasonable and realistic solution that we can all live
24 with.

25 I just learned about the current RDP of 70

1 tonight. We just learned parts of the settlement now,
2 at this moment. I would have been happy to settle
3 this as soon as possible on an agreement that's
4 desirable to Hekemian and the residents of Montvale.

5 I don't want individuals that sought with
6 committees to meet with him. I thought all of that
7 needed to be with Hekemian and try to work this out.
8 I just don't accept ultimatums. I don't accept
9 residents being notified two days ago on a vote that
10 could change Montvale as we know it.

11 I understand we can't please all of the
12 developers or please all of the residents. We needed
13 to work out a deal for everyone's best interests.

14 And I just found out tonight we're not being
15 televised this evening.

16 I just met the court appointed master tonight.

17 As a councilman for three, four months, I just
18 thought maybe we can just talk to him a little bit
19 more and, and all come to an agreement and shake his
20 hand and that would be done with after he heard from
21 all the people here in Montvale.

22 So you know how I stand.

23 MAYOR GHASSALI: Thank you.

24 Councilman Koelling.

25 COUNCILMAN KOELLING: Thank you. And

1 thank you for everyone's participation. Thank you,
2 professionals.

3 We have heard all the, all the information so
4 I'll be brief. But I agree with -- I haven't heard
5 anything I disagree with from anybody.

6 I definitely agree that we need to fight but we
7 probably need to -- I have heard it, heard it here
8 said a different way, just kind of redirect our
9 energies.

10 And the last time we did this everybody said
11 they were willing to fight to the end, to the bitter
12 end.

13 And, again, I think it would be smart to
14 redirect our energies and come together.

15 And the gentleman said before asking us to go
16 speak to the politicians and I'm sure we're all going
17 to do that but you need to do that part, too, so it
18 comes from every angle because this isn't wrong here
19 in Montvale, it's wrong everywhere in New Jersey.

20 As for the deal that's in front of us, I also
21 agree we need to settle this and live to fight another
22 day.

23 So I plan on supporting this resolution and
24 fighting another day.

25 So, thank you.

1 MAYOR GHASSALI: Thank you.

2 Councilman Weaver.

3 Nothing to say.

4 COUNCILMAN WEAVER: I have plenty to say.

5 MALE SPEAKER: (Inaudible).

6 COUNCILMAN WEAVER: I don't appreciate
7 that comment.

8 First I'd like to apologize to the residents.
9 We knew we were having this meeting and our
10 arrangements weren't made for the meeting to be
11 televised and Montvale won't see what happened here
12 this evening and that's unfortunate.

13 MAYOR GHASSALI: It's being taped, by the
14 way.

15 COUNCILMAN WEAVER: Video -- audio is much
16 different than video. I think we can all agree to
17 that.

18 And correct me if I'm wrong but a resident would
19 have to request the audio and it's not going to be
20 aired on Montvale access television.

21 MAYOR GHASSALI: That won't be
22 (inaudible).

23 COUNCILMAN WEAVER: Okay. My apologies.

24 I would like to acknowledge Mr. Hekemian. I
25 thank you for coming this evening. It would have been

1 very easy for you to not come.

2 And, and let us have this hearing and not hear
3 what the residents had, had to say. I respect that.
4 I appreciate it.

5 And, and I'm glad to have the opportunity to
6 speak directly to you this evening. This is an
7 opportunity I haven't had for the last 18 months.

8 I don't have faith in, in individuals who have
9 let out of negotiations. Not all, some.

10 So the fact that I get to speak to you is
11 important. I have shared some thoughts with the
12 community today. I'll share some of those same
13 thoughts again with some other --

14 For a variety of reasons I believe it is
15 important to continue negotiations with Peter
16 Hekemian.

17 Let me be clear, I have no interest in fighting
18 with any developer, none of us do. We have heard
19 that. We know the situation that we're in. We all
20 want what's best for Montvale.

21 But there has to be a commitment to work
22 together to create development that is not only
23 reasonable and realistic but one the community will
24 embrace. And we did sit in this back room a few weeks
25 ago having settlement conversations and I admittedly

1 was for trying to reach an agreement at some of the
2 numbers that were discussed.

3 And then I attended the Planning Board meeting
4 last week as the council liaison where we heard and
5 made final decision on the KPMG campus that is, is
6 currently under construction.

7 And, and during the closing comments Mr. Del
8 Vecchio, who is the attorney for KPMG and also
9 represents Mr. Hekemian, said something that has stuck
10 with me for the last week in his closing comments.

11 And he said, I think we all have something,
12 something to be proud of at the end of the day if this
13 project puts a shovel in the ground because I think it
14 adequately and properly balances the needs of the
15 corporate tenant with the needs of the community in a
16 respectful manner. And I agree on that approach.

17 And for whatever reason, whether it's, it's
18 personalities or otherwise, I, I don't know if, if
19 we've gotten to that point.

20 I had a conversation with my son today before he
21 went to his basketball try-outs and, and we were
22 having an argument in the driveway and then whoever
23 has seen me coach you know I can be a little bit
24 animated, especially with my son. And I told him
25 you're a glass half empty person and you can't get out

1 of the negative. You are your own worst enemy. And
2 research tells us if you look at the glass half empty
3 it takes that much longer to get yourself into the
4 positive.

5 It's like when the economy rebounds but consumer
6 confidence doesn't or takes more time and lags behind.

7 I feel going back to the Wegman's project that
8 we have been in a half glass empty mode with Peter
9 and, and the work that he's done in town.

10 And it's taken us and is going to take us and we
11 may never get to the point where we reach the positive
12 and I think that's unfortunate because I think Mr.
13 Hekemian has a tremendous amount to offer to this
14 community. And I think that development at Mercedes
15 can be a, a, I think it could be the Rolls Royce but
16 not in its current form.

17 I know that Mr. Hekemian believes in responsible
18 development. I know how strongly you believe about
19 school.

20 We, we've not gotten to specifics. We've danced
21 around the topic all night. And if our legal counsel
22 is going to put it on the table let's just ge to
23 specifics.

24 You know, we talk about what's more. Eventually
25 in a negotiation you have to get to a point where you

1 say what is the most important thing to this
2 community. The most important thing to this community
3 based on what I have heard is height and density.

4 There isn't aversion to four to five stories.
5 There is an aversion to 15 units to the acre.

6 I can tell you, if we could get that complex
7 down to three stories and six to eight units to the
8 acre I would, I would vote yes yesterday.

9 And the reason why I feel so strongly about that
10 and why the residents feel so strongly about that is
11 because there's going to be a domino effect on other
12 properties.

13 And once four to five stories go in on Mercedes
14 it's inevitable that those same heights and densities
15 go in on other properties.

16 And I, I, I beg Mr. Hekemian to come back to the
17 table.

18 Though, if I were you, at this point I wouldn't
19 because after what I've heard from our own legal
20 counsel, I mean, the deal on the table right now is
21 the best one we're going to get but it's not something
22 the residents are going to love and embrace.

23 It could be the example for the community. It
24 could be the example for future development.

25 We've heard working our butts off and

1 redirecting energies.

2 You know, I've read the Facebook comments. I
3 read your emails. I listen to your concerns. And I
4 cannot in good conscience approve any developments
5 without addressing at minimum issues that we have in
6 our own town.

7 The 2008 Master Plan recommended a community
8 center based on, on lack of open space and current
9 community need.

10 This development alone would add 1,000
11 residents. Our schools are already at max capacity in
12 their ability to handle our recreational programs.

13 Do we have a community center? Yes.

14 Does it serve the, the needs of the community?
15 No.

16 In the summer our, our children go to a rec camp
17 and on a hot day they hide under a tree.

18 In other communities they take cover in an air
19 conditioned space with classrooms and gymnasiums and
20 game rooms. Our children deserve that.

21 We've talked about downtown. It's been an
22 ongoing conversation for years. At what point are we
23 going to study the downtown? At what point are we
24 going to address the traffic issue?

25 It's the only intersection that hasn't been,

1 major intersection that hasn't been touched with the
2 Wegman's proposal and it will only get worse and more
3 congested. Common sense dictates that.

4 Traffic on thru streets. How long did, did you
5 come to council meetings and ask for something to be
6 done on Akers? How long?

7 FEMALE SPEAKER: (Inaudible).

8 COUNCILMAN WEAVER: It shouldn't take that
9 long, it shouldn't. If we had issues with traffic and
10 speeding on our thru streets we need to do something
11 about it.

12 How long have parents at the High School level
13 been asking for subscription bussing. The school
14 won't provide it. The Borough needs to step up and
15 assign someone in our administrative offices to
16 facilitate that. It needs to be done.

17 The MAL sent us an email the other day saying
18 that we can't wait any longer for you to make a
19 decision on whether or not you're going to
20 rehabilitate the field so we're going to go ahead and,
21 we're going to get it done while we have the monies
22 available and open space to do that.

23 We've talked, we have had recommendations from
24 our Economic Redevelopment Retention Committee on the
25 need to hire someone to recruit corporate tenants,

1 hire an outside firm. We've been having that
2 conversation for over a year and we have not acted
3 upon it.

4 So when I hear comments like we'll work our
5 butts off and we need to redirect our energies, we've
6 got plenty of issues that we have not given the time
7 and address. What makes us think that anything is
8 going to change. I'm not convinced.

9 Pressed to vote right now my answer is no.
10 However, in a show of good faith I would like to make
11 a motion to table this vote in order to continue
12 dialogue and negotiations with Mr. Hekemian.

13 MALE BOARD MEMBER: I second, I second
14 that motion.

15 MR. WEAVER: I'm understanding that it may
16 not be something that the developer wants to do. I
17 would like the opportunity to sit across the table
18 from him and have that conversation, something I
19 haven't had the opportunity to do.

20 MAYOR GHASSALI: Who seconded?

21 MALE BOARD MEMBER: A motion to table it.

22 MAYOR GHASSALI: We have a motion to table
23 it to, to what meeting you said, Councilman?

24 What's your motion again?

25 MR. WEAVER: I would like to make a motion

1 to table this vote in order to continue dialogue and
2 have negotiations with Mr. Hekemian.

3 MALE BOARD MEMBER: Spend 24 hours in room
4 and meet with him.

5 MAYOR GHASSALI: So we have a motion.

6 MALE BOARD MEMBER: I second that.

7 (Inaudible).

8 MAYOR GHASSALI: All right. Based on the
9 procedure we have to take a vote but before the vote I
10 do want to make some comments before we do this one
11 here.

12 Councilwoman Gloeggler, were you for it or
13 against it?

14 COUNCILWOMAN GLOEGGLER: We didn't vote
15 yet.

16 FEMALE BOARD MEMBER: We didn't vote yet.

17 MAYOR GHASSALI: All right. So we have a
18 motion and we have a second.

19 So we have a motion, we have a second to delay
20 this vote.

21 Just a couple comments. We've been working with
22 the State, we've been working with Assemblywoman
23 Schepisi, Lieutenant Governor of the Economic
24 Development team. We are on the RSP for Amazon.com.
25 We went there and talked to them across the table and

1 we were all excited that we may have Amazon moving
2 here until we saw that there is a thousand trucks that
3 may be moving in and out of Montvale, with robots
4 actually operating (inaudible) --

5 FEMALE SPEAKER: (Inaudible) headquarters.

6 MAYOR GHASSALI: Let me finish, please.

7 So we have been working with them to try and get
8 some office space, maybe satellite offices.

9 I am highly encouraged talking to the other
10 mayors who settled and have met with the Fair Share
11 that they have gotten a really good deal. We are not
12 there yet.

13 We were giving given an ultimatum to either vote
14 on this tonight or else we go to court.

15 Just, just before coming here my son was
16 doing -- he's a sophomore at Pascack Hills and someone
17 asked him why is your father the Mayor and he said
18 because he wants to do the right thing for this town.

19 This has been probably one of the most difficult
20 times in office where we're talking about this and
21 we're discussing it in good faith, on both sides, who
22 are for it and who are not for it. They all mean well
23 but I can't do well with ultimatums to either do it
24 today or else we are done.

25 Just to clear some confusion, we're the Mayor

1 and Council. We represent 9,000 people who live in
2 town. We have to call the shots not the developer who
3 comes in from outside and calls the shots in our town.

4 That was my intention. We sat through mediation
5 for four hours today and for countless hours at prior.
6 And, the development, the developer has not budged
7 from the original numbers except for giving us the
8 Grand View and the building on that. But the actual
9 numbers we should be calling the shots how high they
10 should be, how many units and we should go there.
11 That, that's our job.

12 For someone to walk in from San Francisco and
13 say I want to build this or else to me is not
14 acceptable.

15 So you, you made my job very difficult if I have
16 to break the tie again.

17 It was a motion. We have a second. Roll call,
18 please.

19 Now this is to delay until our next meeting?

20 FEMALE BOARD MEMBER: No. No. This is a
21 motion on the table to go into further discussion.

22 MAYOR GHASSALI: To go into further
23 discussion with the developer.

24 Roll call, please.

25 FEMALE BOARD MEMBER: This is motion to

1 table the resolution.

2 FEMALE BOARD MEMBER: To go into further
3 discussions.

4 MAYOR GHASSALI: Table, a motion to table
5 the resolution to go into further discussion with the
6 developer. Motion by Councilman Weaver, seconded by
7 Councilman Arendacs.

8 Roll call, please.

9 SECRETARY: Councilman Arendacs.

10 MR. ARENDACS: Yes.

11 SECRETARY: Councilwoman Curry.

12 MS. CURRY: Can I ask Mr. Surenian for his
13 input on this?

14 MAYOR GHASSALI: This is roll call,
15 please.

16 MS. CURRY: Yes.

17 MALE BOARD MEMBER: I can't vote on this
18 unless I -- if this is the same as a no vote and we go
19 into litigation that's --

20 MAYOR GHASSALI: That's what this is.
21 Okay.

22 MALE BOARD MEMBER: It's, it's been clear
23 that that's what this means.

24 MALE SPEAKER: Let me be clear. In
25 requesting the --

1 MALE BOARD MEMBER: Let me be clear in
2 explaining why I'm requesting the resolution.

3 There are six members of this Council who have
4 been voted by the public and the Mayor. There are
5 seven or eight individuals who participated in
6 negotiations. There are individuals who participated
7 in negotiations who hold seats on boards in this town
8 who I have no confidence in to negotiate in our best
9 interests.

10 I am an elected official. I want the
11 opportunity to sit across from the developer and have
12 those conversations and I have not had that
13 opportunity.

14 My vote is not a no.

15 MAYOR GHASSALI: Mr. Surenian, did you
16 have any other comment for roll call?

17 MR. SURENIAN: Just so the record is
18 clear, you heard the same that I heard, Mayor, that
19 this is our choice, the offer expires if it's not
20 accepted.

21 So I don't discount that you would like to have
22 further negotiations but there are consequences to, to
23 putting this off. We've been told point blank what
24 those consequences are.

25 So there's no ambiguity there.

1 MAYOR GHASSALI: Okay.

2 MR. SURENIAN: Councilman Weaver made a
3 motion, Councilman Arendacs seconded that motion.
4 It's a --

5 SECRETARY: The motion is to table the
6 resolution and to go into further discussion.

7 Councilman Arendacs.

8 MR. ARENDACS: Yes.

9 SECRETARY: Council Member Curry.

10 MS. CURRY: No.

11 SECRETARY: Council Member Gloeggler.

12 MS. GLOEGGLER: Yes.

13 SECRETARY: Mayor Ghassali.

14 MAYOR GHASSALI: No.

15 SECRETARY: Councilman Lane.

16 MR. LANE: On the advice of the counsel,
17 retained professional who's an expert in Land use Law
18 in the State of New Jersey, who we brought in to
19 enable us to try and manage this, based on his
20 interpretation that this is effectively a no vote and
21 that we're going to court tomorrow I cannot support
22 this resolution.

23 MAYOR GHASSALI: Is that a no?

24 MR. LANE: Yes, it's a no.

25 SECRETARY: Councilman Weaver.

1 MALE SPEAKER: (Inaudible).

2 MAYOR GHASSALI: No. We're voting.

3 MALE BOARD MEMBER: It is a resolution.

4 MAYOR GHASSALI: Sir, sir.

5 (Speaking at the same time)

6 FEMALE BOARD MEMBER: You can't talk.

7 MAYOR GHASSALI: You can come back after.

8 SECRETARY: Councilman Weaver.

9 MR. WEAVER: Yes.

10 MAYOR GHASSALI: Is it a tie again?

11 SECRETARY: There's a tie, Mayor.

12 Councilman Arendacs, yes; Council Member
13 Gloeggler, yes; Councilman Weaver, yes; Council Member
14 Curry, no; Council Member Koelling, no; Council Member
15 Lane, no.

16 So, Mayor, it is your tie vote.

17 MAYOR GHASSALI: And the Mayor votes yes.

18 All right. So this carries until --

19 MALE BOARD MEMBER: Until we go to court.

20 MAYOR GHASSALI: We're asking the
21 developer if he wants to meet again. If he wants to
22 go to court, we go to court.

23 MR. LANE: Can I make a motion?

24 MAYOR GHASSALI: Yes.

25 MR. LANE: I make a motion that we freeze

1 all spending in town until we understand the costs
2 associated with the pending litigation.

3 MAYOR GHASSALI: Second to the motion to
4 freeze all spending?

5 FEMALE BOARD MEMBER: I just ask
6 Councilman Lane to explain what that means.

7 MR. LANE: My, if, if we are now
8 proceeding on a litigation path we have serious
9 financial issues with respect to the spending cap and
10 we have to suspend any discretionary spending from
11 this point forward until we understand what the
12 financial impact on this town will be if we go to
13 litigation.

14 FEMALE BOARD MEMBER: Discretionary
15 spending?

16 MR. LANE: Anything that hasn't been
17 approved in the budget that isn't already been --

18 FEMALE BOARD MEMBER: Been approved in the
19 2018 budget.

20 MR. LANE: In the 2018 budget because we
21 absolutely cannot spend -- if we're going to go to
22 litigation we absolutely cannot spend any money until
23 we understand what that, the --

24 MAYOR GHASSALI: Okay.

25 MR. LANE: -- the impact of this is going

1 to be.

2 MAYOR GHASSALI: So salaries is no --

3 FEMALE BOARD MEMBER: Anything that hasn't
4 been put into our 2018 -- our 2017 --

5 MAYOR GHASSALI: Okay. Second to the
6 motion?

7 FEMALE BOARD MEMBER: That would include
8 the bill, the --

9 MR. LANE: Anything that has an economic
10 impact on the town, yes.

11 MAYOR GHASSALI: That's in the budget.

12 MR. LANE: No, it's not in the budget. We
13 voted on it this year. It wasn't a budgetary spend,
14 it's an additional spend.

15 MAYOR GHASSALI: It's a motion.

16 MALE BOARD MEMBER: So we get the
17 opportunity to vote?

18 MAYOR GHASSALI: Yeah.

19 MALE BOARD MEMBER: I'll second that.

20 MAYOR GHASSALI: Good point. How about
21 the KPMG tax appeal? That doesn't get paid?

22 MR. LANE: Nothing. Nothing.

23 MAYOR GHASSALI: All right. So there's a
24 motion to freeze all discretionary spending.

25 Second to the motion.

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MALE BOARD MEMBER: I'll second.

MAYOR GHASSALI: Roll call please.

SECRETARY: Council Member Arendacs.

MR. ARENDACS: No.

SECRETARY: Council Member Curry.

MS. CURRY: Yes.

SECRETARY: Council Member Gloeggler.

MS. GLOEGGLER: Yes.

SECRETARY: Council Member Koelling.

MR. KOELLING: Yes.

SECRETARY: Council Member Lane.

MR. LANE: Yes.

SECRETARY: Council Member Weaver.

MR. WEAVER: Oh my God.

SECRETARY: Council Member Weaver.

MR. WEAVER: Did we have comment on this?

SECRETARY: (Inaudible).

MAYOR GHASSALI: It's a vote for right
now.

MR. WEAVER: We never had comment? Isn't
that procedural to have discussion?

MAYOR GHASSALI: There was some discussion
going on.

(Speaking at the same time).

Everybody had the opportunity to speak.

1 All right. So make your comments first.

2 MR. WEAVER: No. It's kind of, now it's
3 after the fact.

4 MAYOR GHASSALI: You can make comments.
5 Go ahead.

6 MR. WEAVER: Now everyone else has voted
7 so Councilman Lane had the opportunity to, to possibly
8 influence vote and not -- I have not had the
9 opportunity to speak before anyone else voted.

10 MAYOR GHASSALI: All right. Counselor,
11 how do we handle this?

12 FEMALE BOARD MEMBER: Council Member
13 Weaver (inaudible) --

14 MAYOR GHASSALI: Certain members.

15 MALE BOARD MEMBER: Certain members of the
16 Council had spoken in comment and the vote again so
17 it's in the middle of a vote procedure and the vote has
18 to complete.

19 MR. LANE: Procedurally is everyone
20 entitled to the opportunity to speak before a roll
21 call vote is taken?

22 MALE BOARD MEMBER: There was comments so
23 it was open for comment.

24 MR. LANE: Procedurally how do we
25 typically handle it when a resolution is introduced?

1 FEMALE BOARD MEMBER: It's a motion on the
2 paper for this motion, now you can't comment before
3 you have asked. Yes, no or --

4 MAYOR GHASSALI: It's not a resolution.
5 This --

6 MALE BOARD MEMBER: This wasn't on the
7 agenda. I made a motion earlier, there was comment.
8 Everyone had the opportunity to comment and a vote was
9 taken.

10 We've had a motion made to stop funding anything
11 including funding turf that's five years overdue. So
12 we want to go back to the list from before of things
13 that haven't been addressed.

14 Let's continue to not address the needs of the
15 community. It makes perfect sense.

16 MALE BOARD MEMBER: Councilman Weaver,
17 that's not what I'm saying.

18 If we understand this is not going to be a major
19 cost --

20 Let me ask you this. How do we spend money we
21 don't have?

22 MR. WEAVER: We can talk in spending cap.
23 I asked the Mayor about a presentation from our CFO on
24 the spending cap. (Inaudible).

25 I have yet to see anyone put a hard number in

1 front of me as to what the spending cap is and where
2 we are in terms of those numbers.

3 So we're talking about freezing monies before we
4 even have the (inaudible). That, that's putting the
5 cart before the horse.

6 MR. LANE: Well --

7 MALE BOARD MEMBER: We are going to stop
8 funding projects.

9 MALE BOARD MEMBER: (Inaudible) safety. I
10 don't want my kids on that field.

11 How many kids do we have running around the
12 field?

13 COUNCILMAN LANE: Mike, Mike, we said to
14 replace the turf.

15 MALE BOARD MEMBER: Up to date and now
16 we're going to table it.

17 MR. LANE: The work, the work on the turf
18 would happen in the same period of time after we
19 conduct this review.

20 MAYOR GHASSALI: Gentlemen. At the advice
21 of counsel.

22 We are in the middle of a vote. You can make
23 your comments and then you can cast a vote.

24 MALE SPEAKER: You have four votes so it
25 passed.

1 FEMALE BOARD MEMBER: You can abstain.

2 MAYOR GHASSALI: You can abstain, say yes,
3 say no.

4 MR. LANE: No.

5 MAYOR GHASSALI: Okay. All right. So
6 that's where we are.

7 MR. LANE: And, and I would recommend we
8 move as quickly as possible to analyze the costs
9 associated with the decision we made tonight. Maybe,
10 maybe the redeveloper will enter into negotiations and
11 maybe we'll go to litigation.

12 If we go to litigation we have to determine what
13 that cost is going to be. It's not in the budget.

14 MAYOR GHASSALI: Okay.

15 FEMALE BOARD MEMBER: And that money
16 (inaudible) appropriated in (inaudible).

17 FEMALE BOARD MEMBER: Can't hear you.

18 FEMALE BOARD MEMBER: Going forward.

19 MALE BOARD MEMBER: We have heard from the
20 Finance Chair that those monies are not going to be
21 spent.

22 We have other needs, and we have other needs
23 throughout town so either it is or it isn't. Which
24 one is it?

25 FEMALE BOARD MEMBER: Money for the turf

1 field and the other funds have been appropriated
2 already in the 2017 budget for the actual field turf.
3 Taking that open space trust fund, that money is
4 appropriated already.

5 MALE BOARD MEMBER: So are we building a
6 turf?

7 FEMALE BOARD MEMBER: Yes.

8 FEMALE BOARD MEMBER: But, Councilman
9 Weaver, we have to be responsible. We just made a
10 decision in the town, to back that up that this is
11 what we want to do, we have to be responsible for the
12 finances. We do not have unlimited funds for any of
13 this so we have to be responsible, sitting here on the
14 bench about what monies can and can't be spent when we
15 don't know what this is going to cost you.

16 MALE BOARD MEMBER: I agree with you 100
17 percent but we also have a responsibility to our
18 residents and safety of the children who play on our
19 fields and I cannot, in good conscience, tell our
20 residents that we're going to go -- it's bad enough we
21 have to make them play on there this season. It's
22 five, it's almost six years past due. It's, it's a
23 child safety issue.

24 FEMALE BOARD MEMBER: Can we just hear
25 from Maureen that the money is available and that

1 would be something that would be spent?

2 What you're speaking of --

3 MR. LANE: Any discretionary spending
4 going forward.

5 (Inaudible).

6 We cannot, you know, we cannot allocate funds
7 until we understand the impact. I heard -- you know,
8 I heard a number, half a million dollars a year, that,
9 that's not, that's, that's not even in the scope of
10 our budget.

11 MAYOR GHASSALI: All right. How about we
12 do this?

13 We'll take the next two weeks to do an analysis
14 on the costs and then we'll do with the help of the
15 Special Counsel and CFO.

16 FEMALE BOARD MEMBER: (Inaudible) our CFO.

17 MAYOR GHASSALI: Right. Okay. And then
18 we'll see how much that costs.

19 We'll take a two minute recess before we move on
20 to the next agenda items.

21 (The matter adjourns.)

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C E R T I F I C A T E

I CERTIFY that the foregoing is a true and accurate transcript of the testimony and proceedings as reported stenographically by me at the time, place and on the date herein before set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney or counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in this action.

DONNA LYNN J. ARNOLD, C.C.R.
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