

WESTCHESTER COUNTY BOARD OF LEGISLATORS
COMMITTEE ON HOUSING & PLANNING
Tuesday, April 13, 2010, 9:30 am
MEETING MINUTES

In Attendance:

Committee Members: Leg. William Burton, Chair; Legislators Peter Harckham, Judy Myers, John Nonna, Martin Rogowsky, Bernice Spreckman and Alfreda Williams. Advisory Members: Geoffrey Anderson and Albert Annunziata. Committee Coordinator: Barbara Dodds. Others: Norma Drummond, Planning Dept.; Ken Belfer, Westhab; Housing Opportunity Commission (HOC): Jean Pollack, George Raymond, Richard Hyman, Shelly Weintraub; CE's Office: George Oros, Katy Delgado; BOL: Chris Crane, Larry Goldstein, Betsy DeSoye; Ken Belfer, WestHab; Karen Schatzel, LWVW; Lisa Buck, The Bridge Fund; Alexander Roberts, Community Housing Initiatives.

ITEM DISCUSSED:

▪ **Legislation to continue the Housing Opportunity Commission (HOC)**

With a quorum present, Legislator Burton opened the meeting. The agenda item was legislation extending the life of the Housing Opportunity Commission beyond the June 30, 2010 expiration date, and amending some of the original terms in the enabling legislation. This legislation, with updates, is the same as presented in November 2009 by the former administration. Leg. Burton said that in conversations with George Oros, Chief of Staff for the new administration, all of the legislation's recommended changes were agreed upon. Mr. Oros did suggest, however, that the mission statement be brought up to date and some criteria for members be considered.

Leg. Burton recommended considering each proposed change one by one and then discussing the role and mission of the HOC. The local law would: eliminate the sunset date for the Commission to reduce the administrative burden; reduce the number of Commission members from 15 to 11 to better enable quorums and operational efficiencies; alter the composition of the Commission to include 1 Planning Board member, 1 member from each of 5 County planning regions, and 5 at-large members; change the number of meetings from monthly to six times a year. Several other policy changes were included.

There was considerable discussion on whether to do away with the sunset clause altogether as recommended in the legislation or to follow a BOL leadership preference to continue 5 year terms. Leg. Rogowsky said he was prepared to support a permanent commission due to the commitment of the County to affordable housing and would be more inclined to support terms for the members. Ms. Drummond commented that by enforcing the 70% attendance rule for members that is revisited every year. So a choice seemed to be a five year sunset term or an unlimited term with fixed terms for members. Leg. Harckham said that at the end of five years the County will be in the home stretch of the settlement and will need all the resources available. He agreed with Leg. Rogowsky and supported the unlimited term. Mr. Oros said the administration would prefer a sunset. It's healthy to examine things that are established from time to time. But it is not a deal breaker. Leg. Burton suggested that there could also be a seven year sunset to coincide with the settlement time span. Leg. Myers commented that given the huge need for affordable housing in the county, that need is not going to go away in seven years. She recommended a continuing commission and possibly set terms for members. Leg. Harckham agreed and added that the commission could be reviewed periodically. He also suggested staggered five year terms for members to preserve historic knowledge and experience. Leg. Burton favored a sunset clause.

Leg. Nonna said he would like to look at the overall mission of the commission as a general matter. Based on his review of the commission, it has not fulfilled the original mandate. He was concerned that they are given too much responsibility for a citizens voluntary unpaid group. Leg. Rogowsky suggested looking at the language changes proposed in the legislation regarding the mission and duties.

Mr. Oros had two points he would like the committee to discuss. Under duties of the commission in the first paragraph:

Solicit the support of federal and state officials, units of local government, Westchester businesses, corporations and labor organizations, the clergy of all denominations and nonprofit and service organizations for an equitable allocation, based on applicable case law, of Westchester County's regional fair and affordable housing need as determined by the County Board, including adequate permanent housing for Westchester's homeless;

It looks as though it is limited and goes directly to the stipulation and the settlement. Even though that will be the focus, perhaps it should not be just that because there will hopefully be other affordable housing projects to support. In the second paragraph:

Promote and provide advice in connection with the Affordable Housing Allocation Plan which allocates the County-wide fair and affordable housing need among all of its municipalities, and any updates thereto which may become warranted based on new information including, among other things, relevant information yielded by the decennial U.S. Census, the mandates of state and federal law with respect to fair and affordable housing and other relevant considerations.

He said he assumed that it goes back to the Affordable Housing Needs Assessment done by Rutgers University in 2004. The question arose whether the Board had passed the assessment report or the allocation plan. The allocation plan was never voted on by the County Board. Mr. Raymond said that the Commission was mandated to figure out a way for the municipalities to share equally in the regional need in the study. The Allocation Plan was done by a formula developed by the Commission based on the numbers in the Needs Assessment. If this plan is determined to be no good than a different formula has to be developed and make sure it applies equally to everybody.

Leg. Burton said there were nine paragraphs under the mission portion to consider.

Leg. Rogowsky said we are changing to implementing a plan. The Commission did what they were told to do to develop and implement a plan but the Board never approved the plan. Before we ask them to promote the "plan" we have to decide if we are happy with that plan. Leg. Harckham said that a housing plan is a good tool as we talk about regional advise and consent, but we need not codify the plan itself.

Leg. Nonna had some criticisms generally although he had been an advocate of affordable housing. Regarding the work of the Commission, he felt the allocation plan was too much for a number of municipalities that did not have the space and that it is deeply flawed. This ongoing legislation refers to that plan and we need to revisit it, particularly under the stipulations of the settlement. The Commission was given too many responsibilities such as having to do an annual report a year and we have four reports not the number of years the Commission was in effect. The Commission did some work on impediments to fair housing and all of a sudden we got sued when we should have known about these impediments. We should have been ready for this, and the impediments that the Commission was looking at it weren't the issues we were faced with in the lawsuit.

Regarding paragraph one—soliciting the support of federal and state officials—he didn't think we need the support of fed & state officials. Is the Commission in a position to get local government on board? Perhaps the County through the Municipal Officials Assn. would be better. The broad mission needs to be more specific. It is a different environment now with the settlement requirements. What is the nature of the advice HOC would provide?

Leg. Harckham, sitting as Chair for Leg. Burton, said that other advocates had said that advice and solicitation were what the Commission members were good at, the top down perspective. Leg. Rogowsky asked what was support we were soliciting. Mr. Hyman said the allocation plan is central to the commission which was established to create the plan. Everything else flows from the allocation plan. For example, using the allocation plan methodology, we solicited state support to the county in the form of tax credits, he said. Mr. Annunziata suggested changing the wording to "assist the county by drawing upon all resources and allies to further the goals of the County Board." If this method is not working, why are we talking about it, Leg. Nonna asked. Let's not send them on a Don Quixote mission. What we have been doing has not been working so we have to do something else.

Even if they had the land, said Mr. Raymond, some communities don't want it and some don't have sites. Mr. Hyman commented that although none of the members is satisfied with the progress made, whenever we talk to other counties, they are very impressed with our numbers. The goal has not been met but progress has been made. The people who don't want to hear it won't, Ms. Weintraub said. This is an opportunity going forward as part of the lawsuit. "We've always looked at ourselves as the County's conscience."

Leg. Rogowsky suggested that maybe there is a major shift because of the settlement. Leg. Harckham said there was no mention of numbers or a target support number in the first paragraph. Mr. Raymond noted that every unit that will be built under the settlement would be eligible under the Allocation Plan. If we are asked to play a greater role in relation to the stipulation that would be welcome since we have not been involved in the process from the beginning. He quoted from the Mt. Laurel New Jersey Supreme Court decision in 1983: "We believe in numbers, not because numbers can be developed, scientifically devised or universally accepted, or any other way, but because without numbers we won't get anywhere." He suggested re-working the allocation plan and make sure the mission statement is up to date. Mr. Annunziata commented that HOC had never been brought into any part of the lawsuit. Has the impediment consultant met with the HOC? Ms. Dodds will get that information from Norma Drummond.

Leg. Harckham said that we are now talking about a complete re-working of the mission. Leg. Williams is for keeping the mission roughly with some changes. Leg. Myers thinks that perhaps the mission is too broad but the Commission itself is very important. When the committee chair returns, Leg. Rogowsky suggested we need to re-write of the legislation and preserve the Commission. For example, instead of giving recommendations to the county, we need to have incentives directed to the municipalities. Leg. Nonna said we have not had a prior opportunity to look at the legislation and the mission of the Commission. He recommended a re-write to try to provide a focused mission by looking at the stipulation and the implementation plan and some of the sections that deal with the county's ongoing responsibilities. Then try to redefine the Commission's role in terms of where the county would like HOC to assist and to do in terms of fulfilling the results under the settlement. Leg. Spreckman suggested we ought to state what the Commission should do. Perhaps we could get some of the municipalities to go along with the settlement.

Leg. Nonna added another suggestion recommending that we have a provision asking the Commission to come back in 60 days with a business plan of how they would go about implementing the responsibilities we give it. So we know the strategy moving forward. We need to give HOC a clearer and more definite role that ties more closely to the settlement and the implementation plan.

Mr. Annunziata commented that there should be separate sections that articulate the housing need and what the County is looking to the HOC to do to effectuate meeting that need.

Leg. Harckham recommended having an offline work session with the chairman and a few participants. He invited comments from non-committee members.

Ms. Weintraub said she was encouraged by the committee's comments. She added, it's difficult being on our commission because although we have the heart and the expertise to move forward and make recommendations, we do not have the power to execute. I'm encouraged by hearing we need to assist—there needs to be a partnership with the County and the County Board in order to go into municipalities because beyond the County holding back on funds, there really is nothing there to make them execute.

Mr. Raymond: If we don't know what the county need is, how we can tell anybody they ought to do more? If we determine the need, how do we break it up? The formula for the allocation plan was an attempt to get some kind of defensible method of saying here is what ought to be done. There is no community in Westchester that would be glad to see a higher number. He urged that the commission not be just a bunch of people who are asked to share ideas on current situation as it develops over time, but rather to be a commission that has an overall goal that includes the stipulation mandate. The allocation is not a mandate it is an objective.

Mr. Hyman: Every number represents a family in need of affordable housing. Whether overcrowded, substandard, homeless, or new young family formations, Rutgers said that over a 15 year period there will be 10,768 families who are going to need affordable housing that don't currently have it.

Mr. Anderson: His family cannot afford to live in the sound shore community where he grew up. Commission is a valuable asset and is needed agrees that some of the language should be changed to be in line with the implementation plan and what they currently do and change their duties.

Ken Belfer: Things have changed in terms of priorities with the settlement but implementation is an executive responsibility of the County Executive and the Planning Dept. In reviewing the mission you are looking at how HOC can work in a complementary way with the executive branch in trying to achieve the objectives. Not to make the Commission the lead.

Alex Roberts: Why have numbers if you are not going to enforce them? You all voted for a settlement that says the County will litigate if necessary against municipalities that opposes. That's really what is going to happen here. One way of deflecting some of that is by Investing in this commission which has done a fantastic job. Invest them with the ability to not only make recommendations but to work with the community to enforce the law. Give the ability to work with the communities to enforce the stipulation. That's a way to transition it from being an merely an advisory body with very little power to one that can be looked at as impartial and non-political.

Leg. Spreckman remembered when Yonkers had the federal lawsuit and how the federal government dictated what was built where. She felt that education was very important then.

Mr. Roberts was a reporter in Yonkers in the same period. He suggested going to the communities and tell them you need to do thirty units and we are giving you two months to decide on the sites. After that time, a developer will come and pick them. Somebody has got to say that. We have to do this.

Leg. Harckham thanked every one for the good points made.

Motion to approve Minutes of 2/22/10 moved by Leg. Nonna and seconded by Leg. Rogowsky. All in favor. Motion to adjourn—moved by Leg. Rogowsky, seconded by Leg. Myers. All in favor.