

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

TOWNSHIP OF MILLSTONE  
PLANNING BOARD

-----X  
IN THE MATTER OF: : TRANSCRIPT  
: OF  
MILLSTONE TOWNSHIP HOUSING : PROCEEDINGS  
PLAN ELEMENT AND FAIR SHARE :  
PLAN MASTER PLAN DOCUMENT :  
-----X

WEDNESDAY, DECEMBER 10, 2008  
WAGNER FARM PARK  
4 BAIRD ROAD  
MILLSTONE TOWNSHIP, NEW JERSEY  
COMMENCING AT 7:00 P.M.

BOARD\_MEMBERS\_PRESENT:

- MITCH NEWMAN, Chairman  
CHRISTOPHER PEPE, Vice-Chairman  
MANNY BLANCO  
NANCY GRBELJA, Mayor  
STEVE SICO, Councilman  
DAVID KURZMAN  
THOMAS PADO  
MARY PINNEY  
ANTHONY RUNDELLA  
ROBERT BECK

ALSO\_PRESENT:

- MICHAEL STEIB, ESQ., Board Attorney  
MATT SHAFAI, P.E., Board Engineer  
RICHARD T. COPPOLA, P.P., Board Planner  
DONNA ROSE-BLAZE, Executive Administrator,  
Monmouth Housing Alliance  
PAMELA D'ANDREA, Board Secretary

- - -  
ANGELA BUONANTUONO & ASSOCIATES  
COURT REPORTING SERVICES  
26 Algonquin Terrace  
Millstone, New Jersey 08535  
(732) 446 - 3773

	E X H I B I T S		
	EXHIBIT NO.	DESCRIPTION	PAGE NO.
1			
2			
3	A-1	Jurisdictional Packet	9
4	A-2	Housing Plan Element &	9
5		Fair Share Plan prepared	
6		by Coppola & Coppola	
		Associates, dated 11/20/08	
		- - -	
7			
8	P-1	Letter of Assemblyman	74
		Roberts, dated 12/8/08	
9	P-2	Curriculum Vitae of	87
10		Chester DiLorenzo, P.E.,	
		P.P., L.S.	
11	P-3	Master Plan Housing	100
12		Element & Fair Share Plan	
		revised by Mr. Abilheira,	
		dated 12/8/08	
13	P-4	Emails from Maria	161
14		Connelly P.P., dated	
15		12/10/08	
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1                   CHAIRMAN NEWMAN: Everybody, if  
2 we can have your attention? We're getting  
3 ready to start. If we can have your attention  
4 for the next several hours, I would appreciate  
5 it. Thank you.

6                   Welcome, everyone, to the  
7 December 10th meeting of the Millstone  
8 Township Planning Board. I would like to call  
9 the meeting to order, and ask Pam if she would  
10 read the Statement of Adequate Notice?

11                   BOARD SECRETARY: Let the minutes  
12 show that adequate notice of this meeting as  
13 required by P.L. 1975, Chapter 231, has been  
14 provided by publication in the Asbury Park  
15 Press and The Messenger Press, posted on the  
16 Township bulletin board, and filed with the  
17 clerk on the same date.

18                   And, Chairman Newman, also, in  
19 accordance with the Open Public Meetings Law,  
20 P.L. 1975, Chapter 231, the Township Committee  
21 did provide notice that they would be here to  
22 The Trenton Times, The Asbury Park Press, and  
23 The Messenger Press, for more than 48 hours in  
24 advance notice of that.

25                   CHAIRMAN NEWMAN: Okay, thanks

1 very much.

2 Typically, as you see on our  
3 agenda, we would have a flag salute. And,  
4 unfortunately, the facility doesn't have a  
5 flag available. I believe a person might be  
6 looking for a flag. So if a flag does show  
7 up, we will call the meeting to a brief halt,  
8 and do the flag salute. Otherwise, we're  
9 going to move past that. And I certainly  
10 apologize. We typically do that at every  
11 meeting. Obviously we are here at a  
12 different, larger facility, and that's the  
13 only reason why we're not doing that.

14 Pam, would you please call the  
15 roll?

16 BOARD SECRETARY: Mr. Blanco?

17 MR. BLANCO: Here.

18 BOARD SECRETARY: Ms. Grbelja?

19 MAYOR GRBELJA: Here.

20 BOARD SECRETARY: Mr. Pepe?

21 MR. PEPE: Here.

22 BOARD SECRETARY: Mr. Sico?

23 COUNCILMAN SICO: Here.

24 BOARD SECRETARY: Mr. Kurzman?

25 MR. KURZMAN: Here.

1 BOARD SECRETARY: Mr. Pado?

2 MR. PADO: Yes.

3 BOARD SECRETARY: Ms. Pinney?

4 MS. PINNEY: Yes.

5 BOARD SECRETARY: Mr. Weintraub?

6 MR. WEINTRAUB: Here.

7 BOARD SECRETARY: Chairman

8 Newman?

9 CHAIRMAN NEWMAN: Yes.

10 BOARD SECRETARY: Mr. Beck?

11 MR. BECK: Yes.

12 BOARD SECRETARY: And Mr.

13 Rundella?

14 MR. RUNDELLA: Yes.

15 BOARD SECRETARY: Thank you.

16 CHAIRMAN NEWMAN: Thank you, very

17 much. Before we begin our meeting, I just

18 wanted to let everyone know that we are going

19 to change our agenda.

20 We do take notice that there are

21 a lot of people here tonight, and we do

22 suspect that the majority are here for what is

23 listed as our last item, which is the Housing

24 Plan Element and Fair Plan Share Master Plan

25 Document. So recognizing that everyone has

1       come out, and trying to respect your personal  
2       schedules, we're going to do that matter  
3       first. And then the balance of the agenda  
4       will be attended to when that's concluded.

5                   What we will do, in any event, at  
6       the beginning, is the public comment portion.  
7       I do always say that you are welcome to  
8       comment on any matter. However, if something  
9       is otherwise scheduled to be heard before the  
10      Board tonight, then there's no need to comment  
11      during the public comment portion, you will  
12      have time during those agenda items.

13                   And just to be crystal clear, the  
14      item I just mentioned, the Housing Plan  
15      Element and Fair Share Plan is, obviously, an  
16      agenda item. So you will have a chance to  
17      speak during that, so you would not need to  
18      speak during the public comment portion on  
19      that.

20                   So at this point I would open it  
21      up, as we do at every meeting, to public  
22      comments. Seeing none, we'll close the public  
23      comment portion.

24                   And the next, or the first item  
25      on our agenda, as I mentioned, will be on the

1 second page of your agenda, or the back page,  
2 Master Plan, Millstone Township Housing Plan  
3 Element and Fair Share Plan Master Plan  
4 Document.

5 Before we begin I do want to see  
6 if we can agree on some, what I hope to be,  
7 simple ground rules. Taking into account the  
8 acoustics of this facility, and the fact that  
9 we have a different televising process, also  
10 you should note we have a court reporter at  
11 the end of the room to my right, next to Pam,  
12 so she is also taking down what we talk about  
13 tonight. So we have to be respectful and make  
14 sure that everyone can hear each other.

15 What I would like to do is ask if  
16 everyone would respect the fact that only one  
17 person should be talking at a time. Mainly  
18 because it's just the right thing to do, but  
19 also it's the only way that the words can be  
20 taken down appropriately.

21 Secondly, when you are speaking  
22 you should approach the microphone, which is  
23 right near the television equipment. We'll  
24 ask you to give us your name and address, and  
25 then you can make your comment or question.

1                   In addition, we're going to try  
2           to limit comments or questions to a  
3           five-minute period, so that we can give  
4           everyone who wants to speak a reasonable  
5           opportunity to address the board.

6                   Also, our meetings typically, on  
7           a busy night, will run until about 11, 11:15  
8           at night. Now, we did start a little early  
9           tonight, and we are moving all of our agenda  
10          items, other than this Master Plan matter, to  
11          the end. So, in recognition of that, we would  
12          like to call this item to a conclusion by 10  
13          o'clock, but we will make every effort to try  
14          to respect everyone's chance to speak.

15                   We would like you to be  
16          respectful and turn your cell phones off or  
17          put them on vibrate. And we all know that  
18          it's not a horrible thing, but, again, it  
19          effects the sound quality and disrupts  
20          somebody's train of thought.

21                   And, in addition, if you could  
22          direct any comments or questions to me as the  
23          chair. And then I will be happy to direct  
24          that to the right member of the board or our  
25          professional staff so that we can get you an

1 answer or respond as appropriate.

2 Thank you for understanding and  
3 listening. At this point, in opening the  
4 hearing, I notice that we need to read or a  
5 statement we need to make?

6 BOARD ATTORNEY: Yes, Mr.  
7 Chairman. Notice of this hearing was sent out  
8 in accordance with the requirements of the  
9 statute. I believe the jurisdictional packet,  
10 that the notice was properly sent and  
11 published, and the board does have  
12 jurisdiction to hear this matter on the  
13 agenda.

14 CHAIRMAN NEWMAN: Thank you.

15 BOARD ATTORNEY: I should also  
16 note that, in addition to the jurisdictional  
17 packet which has been marked as Exhibit A-1.  
18 The other exhibit in connection with the  
19 proceeding at this juncture is, in fact, the  
20 proposed Housing Plan Element and Fair Share  
21 Plan, dated November 20th, 2008, which will be  
22 the subject of discussion in this portion of  
23 the meeting.

24 - - -

25 (The above-mentioned documents

1 are marked as A-1 and A-2 for Identification  
2 and admitted into Evidence.)

3 - - -

4 CHAIRMAN NEWMAN: Thank you.

5 We're now opening the hearing up, and what I  
6 would like to do is turn it over to Mr.  
7 Coppola, our planner, and ask if he could  
8 assist us in giving us an overview of the task  
9 at hand, and direct the board in how we should  
10 be proceeding, while at the same time giving  
11 the public an overview.

12 I will of course note, for the  
13 record, that Mr. Coppola has gone through  
14 this, I know, with the public at least on one  
15 occasion at a prior recent meeting here. And  
16 the topic has also been discussed with the  
17 Planning Board on various other occasions  
18 throughout the year, and most recently at our  
19 last meeting.

20 So for some of us Board members,  
21 and perhaps some of the public, you will be  
22 hearing the same information that you've heard  
23 before. But we are trying to make a record.  
24 And we're trying to make sure that we do  
25 everything correctly, so that our submission

1 to COAH is as appropriate and complete as  
2 could be and follows all the appropriate  
3 guidelines.

4 With that, back to Rich. Could  
5 you formally introduce yourself and we'll get  
6 you sworn in?

7 BOARD PLANNER: Richard Coppola,  
8 a planner for the Township of Millstone.

9 BOARD ATTORNEY: Mr. Coppola,  
10 would you raise your right hand and be sworn.

11 Do you either swear or affirm  
12 that any testimony you give in connection with  
13 this proceeding will be the truth, the whole  
14 truth, and nothing but the truth?

15 BOARD PLANNER: I do.

16 BOARD ATTORNEY: And before  
17 providing your testimony, can you place on the  
18 record your credentials in the context of  
19 planning, and also your credentials in the  
20 context of affordable housing and the  
21 preparation of affordable housing plans?

22 BOARD PLANNER: I will.  
23 Educationally I have an Associate's Degree in  
24 Sociology & Urban Studies from Harvard  
25 College. A Master's Degree in City Planning

1 from the University of Pennsylvania.

2 I'm a licensed planner in the  
3 State of New Jersey. I'm a member of the  
4 American Institute of Certified Planners. A  
5 charter member of the American Planning  
6 Association.

7 The firm, Coppola & Coppola  
8 Associates, and preceding firms since 1971  
9 that I've been involved in, have spent about  
10 85 percent of their time representing  
11 municipalities throughout the State of New  
12 Jersey. And the other 15 percent for private  
13 clients is on a selective basis, depending  
14 upon the merits of those requests.

15 I have been actively involved in  
16 affordable housing since I began working as a  
17 consultant planner in 1971.

18 I was the first planner in the  
19 State of New Jersey to testify in Superior  
20 Court after the Mt. Laurel 1 decision in 1975.  
21 And, thereafter, I again was the first planner  
22 to testify in Superior Court after the Mt.  
23 Laurel 2 decision in 1983.

24 I have also served as  
25 court-appointed master on numerous occasions,

1 in disputes or in situations where towns were  
2 found to be non-compliant.

3 And I guess I have prepared  
4 approximately 75 Housing Plan Elements and  
5 Fair Share Plans, at least that, over the  
6 years.

7 CHAIRMAN NEWMAN: Thank you.  
8 We've certainly heard testimony from Mr.  
9 Coppola before, and we recognize you as a  
10 planning expert, and appreciate your help.

11 BOARD PLANNER: Thank you. May I  
12 proceed now?

13 CHAIRMAN NEWMAN: Yes, please.

14 BOARD PLANNER: I wanted to start  
15 out maybe with some good news, or potentially  
16 good news. Some of you may have heard that  
17 there is an effort now among certain state  
18 legislators to have COAH extend the deadline  
19 for submission to COAH. This is not a done  
20 deal, but at least the grapevine that I'm  
21 involved in indicates that it's at least  
22 potentially likely.

23 It may be done in the legislative  
24 session on Tuesday of this coming week. If  
25 not, it may be the result of a directive by

1 the Governor.

2 From what I gather efforts, in  
3 order for this to have come about, a lot of  
4 the comments that have been made not only  
5 during the comment period on the rules, Mayor  
6 Grbelja had submitted, I think it was March  
7 18th, a letter which was quite detailed. I  
8 think it was distributed to members of the  
9 public at the last meeting and it's available  
10 at Town Hall.

11 And I know, personally, that the  
12 Mayor has also been very actively involved in  
13 this because she's consulted with me whenever  
14 she's had calls to make to try to bring this  
15 about.

16 I guess on that point, Mayor, do  
17 you want to say anything?

18 MAYOR GRBELJA: One of the things  
19 that we had said when we started, not only did  
20 we have the litigation which we filed against  
21 the State regarding the COAH rules, but we had  
22 given everyone a commitment that we would be  
23 working our legislators to the greatest extent  
24 possible in order to try and get some changes  
25 to the rules and regulations, to try to have

1 the deadline extended. And, as well, possibly  
2 see if we could get the regional  
3 contributions, which are coming back.

4 I've probably spent the last two  
5 weeks -- I have spent a lot of time in  
6 Trenton. I have an office in Trenton, besides  
7 my office in Edison, where I am located across  
8 from the State house, and spent a lot of time  
9 going over and talking to various legislators  
10 about the concerns that we have in Millstone,  
11 as well as what we need to do in order to try  
12 and prepare a plan for December 31st.

13 It's something which has been  
14 extremely exhausting. But I think with  
15 getting each of the people and talking about  
16 the document that I have prepared, which was  
17 distributed at our last meeting, really  
18 talking about the flawed data, the fact that  
19 it takes us away from our principals, and the  
20 fact that Millstone Township is an area that  
21 is environmentally sensitive, we're being  
22 asked to create a document that really is  
23 ridiculous.

24 But it is something -- we are a  
25 compliant municipality, but I'm going to tell

1       you we are abiding by the law.

2                       Fortunately there are legislators  
3       and there are people within the various  
4       agencies which are in Trenton that I have  
5       spoken to over the last two weeks that really  
6       have responded. They understand what we're  
7       talking about. They, themselves, have issues  
8       or problems.

9                       I've talked to some of the  
10       Watershed Associations, as well, because of  
11       the fact that we do support five watersheds  
12       within our own municipality.

13                      So fortunately we have been able  
14       to make a difference. The database that we  
15       set up on our website has been very good. We  
16       have had 627 hits that have come out of  
17       Millstone Township. And I'm going to tell  
18       you, we really need a lot more than that. We  
19       have over -- close to 3,000 homes in  
20       Millstone, and every single home in Millstone  
21       should be sending a letter to our legislators  
22       to continue that process. That cyber lobbying  
23       is extremely effective.

24                      I also have asked other  
25       municipalities to participate, and have had

1       some conversations with the mayors of the  
2       lawsuit that we are currently involved in.

3                       So at least the pressure of those  
4       of you that are here tonight that have  
5       continued and worked very hard by calling your  
6       legislators and actively emailing them, we  
7       need to continue that pressure. And,  
8       hopefully, we will be able to get something  
9       that will cause a change in the rules and  
10      regulations. Have them take a look at how  
11      unfair this obligation is to us, so that we  
12      can move forward and develop an affordable  
13      housing plan that can be sustained within our  
14      municipality without its destruction.

15                      Thank you.

16                      BOARD PLANNER: Just one further  
17      comment on that. I still recommend to the  
18      Planning Board that you proceed to adopt a  
19      viable plan in the time frame that's set forth  
20      as of now. And that the governing body, in  
21      turn, adopts the resolution to petition.

22                      But, as we've discussed before,  
23      there is no need to send that down to Trenton  
24      immediately. I'm thinking Monday the 29th  
25      sounds pretty good. We'll be happy to take

1       it, cart it down -- because there's some other  
2       material with it -- on that date, that way  
3       you're covered.

4                   Keeping in mind that, if there is  
5       an extension, we just don't submit it. And,  
6       if necessary, the governing body can always  
7       take back basically the resolution.

8                   And the Planning Board, if it  
9       desires, as I'm sure you would want to, will  
10      continue, as you've already said you wanted  
11      to, to look at alternatives and to make sure  
12      that, you know, you get the best plan you can  
13      for the municipality.

14                   MR. PEPE: Assuming that there's  
15      no extension of time, what happens if we don't  
16      submit a complete plan?

17                   BOARD PLANNER: If you don't  
18      submit a viable plan or -- well, if you don't  
19      submit any plan, you will undoubtedly get sued  
20      under the so-called builder's remedy policy of  
21      the state.

22                   And basically I'll take the time  
23      now just to briefly go through it again. I  
24      know we've discussed it. It's a pretty simple  
25      lawsuit to file. I'm guessing it costs around

1       \$5,000. All the plaintiff would have to do is  
2       have some potential interest in a piece of  
3       land. Maybe not even that. And they could  
4       just say that they want to be able to provide  
5       housing for the town.

6                     The judge will ask your attorney  
7       whether you have submitted a plan, whether you  
8       are under the rules of COAH. If the answer is  
9       no, you are found to be in default.

10                    That plaintiff then is elevated  
11       to a builder's remedy status. They begin  
12       calling the shots. The judge will get names  
13       to appoint a court-appointed master, generally  
14       a planning type. And that court-appointed  
15       master, once chosen, will be instructed by the  
16       judge to try to settle the case. The judge  
17       will also make it clear that COAH's rules will  
18       be applicable. So that you don't gain  
19       anything by going into court.

20                    MR. PEPE: Will that developer  
21       still be bound by our traditional zoning?

22                    BOARD PLANNER: No, no.  
23       Everything is...

24                    MR. PEPE: So if he has a desire  
25       to develop a 100-acre parcel, it's a ten-acre

1       zone, and does he say, well -- are we able to  
2       hold on and say, well, fine, you can build  
3       homes here but they each have to be on  
4       ten-acre parcels?

5                     BOARD PLANNER: No.

6                     MR. PEPE: What can he do?

7                     BOARD PLANNER: Well, what he  
8       would do is probably take a piece of land, not  
9       dissimilar to what your plan has, have a piece  
10      of land earmarked for something other than  
11      septics. But the difference is that under  
12      COAH rules for an inclusionary development,  
13      there would be four market-rate units for  
14      every one affordable housing unit. It's a 20  
15      percent set aside.

16                    And as a result of that he would  
17      be right on the mark with COAH rules to say  
18      that he was going to build, let's say, 425  
19      units in order to get the 85 affordable units,  
20      if that were the number.

21                    And he would go through the same  
22      process you're talking about, in terms of  
23      going to the Office of Smart Growth, State  
24      Planning, and getting a plan endorsement, and  
25      then he would have to get DEP approval.

1                   The difference is that you don't  
2                   control the land. You don't control what the  
3                   development is. You don't really have much  
4                   control even over the design.

5                   MR. PEPE: So it's possible to  
6                   say that we could have a scenario where there  
7                   could be homes on smaller parcels of land?

8                   BOARD PLANNER: Most likely you  
9                   would have apartments or townhomes.

10                  CHAIRMAN NEWMAN: Rich, sorry for  
11                  interrupting, but you just mentioned something  
12                  about a potential extension from the State,  
13                  whether it's coming through the legislature or  
14                  the Governor, which we can't be sure of yet.  
15                  But would it -- and this question might be  
16                  more appropriate to you, Mike -- but would it  
17                  be appropriate that, whatever we approve  
18                  tonight, we could add a condition -- or I  
19                  guess, more likely, a recommendation -- to the  
20                  Township Committee that we're approving it but  
21                  we're recommending that they hold submission  
22                  to the last minute so that we can determine if  
23                  an extension is, in fact, granted?

24                  BOARD PLANNER: I think that's  
25                  very appropriate, Mr. Chairman.

1 BOARD ATTORNEY: Mr. Chairman, I  
2 agree.

3 UNIDENTIFIED SPEAKER: May I  
4 approach?

5 CHAIRMAN NEWMAN: No.

6 UNIDENTIFIED SPEAKER: I have  
7 something that is actually very relevant to  
8 this discussion.

9 CHAIRMAN NEWMAN: We're going to  
10 take questions after Rich has completed, and  
11 we'll be happy to take it on that exact topic.

12 UNIDENTIFIED SPEAKER: It's  
13 pertinent to this discussion.

14 CHAIRMAN NEWMAN: The problem is,  
15 I know there's going to be confrontation, but  
16 as soon as we let you do that, then there's  
17 going to be seven other people that will  
18 exactly want to talk on that topic and say  
19 exactly what you're saying.

20 UNIDENTIFIED SPEAKER: With all  
21 due respect, it's just to hand you these  
22 papers. This is the actual letter that was  
23 written by Assembly Speaker Joe Roberts to  
24 Lucy Vandenberg, head of COAH.

25 BOARD PLANNER: Yes, I've seen

1           that. I've seen that letter.

2                           UNIDENTIFIED SPEAKER: Just for  
3           the Board's reference, that's all.

4                           BOARD PLANNER: The letter is  
5           pretty well already distributed. The question  
6           is whether or not there's going to be an  
7           extension granted. And, again, it shouldn't  
8           change the procedure anyway until it is  
9           extended.

10                          So I think, Mr. Chairman, your  
11           suggestion in the resolution, if there is an  
12           adoption of the plan, is on point.

13                          CHAIRMAN NEWMAN: We'll  
14           absolutely let you hand that to us. Let's let  
15           Rich finish, then we'll get into the public.

16                          MAYOR GRBELJA: Can I say  
17           something?

18                          CHAIRMAN NEWMAN: Sure, go ahead.

19                          MAYOR GRBELJA: I also believe  
20           the last thing that I had heard from Trenton  
21           before I came here, was that they may allow  
22           municipalities to individually request an  
23           extension of the deadline. But I also have  
24           heard from some other legislators that there  
25           will or they're trying to get a bill that will

1 extend it for six months. So initially it was  
2 90 days, now they're looking at a six-month  
3 time period.

4 BOARD PLANNER: The League of  
5 Municipalities is pushing for six months, they  
6 have been. They're involved in that lawsuit  
7 as a municipality.

8 Again, just to be clear, it  
9 shouldn't be taken, the idea that this may  
10 happen, that you shouldn't do anything. You  
11 have to protect yourself in case it is not  
12 done. And we don't know for sure what's going  
13 to happen.

14 Now the other part of the  
15 question was, what if you submit a plan to  
16 COAH that's not viable?

17 If you submit a plan to COAH  
18 that's not viable, anybody can object to the  
19 plan. There's a 45-day objection period.

20 MR. PEPE: Is there criteria, I  
21 mean is there a checklist, if you will, for  
22 exactly what the plan is to include?

23 BOARD PLANNER: Well, there is.  
24 It's in the body of the rules, the rules that  
25 are published and are, to some extent,

1 proposed to be amended. Those rules are the  
2 rules, and you have to meet those rules.  
3 There is a checklist, as well.

4 If you don't have a viable plan  
5 somebody can object, anybody can object. And,  
6 as a result of that, the COAH staff will then  
7 look at the objection, look at your plan. If  
8 your plan is viable, you know, obviously  
9 you're in the driver's seat. If your plan is  
10 not viable and somebody objects and says I  
11 want to build 800 units or something absurd,  
12 they have the ear, then, of COAH, even though  
13 it's not in court.

14 With that, let me again just  
15 indicate, there's always a question of what  
16 low and moderate income households are. I  
17 think it's a bad term that has been used by  
18 COAH -- actually by the Supreme Court. But,  
19 again, in our housing region in Monmouth  
20 County for moderate income, a three-person  
21 household could earn up to \$60,888, and a  
22 four-person household could earn up to  
23 \$67,653. Lesser amounts for two person and  
24 one person households.

25 Similarly, for low-income

1       affordable housing units, a three-person  
2       household could earn up to \$38,055, and a  
3       four-person household could earn up to  
4       \$42,283.

5                       The term low and moderate connote  
6       to me that these people are poor. The fact is  
7       that these are not poor people, but on the  
8       other hand they are oftentimes households that  
9       cannot afford market-rate housing units.

10                      COAH's new rules, again, just to  
11       summarize very quickly for those that may not  
12       understand the process, they were adopted May  
13       6th, 2008, after prior rules were thrown out  
14       by an Appellate Division panel on April 25th,  
15       2007. The day they adopted the new rules, on  
16       May 8th of this year, they introduced  
17       amendments to those rules. They were adopted  
18       during September.

19                      In the interim, the State  
20       legislature adopted new law. It's generally  
21       been labeled Senate Bill 8500. And that  
22       eliminated Regional Contribution Agreements.

23                      That changed the requirements for  
24       family housing units, introduced the necessity  
25       for very low-income units.

1                   Those rules actually have not yet  
2                   been finally adopted but we are being asked to  
3                   assume that they have, and that's, of course,  
4                   what we've done.

5                   The rules are definitely  
6                   problematic. And I think that -- I know this  
7                   is shared by the COAH Work Group, I think that  
8                   it is shared by members of the Planning Board,  
9                   and, of course, the Township Committee -- that  
10                  the rules, when you look at some of the  
11                  provisions but certainly when you take them  
12                  together, and this is actually really taken  
13                  out of the Mayor's letter back in March, there  
14                  are practical -- they're punitive to  
15                  municipalities and private land developers  
16                  alike. They are arbitrary and capricious  
17                  since they are premised upon faulty and  
18                  unverifiable data. They have effectively  
19                  discouraged municipal alliances with private  
20                  developers. That's because of the four-to-one  
21                  ratio.

22                  They will negatively impact the  
23                  state's economy. And they certainly will be a  
24                  burden to taxpayers since the rules will  
25                  result in substantial increases, we think as a

1 planner, to the real property tax burden.  
2 Which is really a direct contravention to the  
3 Fair Housing Act which states, among other  
4 things, that COAH should not -- it actually  
5 prohibits COAH from forcing municipalities to  
6 raise or extend municipal revenues to provide  
7 low-and-moderate-income housing.

8 So one might think that since the  
9 rules are faulty, that, you know, maybe we  
10 shouldn't do anything, and we've already done  
11 it to the builder's remedy. And the fact is  
12 that many attempts have been made to change  
13 the rules all during this year.

14 You're involved in a lawsuit.  
15 Again, the COAH Work Group and the Mayor  
16 requested me to find out if there were any  
17 groups in the state that were suing, that  
18 maybe Millstone could get involved in. I  
19 happened to be involved in two other towns  
20 closer to Clinton Township that got ear of a  
21 Clinton Township group of nine municipalities,  
22 and we were able to get into that lawsuit.

23 But even with all that, nothing  
24 has changed as of this moment.

25 CHAIRMAN NEWMAN: Rich, if the

1 plan that we approve is submitted because the  
2 extension doesn't happen, and during the time  
3 between that plan being submitted and the  
4 foreseeable future, the court takes our case  
5 or acts on our case and acts favorably, and  
6 the regulations to some degree, either between  
7 our litigation, the litigation by builders  
8 groups or League of Municipalities, throws out  
9 the regulations or changes them substantively,  
10 what does that do to our submission, to start  
11 again?

12 BOARD PLANNER: You always have  
13 the right to amend your submission.

14 And, matter of fact, the plan  
15 that you are reviewing for those, I know the  
16 Board members have read it, but for those that  
17 maybe have not, it has a couple of clauses in  
18 it reserving that right. Any changed  
19 opportunities, any changes to the rules that  
20 might result from COAH changing them on their  
21 own, or resulting from court litigation, you  
22 reserve the right to amend the plan.

23 The plan is not a bona fide plan  
24 until it is certified by COAH. And as I've  
25 discussed with the board, that is going to be

1 approximately a year process from the date of  
2 submission at the earliest.

3           There's a whole review process.  
4 It's a give and take. There's a 45-day time  
5 period. They will give a checklist of more  
6 information that we need to submit that  
7 information. Then they review it  
8 substantially. It may take them a longer  
9 time. Then we have 95 days to react to that.  
10 And then it's reviewed again with by them.  
11 There's another 95 days. And when you add  
12 them all up, it's the better part of 2009, at  
13 the earliest, under the current submission  
14 dates.

15           So there is plenty of  
16 opportunity. And one of the ideas in this  
17 plan obviously is to provide some flexibility  
18 in terms of amending the plan so that you  
19 don't end up with more units than you need.

20           CHAIRMAN NEWMAN: Thanks.

21           BOARD PLANNER: The Township  
22 formed a COAH Work Group, actually during 2007  
23 or a little before then because you had to  
24 submit a plan in 2007. Even under the rules  
25 that were already thrown out by the Appellate

1 Division. That's another one I don't  
2 understand, but that was the way the rules  
3 operated.

4                   The COAH Work Group resumed work  
5 obviously during this calendar year, and they  
6 set forth a number of goals. One of them was  
7 to protect Millstone Township against a  
8 builder's remedy lawsuit, which will negate  
9 the ability of the Township to determine what  
10 is in its best interest. Two, provide  
11 affordable housing development in a manner  
12 that is compatible with the existing  
13 development pattern and the Zone Plan of the  
14 Township. Be a plan that promotes smart  
15 growth and context-sensitive design while  
16 providing the required affordable housing  
17 units. Be a plan, which, to the extent  
18 possible, safeguards the quality of life and  
19 other interests of the citizens of Millstone  
20 Township. And be a plan as we just mentioned  
21 to the extent possible, which provides the  
22 greatest amount of flexibility for future  
23 changes to the plan should the rules change  
24 for any reason, including the results of  
25 pending litigation.

1 COAH presumes in its rules -- and  
2 I'm speaking, by the way, to the rules. A lot  
3 has been said, and I hear it all the time, so  
4 and so said this, I heard this, I spoke to so  
5 and so. Bottom line is that the rules are in  
6 black and white. And the ultimate  
7 conversations with any COAH representative is  
8 always abide by the rules.

9 Until those rules change, there's  
10 rules, as unreasonable as they may seem. So  
11 the idea that you may have heard something or  
12 you read something in the paper or even a  
13 commissioner maybe says something, or you  
14 think maybe the commissioner said something,  
15 it doesn't change the rules, and the rules are  
16 the rules.

17 So what I'm speaking to right now  
18 are the rules. And I have citations, if  
19 anybody is interested, but I think this has  
20 all been made available to everybody anyway.

21 MR. PEPE: I mean, Rich, it seems  
22 like, you know, this is -- obviously there's a  
23 room full of people that are unhappy with the  
24 this, right.

25 BOARD PLANNER: Including me.

1                   MR. PEPE: Well, and we've all  
2 spoken about how ridiculous it is. But the  
3 problem is is that -- so we're in a tough  
4 situation. The situation being that I don't  
5 think anybody in this town, I think I'm not  
6 speaking for the board, I'm speaking for  
7 myself. I clearly do not want to see any of  
8 this happen in Millstone Township, right.  
9 It's not something that we've dealt with  
10 before, it's something we're inheriting now.

11                   So basically how do we skin this  
12 cat? What's the better way around it? What's  
13 the way that we can meet these rules because  
14 it seems like we don't have any choice but to  
15 meet these rules? So what way can we -- how  
16 do we make this less impactful on the town?

17                   I understand that the plan that's  
18 sort of on the table, or is somewhat on the  
19 table, it doesn't seem to make everybody  
20 happy. I understand that, from some emails  
21 I've received, there's alternative plans that  
22 people have thought of, and from what I can  
23 gather those plans are incomplete.

24                   So what do we do?

25                   CHAIRMAN NEWMAN: Sorry, I missed

1       that.

2                       MR. PEPE:  Incomplete.

3                       BOARD PLANNER:  Let me get into  
4       that point, and I will, I'll even address the  
5       two alternate plans that were forwarded to me  
6       for review, which I did review one of them  
7       over the weekend, and another one after it  
8       came in Monday afternoon of this week.

9                       But I just wanted to emphasize  
10       that the rules, even when there's a durational  
11       adjustment or even in a situation where you  
12       contend that the projections are wrong, the  
13       rules are very clear throughout the rules,  
14       that the number that is given for each  
15       municipality by COAH is the presumptive  
16       minimum number.  And it never goes away.

17                      Even in a vacant land adjustment,  
18       we've had two towns who have had vacant land  
19       adjustments, the number doesn't go away.  You  
20       still have that as an unmet need.

21                      So you never get rid of the  
22       number, contrary to the idea -- some people  
23       think that if your growth goes down, that  
24       you're not going to have that number.  It  
25       makes a lot of sense to believe that.  I did,

1 too. And, in fact, the rules don't say that.

2 And, you know, just the  
3 experience, discussing this with other  
4 planners and also with, of course, COAH  
5 representatives over the year, it's very clear  
6 what the rules say.

7 With that in mind, let me go in  
8 just briefly to the State Plan. The State  
9 Plan was most recently adopted, or updated I  
10 should say, on March 1st, 2001, and the  
11 entirety, effectively the entirety of  
12 Millstone is in Planning Area 4B. That's the  
13 Rural Environmentally Sensitive Planning Area.  
14 There's some parts of the town also in the  
15 Parks and Natural Areas classification.

16 But regarding housing I think  
17 it's important to listen to what the plan says  
18 because COAH requires specifically in its  
19 rules that you adhere to the State Plan.

20 In Planning Area 4B it says,  
21 "Provide for a full range of housing choices  
22 primarily in centers at appropriate densities  
23 to accommodate projected growth. Ensure that  
24 housing in general and, in particular,  
25 affordable, senior citizen, special needs and

1 family housing, is developed with access to a  
2 range of commercial, cultural, education,  
3 recreational, health and transportation  
4 services and facilities. Focus multi-family  
5 higher-density single-family housing in  
6 centers. Any housing in the barrens" --  
7 that's outside of the centers -- "should be  
8 plainly located to maintain or enhance the  
9 cultural and scenic qualities, and with  
10 minimal impacts on environmental resources."

11 The current plan that is in the  
12 plan tonight, the subject of the hearing, we  
13 have three components of our obligation, as  
14 does every town. One is the rehabilitation  
15 share. The second is the prior-round  
16 obligation. And the third is the growth  
17 share.

18 As stated in the plan, "For  
19 purposes of the Housing Plan Element and Fair  
20 Share Plan, Millstone Township has formulated  
21 the plan to satisfy COAH's calculated  
22 fair-share affordable housing obligation for  
23 each of the three components as mandated by  
24 COAH's current rules. However, the Township  
25 reserves the right to amend the plan in the

1 future should different options become  
2 available, and/or should rule changes be  
3 adopted by COAH or decisions are made by the  
4 courts affecting the rules.

5 Nowhere in the plan does it say  
6 we agree, that you agree with the numbers,  
7 because we don't. And hopefully we will be  
8 able to adjust, because we can adjust the  
9 numbers down.

10 The rehabilitation component for  
11 Millstone is 15 units. These are unspecified  
12 units distributed in town, existing, that are  
13 occupied by eligible COAH households and have  
14 some physical deficiency. Plumbing, generally  
15 plumbing or could be septic, that sort of  
16 thing.

17 The town, consistent with COAH  
18 rules, intends to address the rehab share  
19 through a rehabilitation program. And it's  
20 intended to be funded by the borough's Housing  
21 Trust Fund, which had a balance of \$227,665.29  
22 on October 31st of this year. Any shortfall  
23 will have to be paid out of general funds or  
24 be a bonding.

25 But that means that you don't

1       have to take those 15 units and build new  
2       units to satisfy that need. And, of course,  
3       you're helping existing residents potentially  
4       who have some problem with their homes.

5                       Your prior round obligation was  
6       81 units, I won't go through all the details,  
7       but I will tell you that you satisfy that  
8       obligation, and three more units.

9                       So you have satisfied an  
10       obligation of 84. You've provided 84 units.  
11       You had an obligation of 81. That means that  
12       you could bring three units down to this  
13       round, and that round is called the growth  
14       share obligation. Your growth share  
15       obligation is, I think, very large, 172 units.  
16       You subtract the three unit surplus from the  
17       prior round and your balance is 169 units.

18                      As I've said before there are a  
19       lot of minimum and maximums, I think, in  
20       COAH's rules. These are very tricky because  
21       you can satisfy one and then find out you  
22       haven't satisfied another.

23                      I'm not going to go through all  
24       of them except to say that at least 50 percent  
25       of the units that you build in town to satisfy

1 your obligation have to be family housing  
2 units.

3 Family housing unit is a unit  
4 that is unrestricted for occupancy. Can't be  
5 age restricted. Can't be for developmentally  
6 disabled. Can't be group homes. Can't even  
7 be accessory apartments because with accessory  
8 apartments the land owner has the right to  
9 refuse a potential tenant.

10 Another obligation is that 25  
11 percent of your obligation has to be rental  
12 units. And you don't get any bonus credits  
13 for that 25 percent. If you go beyond 25  
14 percent you're eligible for some bonuses. And  
15 if the next 25 percent above your minimum 25  
16 percent are all rental family units, you get  
17 two credits for every one of those units  
18 actually built. Your maximum credit, given  
19 the numbers, that you can take is 42 units.  
20 Your plan does take that maximum credit.

21 The plan is a somewhat diverse  
22 plan. It includes a number of housing  
23 opportunities. Let me look at my chart here.  
24 And just in very short terms we have an  
25 existing group home, which is the Millstone

1 House 1, or Canright House. We're seeking two  
2 additional credits. The credits here are by  
3 bedrooms. These bedrooms already exist. You  
4 did get credit for nine of them bedrooms in  
5 your prior plan, with two new ones gives you  
6 the opportunity to get two more credits.

7 There are two more additional  
8 proposed group homes. They are both on lands  
9 that the town either owns or will own. One of  
10 them is on the same property as the Canright  
11 House but it's been subdivided. That will  
12 provide six more bedrooms in a new facility,  
13 giving you six more credits. A property on  
14 Novad Court for Novad Court Group Home,  
15 another six bedrooms. So there are 14 units  
16 from group homes in the plan.

17 Next, there are proposed  
18 age-restricted units for rent. This is on the  
19 Allen House property on Stagecoach Road.  
20 Approximately 4.344 acres. Originally the  
21 town wanted to construct 14 units on that  
22 property, but septic constraints prevented  
23 getting any approvals from Monmouth County for  
24 more than ten units, so ten units is in the  
25 plan.

1                   There's another proposed  
2           development, actually a subdivision, of seven  
3           lots on lands that are being acquired by  
4           Millstone Township, again on Novad Court.  
5           Each of those lots will have duplex units on  
6           them, yielding 14 units, family units for  
7           sale.

8                   On Route 33 there is what is  
9           dubbed a PCD Zone Commercial Center. Again,  
10          in accordance with the State Plan, this will  
11          be -- this is proposed as a "center". It will  
12          have to go through plan endorsement with the  
13          Office of Smart Growth which will favorably --  
14          if they favorably look at it, will cite that  
15          specific property for the use. Additionally,  
16          it will have to get approval for a cyclet-type  
17          system instead of septic.

18                  That property is intended to be  
19          developed with a mixed-use format of  
20          non-residential development fronting towards  
21          Route 33, with 85 non-age restricted family  
22          units for rent towards the rear.

23                  MR. PEPE: For the benefit of  
24          everybody, could we define exactly what is to  
25          be put on that piece of property now?

1 BOARD PLANNER: Yes.

2 CHAIRMAN NEWMAN: Hold on, Rich.

3 MR. PEPE: For the benefit of  
4 everybody, can we talk about what could be put  
5 on those properties now?

6 So what is it zoned for now? So  
7 everybody is aware of what could be there as  
8 well?

9 BOARD PLANNER: Right now the  
10 property, which contains 32.8 acres, is zoned  
11 within the PCD Zoning District. That's the  
12 Planned Commercial Development Zoning District  
13 of the town, which effectively borders a lot  
14 of the lands along 33. Allowed uses are  
15 business and professional offices, banks and  
16 other financial institutions, corporate  
17 offices, scientific and research laboratories,  
18 restaurants, commercial recreational uses,  
19 health spas, retail sales of goods and  
20 services, child care centers and storage  
21 warehouses and distribution centers.

22 In the discussions with American  
23 Properties Realty, Inc., the COAH Work Group  
24 asked for a concept plan to indicate how much  
25 could be developed under the current zoning on

1       that property. Menlo Engineering Associates,  
2       Inc., prepared a plan, dated September 29th,  
3       2008, which indicates that the property could  
4       be developed with a total of 150,400 square  
5       feet of non-residential space, that includes  
6       60,000 square feet of flex warehouse space,  
7       and 90,400 square feet of office/business  
8       space.

9                       That plan was reviewed by Mr.  
10       Shafai's office, and is very similar to other  
11       approvals already given in the town,  
12       subdividing large tracts and thereby allowing  
13       individual septic systems for individual  
14       buildings.

15                      MR. PEPE: So I might end with a  
16       scenario like Rike Drive back there? I might  
17       end up with a McDonald's? I might end up with  
18       a health spa? I might end up with a  
19       KinderCare? I might end up with a doctor's  
20       office?

21                      BOARD PLANNER: It's a very broad  
22       zone, yes. You could almost end up with  
23       anything.

24                      CHAIRMAN NEWMAN: Rich, sorry to  
25       keep interrupting. But what if you go through

1 the process with COAH and they, after a year  
2 or so, certify the plan or accept the plan.  
3 Then we go through the process of appropriate  
4 zoning changes. And then the applicant starts  
5 the approval process with us and the State, et  
6 cetera, and they learn, either through the  
7 State or through the site plan process or some  
8 other process, that it's not going to work,  
9 that for some reason -- it could be all the  
10 things that we consider in applications,  
11 environmental, traffic --

12 MR. PEPE: One of the things was  
13 that the land was farmed by the same guy, had  
14 not only naturally occurring arsenic, but had  
15 some other pesticide issues on it. So let's  
16 assume that we end with -- that the land is  
17 contaminated.

18 CHAIRMAN NEWMAN: Or it's not  
19 approvable. But we learn that in a year and a  
20 half or two years or so, what does that do?

21 Do we go back to COAH? Can we  
22 amend?

23 BOARD PLANNER: Oh, you could  
24 amend, definitely. The point is you're still  
25 in control because you have put forth a

1 compliant plan.

2 If another agency prevents it  
3 from being done, the Office of Smart Growth,  
4 for instance, or DEP, then it's not viable.

5 CHAIRMAN NEWMAN: So, Mike, it's  
6 really specific --

7 MS. PINNEY: So it's not held  
8 against us?

9 BOARD PLANNER: I'm sorry?

10 MS. PINNEY: It's not held  
11 against us?

12 BOARD PLANNER: I'm sorry. It's  
13 not held against you is correct.

14 MR. PEPE: So because a viable  
15 plan has been submitted, we've satisfied the  
16 State. Now we sort of -- now we can go  
17 through the traditional channels. We do the  
18 traditional things we do in the scenario of a  
19 regular subdivision?

20 BOARD PLANNER: Oh, yes.

21 CHAIRMAN NEWMAN: Just to get to  
22 Mary's point, which is exactly where I was  
23 going. So we hit a snag in that approval  
24 process, or I should say the developer hits a  
25 snag in that approval process, and shows that

1       it's either not approvable or only approvable  
2       at a much lesser rate, or density, or use.

3                       That doesn't mean at the moment  
4       we vote no or the moment he gets a denial from  
5       DEP or something like that, that doesn't mean  
6       we are now open for that builder's remedy,  
7       does it?

8                       BOARD PLANNER:  No, it doesn't.  
9       But, more importantly, also, I sense that what  
10      will happen, if normal procedures are pursued,  
11      is that COAH will not approve the plan until  
12      they have consulted with the Office of Smart  
13      Growth, and until they have consulted with  
14      DEP, and until they are assured that the land  
15      is developable.  And this is going to take  
16      some time, I think.

17                      CHAIRMAN NEWMAN:  That will  
18      certainly take some time.

19                      BOARD PLANNER:  This is not a  
20      typical thing in a plan.  Anytime you have a  
21      "center" designation in a plan of any sort, it  
22      requires multi approvals, cross approvals,  
23      before COAH says fine.

24                      CHAIRMAN NEWMAN:  Well I would  
25      still suggest that even if COAH goes through

1       that process, their level of review will not  
2       be nearly as --

3                   BOARD PLANNER: Detailed.

4                   CHAIRMAN NEWMAN: -- tough as we  
5       will, or our engineering or planning or  
6       environmental consultants, or DEP when they  
7       really get their mitts into something.

8                   BOARD PLANNER: The point is well  
9       taken, and the scenario we've set forth is  
10      what will happen.

11                  If it can't be approved or can't  
12      be approved for as much or whatever else, then  
13      we go back to COAH and explain the reasons and  
14      take it from there.

15                  MR. PEPE: But now I need to  
16      satisfy a certain number of bedrooms, if you  
17      will. I can't put that facility in this --  
18      let's assume we go forward with this plan  
19      that's at hand, I can't put as many bedrooms  
20      as I needed to put to satisfy my plan.

21                  So where am I left? I can put  
22      half the bedrooms? What do I do now?

23                  BOARD PLANNER: I think, really,  
24      it just behooves the town to do what has been  
25      said you're going to do. The Mayor has said

1 many times. The COAH Work Group said it. I  
2 think the Planning Board even discussed this  
3 at your last public meeting, the idea to keep  
4 looking for options.

5 MR. PEPE: I think the Mayor has  
6 absolutely been clear. And I think everybody  
7 has been clear that the idea is to try to find  
8 a better solution, right, that works for  
9 everybody. Clearly that's the intention,  
10 right. And not just because people are in  
11 this room, but we all live here, right.

12 But, nonetheless, though, we're  
13 still faced with this scenario. And the exact  
14 scenario I've giving you is that I put forth a  
15 plan, I can't satisfy that plan because let's  
16 just say it's an environmental issue. I now  
17 have X amount of bedrooms that I need to come  
18 up with, but I don't have -- maybe I don't  
19 have a piece of land available. Maybe I don't  
20 have a lot and block to satisfy a potential  
21 inclusionary zone scenario. What do I do?

22 What do I go back to the State  
23 and say, you know what, I want to build the  
24 units, I have no place to build it?

25 BOARD PLANNER: Well you're not

1 going to be able to -- depending upon what the  
2 rules are, you're going to have to meet the  
3 rules.

4 MR. PEPE: But I can't meet the  
5 rules. But I can't. There's no place for me  
6 to go. What do I do now?

7 BOARD PLANNER: There's never,  
8 according to COAH, there's never no place you  
9 can go.

10 MR. PEPE: I'm sure there's not.

11 BOARD PLANNER: I mean you're  
12 sounding logical now. Remember, that's always  
13 a danger.

14 One of the things, though, I  
15 would like to --

16 CHAIRMAN NEWMAN: If we could  
17 just keep it down. I know that there are some  
18 things that everybody is going to want to  
19 comment on. And Rich will conclude, once we  
20 stop asking him a bunch of questions.

21 MR. PEPE: I apologize. I know  
22 you guys want to talk.

23 BOARD PLANNER: We're getting  
24 there. One of the things I do want to read,  
25 though, into the record is the following.

1 This is on Page 12 of your document dealing  
2 with this site.

3 "The limited purposes of the  
4 conceptual site plan is to indicate that the  
5 site could accommodate both the 85 affordable  
6 housing units and non-residential building  
7 totaling no more than 150,400 square feet of  
8 space that could be accommodated on the site  
9 under the current zoning. Any actual site  
10 plan for the development of the property would  
11 require site plan review and approval by the  
12 Township, as is the case with any application  
13 for development.

14 "However, other approvals will be  
15 necessary prior to the applicant being able to  
16 submit a site plan for review and approval by  
17 Millstone Township. More specifically two  
18 prior approvals will be necessary as follows:

19 "First, the site can only be  
20 developed as conceptually proposed if a  
21 wastewater treatment facility (cyclet  
22 alternate system) is approved by the New  
23 Jersey DEP. And, in order for the NJDEP to  
24 approve such a wast facility, the Office of  
25 Smart Growth must designate the site as a

1 'center' or otherwise determine that the  
2 development of the site as conceptually  
3 proposed at this time is consistent with the  
4 State Development and Redevelopment Plan. At  
5 this time, any development of the site with  
6 other than a conventional septic system is  
7 inconsistent with the State Plan as currently  
8 adopted.

9 "Second, the proposed conceptual  
10 plan must be approved by COAH as part of  
11 Millstone Township's 'Fair Share Plan'."

12 Again, just to reiterate, it's in  
13 the plan. The property owners know this, as  
14 well as COAH and everybody else that wants to  
15 read the plan.

16 Another component, the final  
17 component of the plan are four-accessory  
18 apartment units. These are units that are  
19 either going to be in an existing home. They  
20 have to be discreet units. So there has to be  
21 renovation done to the house, or an addition  
22 to that house, or an accessory structure.  
23 Maybe a loft over a garage, or an addition to  
24 the accessory structure. They are not  
25 considered family units.

1                   And in order to get our bonuses  
2           conservatively, looking at COAH's rules right  
3           now -- and I mentioned at a prior meeting if  
4           COAH allows a piggybacking of some of the  
5           rental units, we may be able to reduce the 85  
6           units to maybe 73. That will be discussed  
7           with COAH when we get there and they make an  
8           interpretation. I have gotten three different  
9           reads from my questions up until now.

10                   But the bottom line is that at  
11           this point adding accessory apartments, which  
12           is really a great thing, doesn't help the  
13           plan. So all you're really doing is  
14           obligating yourself to 20, \$25,000 a unit.

15                   But you have it in your plan, so  
16           if we can expand the accessory apartments  
17           because of some dialogue that we'll have with  
18           COAH during the review process, it's in your  
19           plan and you can do it.

20                   You have to provide, again, a  
21           minimum of 20,000 per unit to subsidize a  
22           moderate-income accessory apartment or 25,000  
23           for a low-income unit. But those are  
24           minimums. Whatever it takes you have to do.

25                   And, again, you fund it either

1 out of your Housing Trust Fund, which doesn't  
2 have a whole lot of money in it because you  
3 have paid such a great deal of money,  
4 rightfully so, for your RCA last round, your  
5 Regional Contribution Agreement. So you're  
6 going to have to pay for the shortfall out of  
7 general funds or be it bonding.

8 I was asked to review a suggested  
9 plan submitted by Committeeman Abilheira.  
10 Actually, I received it on 5:39 p.m. last  
11 Friday afternoon. And I did manage to review  
12 it over the weekend. The alternative plan  
13 maintains all aspects of the currently  
14 proposed plan, except it eliminates the 85  
15 family rental units on the Route 33 property.

16 Quoting from the plan it states  
17 that 12 additional accessory apartments  
18 apportioned to very low and low-income as per  
19 COAH, same format as the current plan, I'm  
20 quoting, 30 affordable rental units on land to  
21 be acquired over years three to seven. One  
22 structure to be built per lot, not to exceed  
23 four to six units per structure. 85, which  
24 would be the balance, less any applicable  
25 bonus units in RU-P Zone. Inclusionary

1 development zoning change pursuant. And then  
2 the citation to the COAH rules.

3 Now, adding the proposed 107  
4 units less than the applicable credits for the  
5 42 units in the plan not including the Route  
6 33 property, would total 169 units. However,  
7 there is more to consider, since some of the  
8 basic assumptions regarding the proposed  
9 alternative plan are incorrect relative to a  
10 reading of COAH's rules.

11 Number one, regarding the  
12 additional 12 accessory apartments, as I've  
13 said there's no problem with that. But the  
14 current plan allocates them all for moderate  
15 income, and there's really no need to have  
16 them for very low or low. It makes them less  
17 desirable because you can get credits for your  
18 very low from the group homes within your  
19 plan.

20 Regarding the 30 affordable  
21 rental units on land to be acquired over years  
22 three to seven, the email indicated that these  
23 units are to be apartments to be constructed  
24 by a not-for-profit entity. This approach  
25 actually is called municipally sponsored and

1 100 percent affordable housing developments  
2 within COAH's rules, that's at N.J.A.C.  
3 5:97-6.7, and these are the following  
4 requirements which are contrary to what was  
5 being proposed.

6 Here are the requirements: At  
7 the time of petition for substantive  
8 certification from COAH there must be provided  
9 to COAH, and I quote, "a demonstration that  
10 the municipality or developer/sponsor has  
11 control or has the ability to control the  
12 sites. Control may be in the form of outright  
13 ownership or contract to purchase or an option  
14 on the property." That's quoted from the  
15 rules.

16 So saying we're going to do this  
17 in four to seven years does not cut the  
18 mustard.

19 Another point. Also at the time  
20 of the petition of substantive certification  
21 from COAH there must be provided to COAH, and  
22 I quote, "A description of the site including  
23 the street location, block and lot and  
24 acreage." Obviously it's not a pie in the sky  
25 type of planning option. You have to be

1 site-specific.

2 So, therefore, simply telling  
3 COAH of the intent to acquire unidentified  
4 lands for the not-for-profit does not satisfy  
5 the rules.

6 MR. PEPE: So my question where I  
7 don't have or I can't build what's at hand  
8 here today because of some reason. I have to  
9 build a smaller structure or no structure.  
10 Let's say I have to build a smaller structure.  
11 So what do I do?

12 Again, I don't have a lot and  
13 block. I don't have some sort of charity  
14 that's going to build not-for-profit homes for  
15 me. So what do I do?

16 I might have it down the road.  
17 What do I do?

18 BOARD PLANNER: I don't  
19 understand.

20 MR. PEPE: I don't have a lot and  
21 block.

22 BOARD PLANNER: So it's not in a  
23 plan. It's not a viable plan if you put that  
24 kind of a plan together.

25 CHAIRMAN NEWMAN: But in the time

1 frame, if there's an extension, or even if  
2 there's not an extension. To the extent we  
3 might be able to identify things that conform  
4 to those two holes that you're showing us --

5 BOARD PLANNER: The COAH Work  
6 Group has already discussed options with some  
7 property owners and is working towards that,  
8 absolutely.

9 CHAIRMAN NEWMAN: So we may be  
10 able to work down from the numbers?

11 BOARD PLANNER: Yes.

12 MAYOR GRBELJA: Can I just? We  
13 currently have a number of properties that we  
14 are looking at various locations within the  
15 town. However, as I have explained at various  
16 meetings, the process takes a long period of  
17 time because we have to do a site assessment.  
18 What we have to do is we have to approach the  
19 owner, see if there is a viable option, if  
20 they're interested in selling to the town.  
21 Then what we have to do is go out and pass  
22 ordinances to be able to get appraisals, wait  
23 for the appraisal process.

24 In some other cases we have some  
25 places that are already built that were in the

1 process through other legal things that are  
2 going on, we may have the option of including  
3 within our program. But there are a number of  
4 other properties that currently are under  
5 investigation that are not included in this  
6 plan.

7 BOARD PLANNER: Just getting back  
8 to this, the 30 units. We have an obligation,  
9 a minimum obligation for 22 rental family  
10 units. That's one of those minimum and  
11 maximums I was telling you about.

12 If we can't credit the 30  
13 affordable family units in the alternative  
14 plan that was presented, you don't meet the  
15 requirement. On its face you don't meet a  
16 requirement that you have to satisfy in COAH's  
17 rules.

18 And, again, even if the 30  
19 affordable units were to be group home units  
20 you don't satisfy the family requirement.

21 So all of the 30 units of the  
22 affordable units for rent that are included in  
23 that alternative plan do not have a certainty  
24 for construction as required by COAH's rules,  
25 and, therefore, cannot be counted upon in the

1 fair share plan. It's not a viable plan.

2 And regarding the proposed 85  
3 units in the alternative plan to be satisfied  
4 via zoning for inclusionary development, and  
5 that is a topic heading in COAH's rules, it's  
6 at N.J.A.C. 5:97-6.4. I want to make the  
7 following information available.

8 If it is assumed, first of all,  
9 we have to assume -- I'm sorry, if it's  
10 assumed that the 30 affordable units for rent  
11 included in the alternative plan will not be  
12 credited by COAH, then the alternative plan  
13 does not satisfy the obligation that at least  
14 43 of the units be rental housing, and at  
15 least 22 of them be family units.

16 Bottom line, just shifting to the  
17 85, we lost then 42 credits. We lost our  
18 bonus credits -- we lost those 30 units, I  
19 should say, and we end up needing not 85 but  
20 115 units in order to maintain our 169-unit  
21 obligation.

22 The bottom line is I'm taking a  
23 little piece out of each. In other words, the  
24 30 units don't exist. And now I'm saying,  
25 okay, they don't exist, we'll forget about the

1 rental obligation, which is not going to be  
2 satisfied by this plan. But even then you  
3 need 115 units instead of 85.

4 And there's no other opportunity  
5 in the proposed alternative plan to satisfy  
6 the rental family obligation. The group homes  
7 I mentioned don't do it. The age restricted  
8 don't do it.

9 And inclusionary developments of  
10 the type that were in the alternative plan,  
11 N.J.A.C. 5:97-6.4(b)6.1 states that the  
12 minimum presumptive density for affordable  
13 rental family units in an inclusionary  
14 development is 12 dwelling units per acre,  
15 which cannot obviously be supported by septic  
16 systems.

17 So there's no way in the  
18 alternative plan to satisfy the rental units.  
19 The 169-unit obligation requires that sites  
20 designated to produce affordable housing shall  
21 be available, approvable, developable and  
22 suitable.

23 Now getting to the RU-P Zone, the  
24 proposed alternative plan for, let's say, 85  
25 family units via inclusionary developments

1 would have a significant impact on your Zone  
2 Plan that the town has worked so hard to  
3 achieve.

4 Your RU-P, Rural Preservation  
5 Zoning District, according to your Master Plan  
6 which did a measurement of the acreage in that  
7 zone, said that it totalled 11,057.22 acres.  
8 That's 47 percent of the Township's land area.  
9 There is a map here which indicates all of the  
10 lands within the RU-P Zone scattered about the  
11 town. It also shows in blue along Route 33  
12 the Route 33 piece that's in the plan. But  
13 this acreage is obviously significant.

14 Now the acreage needed in the  
15 RU-P Zoning District to provide the 80 family  
16 units is something as follows. First of all,  
17 COAH's rules require that you must give a  
18 density increase of 40 percent minimum. That  
19 40 percent changes the one dwelling unit per  
20 ten acres density gradient to one dwelling  
21 unit per 7 acres.

22 Additionally, you always, when  
23 you design a subdivision, have to provide for  
24 percentages of land to accommodate streets and  
25 detention basins or other surface water

1 management facilities.

2 The rule of thumb, it's a pretty  
3 good rule, I did check it with your engineer,  
4 is 20 percent of the acreage. You have to  
5 have 20 percent of the acreage.

6 There is also additional acreage  
7 that you have to allow for oversized lots, for  
8 lands that are environmentally encumbered, for  
9 bends in the road that again increase the size  
10 of some of the lots. Not every lot is going  
11 to be 7 acres, obviously. And the rule of  
12 thumb there is that -- and I think this may be  
13 low in this area because it's very  
14 environmentally encumbered, that's obviously  
15 why it's the rural preservation zone -- but 30  
16 percent is what I'm assuming. And I think,  
17 again, that is very low.

18 So you have a 50 percent upgrade  
19 in the acreage. Therefore, for the 85  
20 affordable units to be constructed, five times  
21 that number, or 425 market-rate units, will  
22 have to be constructed. So you have a total  
23 of 510 family residential units. That's 85  
24 plus the 425. At 7 acres per unit the  
25 threshold number of acreage required totals

1       3,570. When you allow for the overages, for  
2       the detention basins, streets, environmental  
3       encumbrances and oversized lots, adding that  
4       50 percent increase brings you up to 5,355  
5       acres. 5,355 acres is 48.43 percent of the  
6       entirety of the RU-P Zoning District, and that  
7       excludes existing streets.

8                       Obviously this plan will have a  
9       dramatic effect on your Zone Plan. It  
10      effectively changes the zoning for your RU-P  
11      Zone. Think of it, if this is the zoning and  
12      the town is saying that this land area can  
13      support one dwelling unit per 7 acres on  
14      average, then what is the justification in  
15      your Master Plan for having ten acres?

16                      So even if you were to develop 50  
17      percent of this land area for the inclusionary  
18      affordable housing mechanism, the property  
19      owners in the remaining 50 percent are  
20      rightfully going to stand up and say, well,  
21      your Master Plan says that the reason you have  
22      ten acres is because you want to protect the  
23      environment, but you're allowing the density  
24      to increase for whatever reason.

25                      I think effectively what you've

1       done is you've busted, by this alternative  
2       plan, you've busted your own Zone Plan.  
3       You've basically changed the RU-P, or will  
4       have changed the RU-P from 10 acres to 7  
5       acres.

6                       Also, we don't have a detailed  
7       analysis of the physical encumbrances of this  
8       land. But we all know what they are. You  
9       just have to look at the critical area mapping  
10      in the Master Plan, or just, you know, open  
11      your eyes to all the streams, corridors in the  
12      town that are well documented, and has been  
13      said many times, you're at the headquarters of  
14      the compliments of five watersheds.

15                      Also the carrying capacity of the  
16      underlying soils has to be looked at. And  
17      COAH will look at all this. It's not just a  
18      pie-in-the-sky plan that they will approve.

19                      I also want to point out to you  
20      that once you put inclusionary development  
21      zoning schemes in your plan, it doesn't mean  
22      that you have the right -- that you're right.  
23      Let me read you again what the COAH rule says.

24                      You don't maintain control  
25      because COAH rules state, this is N.J.A.C.

1 5:97-6.4(b)11, and I quote, "Inclusionary  
2 Zoning Ordinance shall include a provision for  
3 developers to appeal the economic feasibility  
4 of such zoning to demonstrate that the  
5 increased densities and/or reduced costs do  
6 not provide an appropriate level of  
7 compensation commensurate with the amount of  
8 affordable housing requirement."

9                   What does that mean? It means  
10 that when you buy into this kind of program,  
11 you are stating that you will do what is  
12 necessary to make it economically viable for  
13 any and all of the developers in that zone to  
14 be able to provide the housing.

15                   MR. PEPE: So, Rich, if he says I  
16 can't provide, it's not cost effective for me  
17 to build a home even on seven acres because I  
18 have to run electric, plumbing, things of that  
19 nature, grading of lands, septic, whatever it  
20 might be, that he doesn't have to necessarily  
21 adhere to that number?

22                   BOARD PLANNER: Correct. What he  
23 will argue -- and he does this with COAH, by  
24 the way. He doesn't have to come and say, oh,  
25 by the way, Millstone, we could change it.

1       You've already said that you're going to do it  
2       if necessary.

3                   If you don't do it, he goes to  
4       COAH and says -- and this has been done  
5       before, by the way. Toll Brothers had a  
6       pretty big lawsuit in West Windsor Township  
7       with the same premise. They can ask for  
8       different types of dwelling units. They could  
9       ask for increased densities, whatever it is,  
10      to make it economically feasible.

11                   But the emphasis I want to make  
12      is that, again, when you throw out these plans  
13      you have to think of the repercussions and you  
14      have to read the rules. You can't get around  
15      the written rule unless they're changed. And  
16      ultimately that's what we're bound by.

17                   I also did some extrapolations  
18      from the data presented on Page 19 of the  
19      Housing Plan Element. We had a total  
20      estimated number of units, June 2008. We  
21      looked at CO's, we looked at demolition  
22      permits of 3,226 housing units. In accordance  
23      with the 2000 Census the average household  
24      size in the Township was 3.28 persons per  
25      household. So you have an estimated

1 population of 10,581 persons at the end of  
2 June of this year.

3                   Assuming that the 510 units  
4 required in the alternative plan to generate  
5 the 85 affordable units were all single-family  
6 units, which apparently is what's proposed in  
7 the plan, the alternative plan, and also with  
8 a 3.28 person per household population, 1,672  
9 persons would be added to the Township's  
10 population just from the inclusionary  
11 developments in 50 percent of the RU-P Zone.  
12 That's a 15.81 percent population increase  
13 from June, 2008.

14                   By comparison, the 85 apartment  
15 units on the Route 33 property, assuming,  
16 again, the 3.28 persons which I can tell you  
17 is high for those kind of units, but to assume  
18 that, would generate 278 persons, or a 2.63  
19 percent population increase since June, 2008.

20                   So the impact, and from  
21 school-age children the impact would also be  
22 dramatic.

23                   Using the Rutgers multipliers,  
24 which is used again by every demographic  
25 expert in the state, the 85 affordable units

1 on the Route 33 property would generate a  
2 total of 56 children. The 85 affordable  
3 family units in the alternative plan would  
4 generate less, actually 22 children. Again  
5 these are all public-school children.

6 MR. PEPE: Guys, could we just  
7 keep it quiet to respect Rich's presentation?  
8 It's for everybody's benefit.

9 BOARD PLANNER: The 425  
10 market-rate units in the alternative plan  
11 would generate 379 children. So the  
12 alternative plan, the difference in the two  
13 plans is 345 pupils using the COAH  
14 multipliers.

15 CHAIRMAN NEWMAN: Rich, I  
16 understand, and you mentioned that there was a  
17 second alternative that was presented to you a  
18 couple of days ago.

19 In the interest of letting the  
20 public speak -- because I'm sure someone is  
21 going to at least talk about that. And if  
22 they don't, we'll allow you to address it at  
23 some other point. I hope I'm not being  
24 disrespectful, if I could ask you could you  
25 wrap it up?

1 (Audible applause.)

2 BOARD PLANNER: The alternative  
3 plan I was asked to review by Committeeman  
4 Abilheira. I received that at 1:12 on Monday  
5 afternoon, December 8th. I did review it.  
6 That next morning -- effectively, without  
7 going to the specifics, it really requires  
8 again more acquisition, more unspecified  
9 lands. It's not a compliant plan for COAH's  
10 rules.

11 But I would be happy to answer  
12 any questions.

13 MAYOR GRBELJA: Could I ask a  
14 question? Are you actually saying you don't  
15 want him to review the second alternative, or  
16 are you asking to take questions on the first  
17 alternative and then we'll come back to the  
18 second alternative?

19 CHAIRMAN NEWMAN: Actually I'm  
20 asking that -- I want to open it up to the  
21 public on any questions they have --

22 (Audible applause.)

23 CHAIRMAN NEWMAN: -- including  
24 the first alternative, but we're going to  
25 reserve the right --

1                   MAYOR GRBELJA: They can't hear  
2                   you.

3                   CHAIRMAN NEWMAN: So no matter  
4                   how much you like what the Mayor is saying,  
5                   please don't applaud.

6                   Is that what you meant?

7                   What I was saying is that what I  
8                   would like to do is open up to the public, and  
9                   there could be questions on anything we've  
10                  discussed. But we will have Rich back up, to  
11                  the extent necessary, to go into detail as to  
12                  why the second plan may have some holes or may  
13                  not, and he'll have to go through that with us.

14                 But in the interest of changing  
15                 pace we're going to ask if anyone from the  
16                 public would like to stand up and approach the  
17                 microphone and give us your name and address  
18                 and let us know what question or comment you  
19                 have, and if you could direct that to me. And  
20                 again, we're going to try to keep a  
21                 five-minute limit.

22                 And this gentleman I recognized  
23                 earlier, so go ahead.

24                 MR. WHITNEY: Thank you,  
25                 Chairman. Yes, my name is Jim Whitney, 31

1 Indian Path Road.

2 CHAIRMAN NEWMAN: Could you say  
3 your last name again?

4 MR. WHITNEY: Whitney,  
5 W-h-i-t-n-e-y.

6 CHAIRMAN NEWMAN: All right.  
7 Thanks, Jim.

8 MR. WHITNEY: I moved to  
9 Millstone 11 years ago with my wife.

10 BOARD ATTORNEY: Mr. Whitney,  
11 you're probably going to make a statement at  
12 some point, so let me swear you in so that  
13 you're under oath so that it's meaningful to  
14 the whole process.

15 MR. WHITNEY: Absolutely.

16 BOARD ATTORNEY: Do you either  
17 swear or affirm that any testimony you give in  
18 connection with this proceeding will be the  
19 truth, the whole truth and nothing but the  
20 truth?

21 MR. WHITNEY: Yes.

22 BOARD ATTORNEY: Thank you. Go  
23 ahead.

24 MR. WHITNEY: My wife and I moved  
25 to Millstone 11 years ago. We scoured the

1 entire State of New Jersey, literally, looking  
2 for a place to live. When we were driving  
3 down Route 33 we spotted Indian Point  
4 development through the trees. And once we  
5 found that development, we threw all the  
6 paperwork out for all the other towns that we  
7 had researched, and we said we want Millstone  
8 to be the home where we lay down our roots and  
9 we start a family.

10 We all moved here for the same  
11 reason, the peace, tranquility, the peace of  
12 mind, the quality of life that comes with  
13 living here, and it's great. It's been great  
14 for the last 11 years.

15 I work in New York City daily, I  
16 commute anywhere from three to four hours a  
17 day, okay. Once I get home to my home in  
18 Millstone, I forget about the stress that  
19 comes from my career. I love this town. I am  
20 very involved with it. My wife is very  
21 involved with it. We coach sports, both in  
22 the recreation level, travel sports. We're  
23 involved in Girl Scouts, Boy Scouts. My wife  
24 contributes time as a PTO volunteer, as a  
25 class mom. So, needless to say, we're

1 involved in the town.

2 I have never been involved in the  
3 town from a political standpoint, a planning  
4 standpoint, or anything like that for that  
5 matter, beforehand, until October 30th when I  
6 read Jane Meggitt's article in The Examiner  
7 about this particular COAH plan. Specifically  
8 the 85 units that were going up onto the  
9 corner of Bergen Mills Road, or the potential  
10 of them going up there, Bergen Mills Road and  
11 Route 33.

12 From that point forward I just  
13 got information out to people. I'm getting  
14 information out to everyone who is sitting up  
15 there that's on the Planning Board. I'm here  
16 to inform you. I'm here to inform the people  
17 who are out in the audience, as well.

18 If I may approach, I would like  
19 to approach at this point in time. I'm sorry  
20 I was out of turn before. But I have a copy  
21 in my hand -- and I've handed it out or I left  
22 stacks in the rows -- of the letter that was  
23 written from Assembly Speaker Joe Roberts to  
24 Lucy Vandenberg, the Director of COAH,  
25 basically asking for a 90-day extension. And

1 as a follow-up to Mr. Coppola's statement  
2 before -- may I approach?

3 CHAIRMAN NEWMAN: Sure, please.

4 BOARD ATTORNEY: Mr. Chairman,  
5 I'm marking P-1, for Public Exhibit 1, which  
6 is on New Jersey General Assembly letterhead  
7 and it's dated December 8th, 2008. P-1.

8 - - -

9 (The above-mentioned document is  
10 marked as P-1 for Identification and admitted  
11 into Evidence.)

12 - - -

13 MR. WHITNEY: We all know the  
14 challenges that we face. The COAH subgroup  
15 knows the challenges that we face as a result  
16 of these COAH rules. It's frustrating to hear  
17 them, I'm sure, as they're changing as you  
18 guys have put some time into the subgroup. As  
19 the Planning Board you've heard about it.

20 We, as residents, unfortunately  
21 we didn't really hear about it until later on.  
22 And we know that the rules -- I know  
23 specifically, after spending a lot of time  
24 reading about these rules, going out to  
25 websites -- that the rules are bad for the

1 state economically. But, more importantly,  
2 they're bad for us environmentally, Millstone  
3 Township.

4 I've been in touch -- just to  
5 kind of give you an idea, so I don't just seem  
6 like a crazy resident here throwing stuff  
7 out -- but I've been in touch with the New  
8 Jersey Sierra Club. I've been in touch with  
9 the Stonybrook Millstone Water Association.  
10 I've been in touch with The Asbury Park Press.  
11 I've been in touch with The Examiner. I've  
12 gone to the COAH website. I've read all the  
13 rules.

14 I'm not a professional, such as  
15 Mr. Coppola, but I am an intelligent  
16 individual and I know how to read and I know  
17 how to interpret.

18 The letter that I gave you,  
19 hopefully, will solve all of our problems and  
20 we can come up with a much better plan. We  
21 have more time than the current one that I got  
22 a copy of last week under OPRA.

23 I've read through this plan  
24 three, four times at least. I've made notes  
25 with all my yellow stickies and my

1 presentation tonight is as a result of it.

2 One thing that's stated in this  
3 plan, it refers to the Master Plan that was  
4 adopted in November of '02. If anyone up  
5 there on the Planning Board now was on the  
6 Planning Board back then, thank you very much  
7 for adopting it. It's a great Master Plan.

8 But the plan that's in front of  
9 us here, the first plan, COAH plan, goes  
10 against a lot of the principles and policies  
11 associated with the Township Master Plan. And  
12 I just put a couple down here, and I'm going  
13 to read them because I got them straight out  
14 of this plan. I didn't know what they were  
15 before, but I know what they are now.

16 The principals, I'm just going to  
17 read a couple. I'm not going to go into all  
18 of them, I know we're short on time.

19 "Maintain the rural character of  
20 Millstone." Second, "The Township supports  
21 the vision of the State Plan for Millstone as  
22 a Rural Environmentally Sensitive Planning  
23 Area and is committed to the protection of its  
24 natural and cultural resources, including  
25 steep slopes, stream corridors and their

1 associated wetlands and flood plains, forest,  
2 agriculture and areas valuable to scenic,  
3 historical, cultural or recreational  
4 resources." That's important and we'll get to  
5 that later.

6 "The township recognizes the  
7 regional importance of Millstone as a  
8 convergence zone for Central New Jersey  
9 watersheds and the need to protect its  
10 exceptional high-quality water resources."

11 A couple of the policies, and  
12 this is where I'm going to pose a rhetorical  
13 question, and if anybody would like to answer  
14 it, by all means, but it's really rhetorical.

15 "The Township encourages land use  
16 and beneficial Economic Development that is  
17 compatible with the maintenance and  
18 enhancement of Millstone's rural  
19 environmentally sensitive community.

20 "The Township will control the  
21 location/expansion of infrastructure to  
22 conserve the rural character of the Township  
23 and discourage the extension of sewer and  
24 water service into the municipality."

25 I ask the question, why in the

1 world would we ever put a wastewater facility  
2 in this town based on the Master Plan; it  
3 makes no sense.

4 MR. PEPE: One question back to  
5 you, to help me make a better decision.

6 MR. WHITNEY: Absolutely.

7 MR. PEPE: Do you think --  
8 because I'm a little lost here, too, and I  
9 absolutely relate to what you're saying. I  
10 live in town.

11 Do you think the plan of  
12 inclusionary zoning is more in line with the  
13 Master Plan?

14 MR. WHITNEY: I think what will  
15 ultimately happen. And if someone knows this  
16 different, if I'm stating something  
17 incorrectly here, by all means jump in.

18 But the inclusionary alternative  
19 plan that was stated before, Mr. Coppola, you  
20 said that would bust the zoning, right?

21 BOARD PLANNER: Yes, I believe it  
22 would.

23 MR. WHITNEY: However, if you put  
24 a wastewater treatment facility in this town,  
25 that, too, won't that bust the zoning for a

1 wastewater treatment plant anywhere in town?

2 (Audible applause.)

3 CHAIRMAN NEWMAN: Hold on a  
4 second. I asked you to avoid the clapping or  
5 the hissing or booing so that we can hear this  
6 gentleman speak and we're not cutting into his  
7 time while I'm telling you not to clap. So  
8 let's be respectful of his time and not do  
9 that.

10 MR. PEPE: I actually felt the  
11 same thing as you, so I did some homework.  
12 And, actually, what I found is that's  
13 absolutely not true.

14 If we do it here, it doesn't mean  
15 we have to do it anywhere. We can do it,  
16 especially under a COAH scenario. We're not  
17 obligated or opening the town up in any way to  
18 do it elsewhere.

19 So, again, if that's the main  
20 crux of what you think is going to happen as a  
21 result of this, I'm going to tell you it's not  
22 going to happen. But I could give you  
23 different reasons why you're right, but go  
24 ahead.

25 MR. WHITNEY: Thank you. My next

1 comment is on the critical environmental  
2 constraints. Also this section came from Page  
3 11 of this plan.

4 It says, "Millstone is  
5 environmentally constrained as shown on the  
6 Critical Areas Map. The map shows the  
7 location of three fundamental environmental  
8 features which deserve particular mention  
9 which are noted within the book, the New  
10 Jersey State Development & Redevelopment Plan,  
11 SDRP, and COAH's substantive rules, that's  
12 freshwater wetlands, 100-year flood plains,  
13 and the slopes that are 15 percent or greater.  
14 The presence of one or more of these physical  
15 characteristics clearly justify the limitation  
16 of development densities and intensities."

17 This is stated right in the plan,  
18 okay. So what we're talking about here is if  
19 you look at the critical map that's in this  
20 plan, the critical map has wetlands. Actually  
21 it has wetlands as a section of this piece of  
22 property. It has wetlands right across from  
23 Route 33. Directly across from Route 33.

24 The conceptual site plan actually  
25 has a road going right through the wetlands to

1 enter the property once it's developed.

2 So my question, again, is why  
3 would we ever put a wastewater treatment  
4 facility on this particular property because  
5 of wetlands, or anywhere in town?

6 Because it's not just this part  
7 of town, it's everywhere. When you look at  
8 that critical map, it's everywhere. Slopes  
9 are everywhere. Flood plains are contained to  
10 the rivers, but wetlands are all over this  
11 town. We all know that. That's one of the  
12 reasons why we live here. It's very rural.  
13 It's great.

14 So I don't understand why we  
15 would ever put forth this plan, and, to top it  
16 off, at a high density on top of the water  
17 treatment plant.

18 The last point I wanted to make  
19 is the State Plan, SDRP. Just as a quick  
20 frame of reference for those who don't know  
21 what it is, it serves as a guide for municipal  
22 and county master planning. It allocates New  
23 Jersey into planning areas and centers. Mr.  
24 Coppola stated that before. Centers are the  
25 lands within planning areas where growth is

1 first encouraged. And this is from the plan,  
2 there is no center designated or indicated  
3 within Millstone, although Roosevelt Borough  
4 was identified as a potential center.

5 So my question is why are we  
6 trying to designate a center here in  
7 Millstone? It makes no sense to me.

8 Now my last question is not a  
9 rhetorical question but actually something I  
10 wanted to pose, if that's okay, to Board  
11 Planner Coppola.

12 In your experience, sir, you said  
13 you submitted like 75 plans. Are these  
14 third-round plans that you're referring to for  
15 other towns?

16 BOARD PLANNER: First, second and  
17 third.

18 MR. WHITNEY: So in these other  
19 towns, or your knowledge of towns' third-round  
20 submissions, specifically what we're up  
21 against right now, are you aware of any town  
22 submitting a plan without a center?

23 BOARD PLANNER: There are towns  
24 that have water and sewer that do not need a  
25 center, correct.

1                   The rural towns that have numbers  
2                   approaching here, this kind of number, your  
3                   neighboring town of Freehold is designating a  
4                   center because it is consistent with the State  
5                   Plan. And it's consistent with the State Plan  
6                   here.

7                   So the answer is when we have  
8                   these very, very unreasonably high numbers you  
9                   need to have something other than septic to  
10                  satisfy them without breaking your own zoning,  
11                  as we talked about earlier with the  
12                  alternative plan.

13                  So, yes, there are towns that are  
14                  not rural, that have water and sewer, that do  
15                  not need a center designation.

16                  MR. WHITNEY: But you're stating  
17                  that we do not have to designate a center but  
18                  we would ultimately be breaking the zoning if  
19                  we were to take these --

20                  BOARD PLANNER: Please don't put  
21                  words in my mouth.

22                  MR. WHITNEY: I'm not trying to  
23                  do that. I'm trying to clarify.

24                  BOARD PLANNER: I want to make  
25                  sure that it's clear what I'm saying to the

1 rest of the people here.

2 In the instance of Millstone  
3 Township we have a constitutional obligation  
4 to provide the ability to have these housing  
5 units. The State Plan does call for center  
6 designation through the plan endorsement  
7 process.

8 This plan is consistent with  
9 that. No, I don't think there is any viable  
10 alternative, at least at this time, for a plan  
11 that will meet the letter of the rules and  
12 comply without -- on septic systems.

13 MR. WHITNEY: Thank you.  
14 My last point is, you know, I made a statement  
15 here before. Mr. Coppola made a statement  
16 before. Chairman, you made a statement.  
17 Christopher Pepe, you made a statement.  
18 Anyone else who speaks after me are all going  
19 to want to make statements.

20 I ask that you just keep your  
21 ears open and you listen, and you take all of  
22 this information in before making any type of  
23 a hasty decision. Thank you.

24 CHAIRMAN NEWMAN: Thank you.  
25 Anyone else like to approach the microphone?

1 MR. DiLORENZO: I would.

2 CHAIRMAN NEWMAN: Hold on, I  
3 didn't hear what you're saying.

4 MR. DiLORENZO: I'm going to give  
5 you my C.V. to save a little time on my  
6 qualifications.

7 CHAIRMAN NEWMAN: You're going to  
8 go over them, though?

9 Well, let's start with the  
10 obvious, your name, address, et cetera.

11 MR. DiLORENZO: My name my  
12 Chester DiLorenzo, with Midstate Engineering.  
13 I was retained by Ed Zawada to speak before  
14 this body.

15 BOARD ATTORNEY: Sir, raise your  
16 right hand and be sworn, please. Do you  
17 either swear or affirm that any testimony you  
18 give in connection with this proceeding will  
19 be the truth, the whole truth, and nothing but  
20 the truth?

21 MR. DiLORENZO: So help me God, I  
22 do.

23 CHAIRMAN NEWMAN: I didn't hear  
24 what you said. Your were retained by?

25 MR. DiLORENZO: Ed Zawada, 13

1 Arrowhead Way.

2 CHAIRMAN NEWMAN: A resident?

3 MR. DiLORENZO: He's a resident.  
4 He asked me to come and to review the plan and  
5 speak before this body.

6 BOARD ATTORNEY: And you've  
7 indicated you're a professional planner  
8 licensed in the State of New Jersey?

9 MR. DiLORENZO: I'm a professional  
10 engineer, surveyor and a planner in the State  
11 of New Jersey.

12 BOARD ATTORNEY: And, as with Mr.  
13 Coppola, could you give the board the benefit  
14 of your background as it relates to the  
15 affordable housing with COAH from the planning  
16 perspective?

17 MR. DiLORENZO: Yes. I'm a 1976  
18 graduate from Villanova University. I have a  
19 professional engineering license in the State  
20 of New Jersey going back to 1983 or maybe  
21 earlier than that. I got a planner's license  
22 right after that. And a land surveyor license  
23 four years after that.

24 I was in-house engineer, design  
25 professional for V.S. Hovnanian Group. I have

1 put forward five or six COAH plans. I've  
2 built three COAH plans. We used the builder's  
3 remedy you were talking about before to sue  
4 towns to, in fact, accept the builder's remedy  
5 in my past.

6 And I have appeared before  
7 Millstone Planning Board on numerous occasions  
8 as an engineer and a land surveyor.

9 I've appeared in Freehold, Howell  
10 and Jackson as a planner. And I think that  
11 would be sufficient qualifications.

12 MR. PEPE: Chester, do you  
13 represent any towns as a planner?

14 MR. DiLORENZO: I do not.

15 BOARD ATTORNEY: Mr. Chairman,  
16 I've marked Mr. DiLorenzo's Curriculum Vitae  
17 as P-2.

18 - - -

19 (The above-mentioned document is  
20 marked as P-2 for Identification and admitted  
21 into Evidence.)

22 - - -

23 BOARD ATTORNEY: And it's not  
24 dated, but I assume this is current?

25 THE WITNESS: My current C.V.,

1       yes.

2                       CHAIRMAN NEWMAN:  Mr. DiLorenzo,  
3       we certainly appreciate you letting us know  
4       that you're a licensed planner, and we so  
5       recognize that designation and appreciate you  
6       giving us your qualifications.

7                       MR. DiLORENZO:  My pleasure.

8                       CHAIRMAN NEWMAN:  As with any  
9       consultant or engineer or planner, we  
10      certainly listen to your credentials and give  
11      them appropriate weight.

12                      Thank you.  Go ahead.

13                      MR. DiLORENZO:  Thank you.  I  
14      really came to speak about the plan.

15                      Essentially I have had a chance  
16      to review the plan prepared by Coppola &  
17      Coppola.  And I want to compliment Mr.  
18      Coppola, it's a very, very detailed plan.  
19      Many facts and figures which were both  
20      interesting and very, very verifiable when I  
21      contacted COAH myself, as well as NJDEP.

22                      Unfortunately, here I don't  
23      necessarily agree with the plan, but I agree  
24      with the fact that he has done a very good job  
25      with it.

1                   Item two is the fact that, I  
2 believe, the crux of my dissatisfaction, and  
3 my client's dissatisfaction, is the proposal  
4 of a cyclet here at this property.

5                   I believe that utilization of the  
6 cyclet system is inappropriate here. It's  
7 inappropriate in Millstone.

8                   I have seen other sites that  
9 could have had a cyclet that were chosen not  
10 to have cyclets put in there, again, because  
11 of the increase in density utilized by it.

12                  And there's also a technical  
13 reason behind its inability to work here. A  
14 cyclet system is, in fact, a modification on a  
15 treatment process. We're not using  
16 infiltration. We're not using a sand filter.  
17 We're not using aeration or contact  
18 filtration. We are using a centrifuging type  
19 system to take a solid liquid and turn it into  
20 a liquid that can be pushed through a  
21 biological process.

22                  That process will discharge a  
23 product which is better than secondary  
24 treated, but not quite tertiary treated. It's  
25 a good system, it's not a great system.

1                   And the reason I say that is that  
2                   at the meeting of December the 1st, and I was  
3                   only retained at that time. I heard that  
4                   we're going to have a cyclot system, the water  
5                   would be injected into a well discharged on  
6                   site.

7                   I contacted Treatment Works and  
8                   they tell me that they no longer allow  
9                   injection wells, shallow, deep or otherwise.  
10                  That there will only be three ways water can  
11                  leave the site. Water can only leave the site  
12                  by discharge into a sanity sewer system  
13                  leading to a treatment plant, discharged into  
14                  a body of water. The only one nearby is the  
15                  Millstone River, which right now is carrying a  
16                  C-1 classification, which I don't think you're  
17                  going to be able to do that, or into a septic  
18                  field.

19                  The site itself is sitting upon  
20                  two soil types, which I investigated in the  
21                  Monmouth County Soil Survey, both of which  
22                  have permeabilities around K0 to K1, which is  
23                  poor to nonexistent.

24                  So, as such, I looked at the fact  
25                  that we're going to have a great difficult

1 ability to get water from this cyclet system.  
2 I then looked at Mr. Coppola's report. Based  
3 upon the plan that was presented by American  
4 Properties, their report indicates that  
5 roughly 150,000 square feet will be  
6 constructed on this property, including the 85  
7 COAH units. It comes out to be -- in round  
8 figures because I know this town has a  
9 problem -- 45,000 gallon a day discharge.  
10 That's going to create a lagoon. Not a septic  
11 field, a lagoon of about a third of an acre,  
12 with at least a second lagoon of a third of an  
13 acre as backup. And again we're looking at  
14 permeability rates that do not work at this  
15 time.

16 I'm getting to this because I  
17 have done a great deal of work in Millstone.  
18 I like Millstone. I wanted to settle here but  
19 my wife was quick on the trigger and stopped  
20 in Freehold.

21 CHAIRMAN NEWMAN: We're not  
22 holding that against you.

23 MR. DiLORENZO: Thank you. I  
24 appreciate that. I have done work here since  
25 1981, and I still love coming here. In fact,

1 I love coming down Stagecoach Road and seeing  
2 that sign that says "Environmentally  
3 Concerned", because you are, and I applaud you  
4 for it. It's wonderful.

5 I don't think the cyclet will  
6 keep that designation. And that hurts my  
7 feelings because I don't think this town wants  
8 to go in that direction.

9 I also don't think that this site  
10 here is going to work for what you want it to  
11 do. It's substantially over-designed.

12 We have the COAH units contiguous  
13 to a loading area where the --

14 CHAIRMAN NEWMAN: I'm sorry to  
15 interrupt you. You said something is  
16 over-designed?

17 MR. DiLORENZO: This site is  
18 substantially over-designed.

19 CHAIRMAN NEWMAN: Okay, got you.

20 MR. DiLORENZO: We have 75,000  
21 square foot big box, we're calling it a food  
22 store, but it says that it could be any other  
23 kind of retail.

24 We have other retail, we have  
25 office use, we have two restaurants which I'm

1       assuming are TGI Friday's size-type  
2       facilities, something like that. And we have  
3       four buildings of COAH.

4                       There's no recreation element for  
5       the COAH. And there is no -- they're  
6       contiguous to the loading area to the food  
7       store, which has truck bays contiguous to  
8       where these kids are going to be playing.

9                       And I'm saying that because  
10       unfortunately -- and I told you my little dark  
11       secrets -- I'm a development engineer and I've  
12       sued towns. I've been part of a team that  
13       sued towns for COAH in Tinton Falls. And I'm  
14       going to say this, because I'm sure Mr. Shafai  
15       recalls, we did a project called Park Place  
16       II. They came back to us in the courts and  
17       said you need to give recreation for all the  
18       kids that you're generating for all these  
19       high-density units that we really did to that  
20       town.

21                      I feel bad about it now but at  
22       the time that's what we did for a living. And  
23       we came back and built parks and made  
24       recreation, and we ate some of our units so  
25       that we could comply with the fact that as

1 COAH changed, recreation had to be included.

2 Again, I'm looking at this  
3 because I'm saying this plan, and I would like  
4 the plan to be accepted and take the next step  
5 because I do believe, as Mr. Coppola says, you  
6 won't see a first unit here until 2016 or  
7 maybe later. But I think the real problem  
8 with this plan is that we're looking for a  
9 scenario of complete viability.

10 I think with the Millstone River  
11 being a contiguous body of water with 150 to a  
12 300-foot setback -- and I say that because I  
13 did a wetlands investigation for Mr. Russo,  
14 part of the property is in Millstone, most of  
15 it is in Monroe on Applegarth Road, and the  
16 DEP said he was 150 feet of the same Millstone  
17 River. So I'm fairly certain that's what  
18 you're going to get. The plan shows a 50-foot  
19 setback. In fact, you're going to lose most  
20 of your driveway if it's pushed at 150 foot.

21 I think we need to do more  
22 thinking about the process. I think we should  
23 look at other properties. There's other  
24 properties available.

25 Again, I've been working on this

1       for ten days. My client asked me to reach out  
2       to developers I do in Millstone, what's  
3       available. I have two developers who said  
4       specifically that Millstone could use their  
5       property for zero dollar option money for 18  
6       months if we lay something out to their  
7       client -- if we can't, it doesn't cost the  
8       town anything -- and you're able to talk to  
9       COAH about the inclusionary zoning.

10                   MR. PEPE: Can you provide us the  
11       name of that developer?

12                   MR. DiLORENZO: I have said on  
13       the record but I'll give them to you as well,  
14       Mr. Baldacchino and Mr. Stavola.

15                   MAYOR GRBELJA: I have spoken to  
16       that developer back on a number of  
17       occasions --

18                   MR. DiLORENZO: Ms. Nancy, I'm  
19       sorry, you're right. He said that. He said  
20       that he would be willing --

21                   MAYOR GRBELJA: -- and we have  
22       plans to talk in January.

23                   MR. DiLORENZO: And he is very  
24       happy to talk to you. Because he said he's  
25       willing to give the town right now an

1 18-month, zero-dollar option, which gives you  
2 time to deal with the real issue of COAH.

3 And I think that's what we're all  
4 here to do. We're all here to say you guys  
5 are doing a great job, we want to make that  
6 great job go further and make this thing work.  
7 And I don't think this plan is going to make  
8 it work.

9 MR. PEPE: Chester, in your  
10 opinion, as a professional planner, you're  
11 saying that the plan proposed here, you think,  
12 does not match up with the Master Plan and the  
13 rural character of this town?

14 MR. DiLORENZO: It absolutely  
15 does not. And I think there's aspects of it  
16 that are not viable.

17 That's worse than not submitting  
18 a plan because then the developer will kill  
19 you with that.

20 MR. PEPE: I think it is not  
21 viable -- if we submit a plan that is not  
22 viable, we fail, right. So we're back to the  
23 developer lawsuit and we have a bigger  
24 problem.

25 So what I'm trying to find out is

1 the idea, inclusionary zoning, what I'm  
2 concerned about -- let me make it even  
3 simpler. We have 10-acre zoning now. If I  
4 reduce it to 7, under an inclusionary plan I  
5 have more homes in the town, right. So,  
6 again, back to that concept of the Master  
7 Plan, trying to keep this place rural.  
8 Everybody moved here for the same reason.

9                   Again, I'm going to ask you, is  
10 the plan that's proposed, does that keep the  
11 town more rural than the idea of doing that?  
12 That's what I'm trying to find out.

13                   MR. DiLORENZO: I believe that  
14 there's other options available. The reason  
15 I'm saying that, I'm very happy to work with  
16 your town --

17                   BOARD PLANNER: Can I...

18                   MR. DiLORENZO: Wait, I'm getting  
19 to my point.

20                   MAYOR GRBELJA: Well, once again,  
21 you're not bringing anything to us, especially  
22 when you talk about Mr. Baldacchino.

23                   We had met prior to this. We had  
24 some discussions about the land. And I will  
25 be setting up a meeting with him and our

1       Housing Alliance, which will take place in  
2       January.

3                       That's something that is in the  
4       process of us investigating. And, like I  
5       said, we did have conversations with him. So  
6       we also had a conference call with Rich  
7       Coppola, our attorney, and our entire COAH  
8       Work Group.

9                       So that's already in place.

10                      MR. DiLORENZO: And, hopefully,  
11       if COAH grants the extension, maybe you can  
12       work something out that's better. I would  
13       think we all could move in that direction.

14                      BOARD PLANNER: I appreciate what  
15       you said, and the kind words you gave to me,  
16       Chet, but let me ask you a question.

17                      You're familiar, you said, with  
18       COAH rules and the like. You know, then, that  
19       inclusionary zoning on a site, to get this  
20       number of units, requires -- the only thing  
21       you could do is four market units to one  
22       affordable, correct?

23                      MR. DiLORENZO: Unless the  
24       developer is willing.

25                      BOARD PLANNER: That's correct.

1       So when you submit a plan to COAH you have to  
2       have the ability to show COAH that the land  
3       owner/developer is willing to do something out  
4       of the box?

5                       MR. DiLORENZO:    Correct.

6                       BOARD PLANNER:    Would you agree  
7       that that's what's being shown on the Route 33  
8       property?

9                       MR. DiLORENZO:    I would.  But,  
10       again, I think the site is over-developed.

11                      BOARD PLANNER:    I understand your  
12       opinion on that.  Now you also remember the  
13       verbiage in the plans, because I know you read  
14       it.  Again, the limited purpose of the  
15       conceptual plan is to indicate, obviously to  
16       COAH, that the site could accommodate both the  
17       85 affordable housing units and  
18       non-residential buildings, totaling no more  
19       than the 150,400 --

20                      MR. DiLORENZO:    Correct.

21                      BOARD PLANNER:    -- square feet of  
22       space that could be accommodated at the site  
23       under the current zoning?

24                      Any actual site plan for the  
25       development of the property would require site

1 plan review and approval by the Township, as  
2 is the case with any application for  
3 development.

4 So it's very, very clear that the  
5 concept plan is an illustrative plan for  
6 feasibility purposes. It is not a signed-off  
7 plan. It hasn't been engineered. The  
8 alternative cyclet-type system has not been  
9 engineered.

10 There is a lot of questions  
11 clearly. But what we have provided is the  
12 ability to go to COAH and say we don't want to  
13 do the four to one.

14 If we take Mr. Baldacchino's  
15 property, or anybody else's property, and  
16 simply say we have a property and we have an  
17 18-month lease on it, basically you have  
18 included that property in the plan and that  
19 land owner, or any subsequent land owner,  
20 could go back to COAH and say, the only way we  
21 could really do this economically feasible is  
22 to live by your rules and do a four to one,  
23 four market-rate units, one affordable.

24 How do you do that on septics?

25 MR. DiLORENZO: The biggest

1       problem I have right here with the plan we're  
2       looking at is the fact that we do not have  
3       septic viability, and, therefore, I'm afraid  
4       that COAH is going to come and say it's not  
5       viable.

6                       BOARD PLANNER:   Fine.   Then we  
7       bought our time.

8                       MR. DiLORENZO:    But what you've  
9       done is you've given the property owner the  
10      unjust enrichment of a cyclet system.

11                      BOARD PLANNER:   Not if he can't  
12      get it.

13                      MR. DiLORENZO:    Well, he can get  
14      it for something without COAH, if we're back  
15      to the shopping center and the restaurants and  
16      all that without --

17                      BOARD PLANNER:   You know, we  
18      don't even have it designed.  We don't know...

19                      MR. DiLORENZO:    Granted.  I'll  
20      give you that, we don't have it designed.

21                      BOARD PLANNER:   It's an issue  
22      that has to be addressed.  That's why it's in  
23      the plan to be addressed.

24                      MR. DiLORENZO:    And I believe,  
25      it's my opinion as a planner, that if we were

1 to look at inclusionary zoning, that there are  
2 other properties in Millstone which could be  
3 used, either as inclusionary with a build-out  
4 option, or with agreement from a developer in  
5 the town that could be utilizing a complete  
6 septic system. And we could get away from  
7 environmental problems of the cyclet system.

8 BOARD PLANNER: You're saying you  
9 could find a site for an inclusionary  
10 development for 85 affordable units on  
11 septic; is that what you just said?

12 MR. DiLORENZO: Not all  
13 inclusionary, no. I said I could talk to  
14 developers and see about upping the ante.

15 Because what you're saying is  
16 it's got to be four to one, and a developer  
17 has expressed that they're willing to work  
18 with us and do much more than that.

19 BOARD PLANNER: The most I have  
20 ever seen in a situation is a 25 percent,  
21 okay, unless there are a lot of subsidies  
22 given by the town.

23 But you still end up with a  
24 sizable number of units. You still need an  
25 alternate plan.

1                   So if I'm listening to you, and  
2                   again, I'm just asking the question, it's not  
3                   the concept that bothers you, it's where it  
4                   is?

5                   MR. DiLORENZO:    No, not even  
6                   where it is.  I don't have a problem with you  
7                   putting all the COAH units there and didn't do  
8                   the commercial.  I think that's also  
9                   realistic.  I don't agree the soils will work  
10                  for it.

11                  But what I'm getting at is --

12                  BOARD PLANNER:  Well the  
13                  developer actually came to the town and wanted  
14                  to do just that, wanted to build upwards of  
15                  425 units.  We said no.

16                  MR. DiLORENZO:  Where is he  
17                  going to discharge the effluent?

18                  BOARD PLANNER:  He was proposing  
19                  to do -- again, with a center designation,  
20                  which he can do under the State Plan -- was  
21                  going to build a package treatment plant.

22                  MR. DiLORENZO:  And, again, the  
23                  town's got to co-sign it.  The town's got to  
24                  guarantee it.  The town's got to be on the  
25                  hook for the ones that send the sewer all the

1 way to wherever, I guess it's Monroe, to bring  
2 it into --

3 BOARD PLANNER: If there's a  
4 sealed system --

5 MR. DiLORENZO: A package  
6 treatment plant, if it fails, the co-signer  
7 has got to guarantee the effluent is  
8 discharged properly.

9 And we can't do that into the  
10 Millstone River. And we can't do that  
11 into --

12 BOARD PLANNER: You're familiar  
13 with Toll Brothers?

14 You worked for Toll Brothers?

15 MR. DiLORENZO: Yes.

16 BOARD PLANNER: Well, you know  
17 that system?

18 MR. DiLORENZO: I do know that  
19 system.

20 BOARD PLANNER: And that supports  
21 how many units?

22 MR. DiLORENZO: But they also  
23 cosigned the permit and said if it fails they  
24 will run a cyclet.

25 BOARD PLANNER: I understand.

1 But it's working. It's been there for years.

2 - - -

3 (Unidentified, unintelligible  
4 voices from speakers in the public.)

5 - - -

6 CHAIRMAN NEWMAN: Let's keep the  
7 dialogue -- let's just keep the dialogue --  
8 you can't type this fast, huh? All right,  
9 well, that's your fault. Otherwise, you all  
10 can scream, but she can't type that fast.

11 I just want to make one point of  
12 clarification. You're right, there's a  
13 concern about a cyclet system on behalf of, if  
14 I can speak for myself, on behalf of me. But  
15 we haven't seen a plan or an engineering  
16 design for that system. Of course, we  
17 haven't, that's a ways away.

18 I spoke to our engineer, to Matt,  
19 and said to Matt, you guys will have to review  
20 this. Forget about the State reviewing it,  
21 the county and all that. And we talked  
22 informally. And again, I haven't shared it  
23 with anyone else on the Board, but Matt and I  
24 talked informally that I would urge the board  
25 to agree with me that we should at least hire

1 a separate expert who is a septic or cyclet  
2 expert. I'm sure there's a guy in this state  
3 that's in your industry -- no disrespect to  
4 you or Matt, but somebody who lives these  
5 systems all day long and can make sure that  
6 it's designed to the highest level of science  
7 and protection.

8 Of course, there's never a  
9 guarantee with anything we do anywhere, but we  
10 would look to take that extra level of  
11 protection for the town.

12 MR. DiLORENZO: I never thought  
13 otherwise. But what I'm indicating is that  
14 the first thing that COAH is going to do with  
15 the plan is they're going to bounce it over to  
16 DEP. Ask them how close they are to the  
17 wetlands. How big the buffer is. Treatment  
18 Works, what's the viability. And very simply,  
19 by just pulling out the Monmouth County Soil  
20 Survey, says the soils on that property are  
21 severely limited for on-site septic disposal.

22 That's a very big limiting factor  
23 when you have any kind of system that's going  
24 to discharge 45,000 gallons a day.

25 CHAIRMAN NEWMAN: And, as Rich

1       said, assuming you're right, in that  
2       intervening time period the Mayor and the COAH  
3       Work Group, and probably yourself and others,  
4       are going to do everything to come up with  
5       what we need to do to make it work, if the  
6       plan doesn't survive the scrutiny that you're  
7       talking about.

8                       MR. PEPE:  It sounds like, for  
9       the benefit of the people in this room, that  
10      would be the best situation that could happen.  
11      We present a plan to the state, it fails, and  
12      now we've bought ourselves some time.

13                      MR. DiLORENZO:  Well, in a  
14      perfect world -- I've only been working on  
15      this for ten days.  But, in a perfect world,  
16      you submit the plan the first time, that you  
17      think is going to work and you could live with  
18      as a town.

19                      MR. PEPE:  Yeah, but I don't  
20      think there's probably been ever a scenario  
21      that you got to submit a plan under these  
22      conditions.

23                      I also don't think that -- I  
24      think that the education of the people, of all  
25      the hard work and all the things that have

1       been done, I think the education of the people  
2       have been slightly undermined by other  
3       people's sort of beliefs in things that are  
4       true. And I think that plans that are  
5       submitted have forced people in this room to  
6       believe other possibilities are true.

7                     The fact of the matter is that if  
8       we don't complete this plan, we've got a much  
9       bigger problem.

10                    So everybody is concerned about  
11       this parcel of land, as am I, but we're really  
12       kind of in a tough situation. We don't have  
13       an alternative plan.

14                    MR. DiLORENZO: Well, I agree  
15       with that. And I believe the attorney is  
16       going to speak after me.

17                    But I believe the much tougher  
18       situation is that, with the clock against our  
19       back -- and I've been on the other side, I've  
20       been the guy that helps sue the towns -- and  
21       if you fail to submit a plan by December 31st  
22       at 1 o'clock and you actually submit it by  
23       February 1st at 1 o'clock --

24                    MR. PEPE: What's going to  
25       happen?

1                   MR. DiLORENZO:    I'm going to  
2                   tell you that.

3                   -- and a developer comes in and  
4                   sues you in March, the judge is going to  
5                   remand it back to COAH and COAH is going to  
6                   say that plan was submitted before the  
7                   developer sued them.

8                   And what I'm getting at is you  
9                   have a very small window of being sued.  You  
10                  do.  That's true.  It's always at your risk.  
11                  But right now developers are hurting.  No one  
12                  is going to be able to carry land and sue  
13                  people for large numbers for a COAH advantage  
14                  that they're going to have to carry for a  
15                  decade or two.

16                  MR. PEPE:  And I absolutely  
17                  respect your opinion about that.  But to make  
18                  summations based on the value of land and the  
19                  conditions of the market in relation to real  
20                  estate, although I happen to agree with you,  
21                  it's pretty dangerous, right.

22                  So I'm going to take this whole  
23                  town and I'm going to gamble that I'm going to  
24                  get the real estate market right?  That's  
25                  something I don't think I was appointed to

1           this board to do.

2                         But, by all means, if everybody  
3           thinks that's the right thing to do, to gamble  
4           with the whole town, then why don't we just go  
5           for it.

6                         That's what I'm lost with.  
7           Because nobody has presented anything to me to  
8           tell me -- nobody is making a clear choice for  
9           us or helping us make a clear choice.

10                        And with all due respect to you,  
11           I don't think you're doing it either.

12                        MR. DiLORENZO:   Well, I'm  
13           indicating there's other properties that could  
14           be looked at, and I'm willing to offer the  
15           properties, as I've laid them out already,  
16           which is going to benefit the town.

17                        I'm not spending your  
18           professionals' times on it, but I believe  
19           there's other places that this project can be  
20           placed.  And I don't believe this is the right  
21           place for it.  I think it's over developed.

22                        MAYOR GRBELJA:  I just want to  
23           respond to that, because I know you continue  
24           to bring up one particular builder.

25                        And, as I said to you, we did

1 meet initially to talk about that particular  
2 property. And I am going to tell you, it was  
3 only the second time that we met, when we were  
4 talking about -- first of all, the first time  
5 that we did meet he had absolutely no interest  
6 in building anything.

7                   The second time that we met,  
8 which was maybe about two weeks ago, or just  
9 before our other meeting, we sat down and we  
10 were talking about putting units on that  
11 particular site that would work with a septic.  
12 Probably some maybe four units within one  
13 particular building that could be located on  
14 whatever you would need for septic to occur.

15                   But, once again, the individual  
16 is reluctant because of what the cost would be  
17 to build that particular home and what he  
18 would be able to sell it for.

19                   Once again, we're also missing  
20 the whole idea, that the rental units is  
21 really what we were using to try and reduce  
22 it.

23                   He's not interested in renting  
24 those units out. That's why we have an  
25 arrangement with the Housing Alliance and we

1       have a plan to get together, after the  
2       holidays, to investigate that as a  
3       possibility.

4                   MR. DiLORENZO:    I appreciate  
5       that.

6                   MAYOR GRBELJA:   And I just want  
7       to stress with everyone, this is not a plan  
8       that we are locked in stone.  We have said it  
9       over and over and over again.  We don't want  
10      anything to have a cyclet system or a sewage  
11      treatment system.

12                   We have this deadline that we  
13      have to get something in to prevent people  
14      like you from coming in and filing a builder's  
15      remedy suit against our municipality.

16                   So what happens is, as we're  
17      going through this, we are looking for  
18      properties that we can make up, and we're  
19      hoping that some of those numbers are going to  
20      come down.

21                   But to say that we are going to  
22      use up 50 percent of our RU-P Zone with more  
23      than 500 homes for an inclusionary development  
24      will destroy this community totally from A to  
25      Z.

1                   MR. DiLORENZO:    I disagree with  
2                   you, Mayor.

3                   MAYOR GRBELJA:    Oh, I don't think  
4                   so.  That's what our planner -- excuse me.

5                   CHAIRMAN NEWMAN:  Everyone, if we  
6                   could just give the Mayor a chance to talk,  
7                   and we're going to wrap it up with Chuck and  
8                   move on to the next people.

9                   MAYOR GRBELJA:    First of all,  
10                  what happens is, as I have stated, we are  
11                  looking for properties.  We have some viable  
12                  options, including the developer that we still  
13                  have referenced here.

14                  However, the large-scale  
15                  destruction of Millstone Township is not  
16                  something that we can support.  I certainly  
17                  can't support.

18                  CHAIRMAN NEWMAN:  Hold on a  
19                  second.  The acoustics are just not as good as  
20                  they are in our other room, so we're just  
21                  going to be have to be respectful.

22                  Chuck, would you like to...

23                  MR. DiLORENZO:    It's Chet.  
24                  That's okay.

25                  CHAIRMAN NEWMAN:  Chet, would you

1       like to wrap up?

2                     I do apologize for not saying  
3       your name correctly.

4                     MR. DiLORENZO:     That's quite all  
5       right.  To begin with, that piece of property,  
6       in a duplex format, we're able to get sixteen  
7       units out of it -- in a duplex format we get  
8       16 buildings out of it.  In a four-plex format  
9       we looked at 30 buildings out of it.  And I  
10      believe we still could talk about rental  
11      units, but that's down the road.

12                    I'm indicating there's other  
13      properties to look at.  And I believe the  
14      technical use of the cyclet system is a  
15      negative for a Township like Millstone.  And  
16      that's my opinion.  Thank you.

17                    (Audible applause.)

18                    CHAIRMAN NEWMAN:  The longer you  
19      clap, the less we're going to hear, so you  
20      can...

21                    If anyone that's talking could  
22      please stand closer to the mike or raise the  
23      mike.  If you're taller, reach down over it.  
24      That would be appreciated.

25                    And I know that I blew my idea of

1 sticking to five minutes, but I did afford a  
2 little bit extra time because there has been  
3 some back and forth, but we're all going to  
4 try to abstain from that.

5 MR. PAVLOV: My name is Alexander  
6 Pavlov. I was retained by Mr. Ed Zawada, as  
7 well. I was former co-counsel to Howell  
8 Township.

9 And I promise to be brief, I just  
10 have a few questions, which is due to the  
11 testimony of Mr. Coppola as well as Mr.  
12 DiLorenzo, who I have spoken to briefly.

13 First question I have is, Mr.  
14 Whitney did an excellent job earlier  
15 introducing the Roberts letter to you,  
16 indicating that the legislature is intending  
17 to request a 90-day extension of the COAH  
18 rules. But there's something that goes  
19 further than that, as well. I've been on the  
20 phone with the legislative offices all day and  
21 I was informed that Senator Lesniak, the  
22 Majority Leader of the Senate, is intending to  
23 introduce legislation, either tomorrow or  
24 Friday, to scrap the entire COAH regulations  
25 as authored as of now.

1                   Now, whether that happens or not,  
2 we'll see. But given the fact that you have  
3 Roberts requesting a 90-day extension -- I  
4 believe Mr. Coppola indicated someone else was  
5 requesting a six-month extension, Lesniak is  
6 saying that he's going to scrap the entire  
7 rule-making procedure -- why not contact COAH  
8 tomorrow and simply request an extension?

9                   I mean COAH has indicated -- I  
10 have also contacted COAH. They've indicated  
11 nobody has contacted them. Nobody has  
12 requested an extension.

13                  Call them. It's a simple matter.  
14 Phone them or send them a letter requesting an  
15 extension of 30, 60, 90, 120 days. That will  
16 give you time to consider this plan, Mr.  
17 DiLorenzo's plan. I believe one of your  
18 committee members has an alternate plan. And  
19 come up with something, which Mr. DiLorenzo  
20 indicated, you have a plan that could get  
21 accepted on the first go-around.

22                  The next question I have is,  
23 again Mr. DiLorenzo covered it prior to this.  
24 But, Mr. Coppola, is it accurate, in fact,  
25 that -- is there a pending lawsuit against

1 Millstone Township to force you to adopt any  
2 of the third rules at this point?

3 BOARD PLANNER: You mean is it a  
4 good gamble not to submit something and just  
5 take a chance?

6 MR. PAVLOV: No. Has someone  
7 threatened you with a lawsuit, or is there a  
8 lawsuit pending?

9 BOARD PLANNER: I just know that  
10 there are attorney groups in the state that  
11 have announced that they're going to check to  
12 find out each and every town that's submitted.  
13 They'll be down there January 2nd in COAH.

14 And I also know that, even in our  
15 towns, I would guess of the seven  
16 municipalities that we're representing, five  
17 of them will have objections filed.

18 So it's a very aggressive  
19 litigious attitude out there. And there's no  
20 way on earth that I would ever recommend a  
21 town not to submit on time.

22 One other comment you made, there  
23 has been discussion with COAH about  
24 extensions. I've had them throughout the  
25 whole year. Some of the mayors in my town

1 have asked for it, as well. It's been turned  
2 down. COAH can't grant an extension unless  
3 the law allows it.

4 The letter that was introduced  
5 earlier is not an extension. Roberts' letter  
6 simply says allow towns to ask for an  
7 extension.

8 This town will submit a request  
9 for an extension, if that is allowed. I might  
10 also add to you that the regular meeting of  
11 COAH is this Wednesday. Next Wednesday. So  
12 it has to be done then, granted by COAH then,  
13 or it's meaningless.

14 The other point is that the bill  
15 you talked about with Senator Lesniak, and  
16 Bateman co-sponsoring it from Somerset County,  
17 I think that's a real good possibility. And  
18 even aside from that bill, I know Senator  
19 Lesniak has spoken with the Governor directly  
20 and that there may be a directive from the  
21 Governor, a blanket extension.

22 So there's a lot of things, I  
23 think, that you're accurate in pointing out,  
24 and this town is obviously monitoring that.

25 MR. PAVLOV: When was your

1 request for the extension denied, though, Mr.  
2 Coppola?

3 BOARD PLANNER: What was what?

4 MR. PAVLOV: Your request for the  
5 extension denied? You indicated that the  
6 Township --

7 BOARD PLANNER: I think the  
8 township definitely should submit a viable  
9 plan. Definitely.

10 MR. PAVLOV: No, I thought you  
11 indicated that you requested an extension to  
12 submit a plan and it was turned down?

13 BOARD PLANNER: It's been  
14 discussed at every meeting I've been at with  
15 COAH or COAH staff, by other people as well as  
16 myself. There's been meetings all year.

17 And they don't have the authority  
18 under their rules to grant an extension.

19 MR. PAVLOV: Given this current  
20 atmosphere, I believe if somebody requested it  
21 that --

22 BOARD PLANNER: COAH does not  
23 have, under its rules, the right to grant an  
24 extension.

25 MR. PAVLOV: Next question. Have

1       you had an opportunity to review any of the  
2       other three plans that are circulating?

3                       I believe the Councilman has  
4       submitted a plan in opposition to this one?

5                       BOARD PLANNER: I responded to  
6       the first one, and I was starting to respond  
7       to the second one but I believe the Chair,  
8       recognizing that the public wanted to speak,  
9       said we'll hold off on that.

10                      Yes, I'm prepared to respond to  
11       the second one, as well.

12                      MR. PAVLOV: Just as briefly as  
13       possible, is that plan a viable plan?

14                      BOARD PLANNER: No.

15                      MR. PAVLOV: Okay, that's the  
16       short answer. To the point.

17                      - - -

18                      (Unidentified, inaudible audience  
19       members speaking.)

20                      - - -

21                      MAYOR GRBELJA: Can I just say  
22       one thing? There are copies of Mr. Coppola's  
23       response to that plan, the two alternatives,  
24       that have been submitted and are on the side  
25       table.

1                   MR. PAVLOV: I requested all the  
2 documents under OPRA and was told I wouldn't  
3 get them until tomorrow. So I'm flying a  
4 little bit blind, but I'll do what I can.

5                   And the final question, Mr.  
6 Coppola, are you familiar with the Toms River  
7 or the Russo COAH plan?

8                   BOARD PLANNER: Yes, I am.

9                   MR. PAVLOV: Has that been  
10 considered as an alternative here in  
11 Millstone, as well?

12                   BOARD PLANNER: No. I don't  
13 believe it's viable. There's no provision in  
14 the rules to say we just can't do it.

15                   MR. PAVLOV: I'm not sure. Now  
16 under the Toms River plan that involves the  
17 purchasing of four homes that have been  
18 foreclosed upon that are sitting vacant, and  
19 then renting them out as --

20                   BOARD PLANNER: I think Donna  
21 Rose Blaze can comment upon that. There has  
22 been some research done on the number of homes  
23 in the town available.

24                   Keep in mind, however, that that  
25 program, which is basically a market-to-

1       affordable program, that's the topic, towns  
2       are not allowed to do more than ten rental and  
3       ten for sale.

4                        So even if the town wanted to --  
5       could buy a number of homes and foreclose on  
6       them, renovate them at the town's expense to  
7       create individual units within them, assure  
8       that the septic system could carry more than  
9       one unit, you still, with all that done, you  
10      still don't meet the obligation.

11                      MR. PAVLOV:  You wouldn't meet  
12      the complete obligation, but would render  
13      approximately one-half to one-quarter of your  
14      obligation; would it not?

15                      BOARD PLANNER:  Well, you would  
16      need, let's say you assumed two units per  
17      house or whatever --

18                      MR. PAVLOV:  Converted duplex,  
19      yes.

20                      BOARD PLANNER:  -- you will only  
21      meet ten units of your rental obligation,  
22      where you need 84 in order to get the bonuses.  
23      So if you can't get your bonuses, I mean all  
24      that's doing is giving you ten rental units,  
25      max.

1                   And you can do the math. It's  
2                   pretty obvious. And if you take the two  
3                   dwelling units per acre that we're talking  
4                   about, you would need five to get ten rental,  
5                   you would need five more structures to get  
6                   your ten for sale.

7                   And whatever it costs, by the  
8                   way, it's going to be incurred by the town,  
9                   which is fine. But the bottom line is that it  
10                  doesn't meet the obligation.

11                  MR. PAVLOV: But you could do it  
12                  in conjunction with another plan?

13                  BOARD PLANNER: Of course you  
14                  could. You could. But let's find out from --

15                  MS. ROSE-BLAZE: The Toms River  
16                  is a unique situation. It's the only area in  
17                  the Monmouth/Ocean Corridor that has  
18                  distressed neighborhoods, as determined  
19                  demographically across the State, to be  
20                  eligible for any of the new Federal money for  
21                  the buying of foreclosures.

22                  We do all of the foreclosure  
23                  emergency counseling in Monmouth County, and  
24                  before I came over here I looked to see if  
25                  there was any pending foreclosures immediately

1       that were under consideration that we had, and  
2       there was none in the municipality of  
3       Millstone.

4               The priority monies for Monmouth  
5       County are to prevent foreclosure. So there's  
6       more money right now available to keep people  
7       who are in foreclosure in their homes than  
8       there is to buy up the kinds of housing that's  
9       distressed, that's located in places like Toms  
10      River.

11              So although we might find along  
12      the way one, two, three, four homes in the  
13      next few years that go into foreclosure that  
14      might be financially viable to purchase, just  
15      because they go into foreclosure doesn't mean  
16      that they're being discounted considerably,  
17      that may be available.

18              But the maximum is still only ten  
19      for the overall plan that were available.

20              MR. PAVLOV: If they're available  
21      you have ten. But that can be in conjunction  
22      with another plan which would prevent from  
23      this plan going forth.

24              MS. ROSE-BLAZE: But it isn't  
25      available right now for us to argue as

1 eligible properties that we could go to at  
2 this moment in time.

3 MR. PAVLOV: Thank you.

4 CHAIRMAN NEWMAN: Thank you, sir.

5 MR. MALTZ: Evan Maltz, 6 Winding  
6 Creek Drive. I'm going to be real quick,  
7 because it is getting late.

8 BOARD ATTORNEY: Let me just  
9 swear you in. Do you either swear or affirm  
10 that any testimony you give in connection with  
11 this matter will be the truth, the whole  
12 truth, and nothing but the truth?

13 MR. MALTZ: Absolutely do.  
14 Unlike some of the emails and political  
15 propaganda, things that have been circulated  
16 around town to swayed people from coming to  
17 meetings or get them out for the wrong  
18 reasons, I'm here to tell you that I don't  
19 endorse anybody's plan.

20 I haven't seen a plan that's  
21 really good for Millstone Township. Though I  
22 applaud you and Mr. Coppola and the Township  
23 Committee for filing the lawsuit, and for the  
24 work that you've done in such short notice  
25 with handcuffs on your hands, placed there by

1 the State of New Jersey, the only thing that  
2 I'm worried about is this cyclet system or  
3 sewage treatment plant in Millstone Township  
4 of any kind.

5 I understand that we're all  
6 hoping for COAH to give us extensions. We're  
7 all hoping that this plan doesn't work. We're  
8 hoping that the soil doesn't perk. We're  
9 hoping that it's over built and won't happen.  
10 And I'll be the first one to say, Amen to  
11 that. That's exactly what I'm here for.

12 I don't approve any plan that's  
13 here to build 510 houses in Millstone  
14 Township. That's why when I was the Mayor we  
15 worked on the Master Plan to change the zoning  
16 to ten acres. And it's been continued by the  
17 Township Committees after me, and a good job  
18 has been done.

19 What I am saying is why go into  
20 COAH with an aggressive plan, showing  
21 something that we've never allowed in this  
22 town. We talked about it in the past. We  
23 were advised by our Township attorney that  
24 there's no guarantee legally if you let one  
25 in, that you're not going to be sued and some

1 judge in Freehold, who doesn't live in  
2 Millstone and doesn't care much about the  
3 environment but maybe cares more about other  
4 issues, will say, you know, when it's good for  
5 you, you let it in, and now that you don't  
6 want housing you're not going to let it,  
7 that's not fair, and we'll go from there.

8 And I actually have writings and  
9 memos from the attorneys stating that to the  
10 Township Committee, and I will produce them  
11 prior to -- if they're required.

12 What I would --

13 CHAIRMAN NEWMAN: You said  
14 "writings from attorneys". Which attorneys?

15 MR. MALTZ: Township attorney.  
16 Millstone Township. Duane Davison, yes, from  
17 Lomurro, Davison, Eastman & Munoz.

18 We have memos that have gone back  
19 and forth. We've had emails and things of  
20 that nature. Because when we changed the plan  
21 to RU-P Zone we had to look at COAH  
22 requirements. We're the ones who got in and  
23 got the second-round approved.

24 So there's no -- what the  
25 writings say is that there's no guarantee.

1 Our Township attorney would not be willing to  
2 say if you allow one in we can absolutely stop  
3 and guarantee the town that it won't spread.  
4 That's what we based our decision on. Without  
5 a guarantee, we didn't want to open up our  
6 zoning.

7 But, to be quick, why not go in  
8 with a plan that's more conservative, that may  
9 not meet every letter of the law for COAH, but  
10 it's a plan. Whether it takes this piece of  
11 property on Route 33 and breaks it up into  
12 30-half acre or one-acre lots with duplexes on  
13 it, like Moccasin Court, which we already have  
14 in that development, go in with a plan.

15 If the plan gets bounced back at  
16 us saying that's not viable, that's not  
17 feasible, we'll amend it. But, you know what,  
18 we've achieved the extension without opening  
19 up and saying the Township Committee, the  
20 Planning Board, the Environment Commission and  
21 Millstone Township is going to embrace a  
22 septic system, a sewage treatment facility in  
23 town.

24 Why not go in with --

25 MR. PEPE: Excuse me for one

1 second. I'm under the impression that because  
2 this would fall under COAH that we would be  
3 able to limit that expansion of this  
4 contemplated septic, this cyclet system. I'm  
5 not an attorney.

6 MR. MALTZ: Nor am I.

7 BOARD PLANNER: I was going to  
8 ask, too, Evan in the past, I know as planner  
9 here there have been inquiries about getting a  
10 package treatment plant or getting sewers for  
11 things, but it never involved affordable  
12 housing.

13 When you do affordable housing  
14 you are allowed to spot zone, number one,  
15 because it's a constitutional obligation for  
16 the affordable housing.

17 Number two, this process would  
18 require the State Planning Commission, through  
19 the Office of Smart Growth, to endorse the  
20 specific site.

21 So it's a different process than  
22 asking a question, oh, if let's say you allow  
23 tract one to have sewer, can you then prevent  
24 tract two. I think the answer to that is you  
25 can't.

1                   MR. PEPE: Well, you know what,  
2 we happen to have an attorney here that we  
3 pay, let's just get his opinion.

4                   You know what I mean? I don't  
5 know the answer, so you're up.

6                   BOARD ATTORNEY: Does anyone know  
7 the answer? No, no one knows the answer at  
8 this point.

9                   What I can tell you is that there  
10 have been suits in the past between  
11 municipalities attempting to get access to  
12 adjacent municipalities for infrastructure.  
13 Some of those have been successful, some of  
14 those have not. But they didn't involve  
15 cyclet systems or saying you allowed one in  
16 town, you go to another.

17                   They've been situations where,  
18 because they had an affordability requirement  
19 and they had infrastructure within reasonable  
20 reach but it wasn't within their municipality,  
21 they tried to get access in other  
22 municipalities.

23                   BOARD PLANNER: That's with  
24 affordable housing.

25                   BOARD ATTORNEY: That's with

1 affordable housing.

2 BOARD PLANNER: I think the  
3 question was, though, if you have one for  
4 affordable housing, that doesn't set a  
5 precedent for a site without affordable  
6 housing?

7 MR. PEPE: We happen to have --  
8 we're just fortunate to have one more lawyer  
9 who's on the payroll in the back.

10 Would you mind stepping up and  
11 giving us an answer as well, so we could make  
12 an informed decision?

13 MR. DAVISON: Duane Davison,  
14 representing Millstone Township. 49 Silvers  
15 Road, Freehold Township.

16 You never swear in attorneys  
17 because, I guess they figure, we'll never tell  
18 the truth anyway. Long-standing joke.

19 In law school I learned that you  
20 change the facts, you change the outcome. The  
21 facts that were left out have already been  
22 pointed out by Mr. Coppola, and that is the  
23 advice that I gave this governing body before  
24 was not in conjunction with Mt. Laurel.

25 I indicated here last Tuesday

1 night when we had the hearing, that I've  
2 represented this town since 1986. One of the  
3 things and the pieces of advice I gave to that  
4 governing body was do not allow sewer and  
5 water in your town if you want to keep it the  
6 rural gem that it is. And, yes, I would have  
7 discouraged water, sewer, package treatment  
8 plants, anything of that nature.

9 The difference in this situation,  
10 and as I explained, I believe, as a result of  
11 Evan's questioning last Tuesday, was that this  
12 is under the Mt. Laurel banner and there are  
13 things you can do, as Mr. Steib has already  
14 indicated.

15 Because it is a Mt. Laurel  
16 situation that does not translate into other  
17 developers being able to do the same thing  
18 when it is not in conjunction with a Mt.  
19 Laurel situation. And that's what makes all  
20 the difference.

21 I'm not advocating it. What I am  
22 saying -- and Evan is right when he says call  
23 the attorney up here, he will not guarantee  
24 you that some judge in Freehold might not say  
25 you did it in this situation, do it in

1 another. And that's absolutely correct.

2                   You can, as an attorney, give  
3 your best advice to your client based upon  
4 your experience. And my experience in this  
5 town has been 22 years. My experience in  
6 litigating land use has been 30 years. And my  
7 best advice is that when you weigh all the  
8 alternatives, that I believe you stand a very,  
9 very good chance of preventing a cyclet system  
10 from going anywhere else, unless it is in  
11 conjunction with a Mt. Laurel project.

12                   CHAIRMAN NEWMAN: Thank you.

13                   MR. MALTZ: There was one other  
14 question. I asked Duane the other night at  
15 the COAH meeting about if you include a  
16 package plant on this property and the plan  
17 goes into COAH and it gets certified, and then  
18 we do find an alternative where we amend our  
19 plan -- and, Mr. Coppola, we're allowed to  
20 amend this plan after it's certified twice in  
21 ten years; is that still correct or has that  
22 changed?

23                   BOARD PLANNER: You could amend  
24 this plan at any time before it's certified  
25 and even after it's certified.

1                   The difficulty is that if you  
2           have private land in it, that private land is  
3           difficult to get out. For instance, your  
4           example of taking a piece and carving it up  
5           into lots and having duplexes on each,  
6           obviously the developer is not going to want  
7           to do that, the land owner. So by putting  
8           that in the plan, you're saying to COAH this  
9           site is suitable, and then COAH is going to  
10          turn around and say, well, then build it,  
11          develop on it.

12                   But you can amend the plan a  
13          number of times.

14                   MR. MALTZ: So you have  
15          unlimited -- once the plan is certified, over  
16          the next ten years we don't have any limit to  
17          how many times we can go back and change the  
18          plan?

19                   BOARD PLANNER: Right.

20                   MR. MALTZ: I was not aware of  
21          that. Thank you.

22                   The question I asked at the COAH  
23          meeting was if we do go back, and Duane  
24          Davison did absolutely say if we pull out the  
25          COAH on this piece of property -- and I'm not

1       advocating pulling the COAH out on this piece  
2       of property, I'm advocating not putting a  
3       sewage treatment plant there.

4                        If we do find other properties,  
5       we pull the COAH out. Mr. Davison said  
6       absolutely leave -- his suggestion or his  
7       advice would be to leave some element of COAH  
8       there. And I believe that's because the  
9       developer is still going to have the right to  
10      build a package treatment plant there, and  
11      that package treatment plant is then going to  
12      be for his commercial use, his restaurants,  
13      his warehouses, his grocery store that he  
14      shows on the plans, and very little for the  
15      Township's benefit for COAH.

16                      So you've enriched his property  
17      and now you can't take it away because, I  
18      believe -- and I don't want to put words in  
19      Mr. Davison's, he does it much better than I  
20      do, and if I was an elected official I would  
21      appoint him again, but that's not going to  
22      happen -- I believe what he said was you can't  
23      go to COAH and say we're going to give him a  
24      package treatment plant and then, in a future  
25      date, pull out the COAH aspect and then pull

1 his ability to put a package treatment plant  
2 there.

3 A judge is going to say when it  
4 was good for you, you allowed it. Now that  
5 you don't need it anymore, you pulled it and  
6 now he's got all this invested in the  
7 property.

8 I think, if there's any way -- my  
9 only issue is if there's any way to not put in  
10 a package treatment plant or sewage treatment  
11 plant in this town. We've got to go in with a  
12 less-aggressive plan. Even if it gets kicked  
13 back by COAH in 45 or 90 days and they say we  
14 want something else. In that time we might  
15 have found something else.

16 But if we go in up front and give  
17 this particular land owner the enrichment of a  
18 package treatment plant, you're not taking it  
19 away. We got it in town. We got a package  
20 treatment plant in town. And it may not serve  
21 COAH.

22 MS. PINNEY: I have a question,  
23 Mr. Maltz. I may have misunderstood Mr.  
24 Coppola before.

25 But my understanding was that if

1 we go in with a less -- as you say,  
2 less-aggressive plan, perhaps another way of  
3 saying would be less than a complete plan, and  
4 we're doing that knowingly, that that then  
5 puts us in jeopardy?

6 BOARD PLANNER: No. What will  
7 happen, what I said is that you submit a plan  
8 to COAH, it's not viable, and somebody  
9 objects, let's say, this land owner -- or  
10 another land owner, there's a lot of land  
11 owners that might -- that objector then points  
12 out the flaws, or the inviability of the plan.  
13 Suddenly that individual, that land owner, has  
14 a status in front of COAH because they are  
15 pointing out to COAH that the Millstone plan  
16 is not viable, and they're willing to do  
17 something to provide the housing.

18 And COAH then goes through a  
19 mediation process and will give them  
20 essentially what they want.

21 MR. MALTZ: The different plan  
22 might be to include COAH on this property, but  
23 include the maximum amount without putting a  
24 septic plant there, and identify other  
25 properties that would be built out with COAH.

1                   And there's other properties, and  
2                   I'm not talking about inclusionary zoning, and  
3                   I'm not talking about building 510 houses.

4                   I had -- and it's not the  
5                   gentleman that Mr. DiLorenzo spoke about -- I  
6                   had a conversation with another land owner in  
7                   town who is willing to talk with the town. He  
8                   has not been contacted. And he is willing to  
9                   talk about building a complete COAH  
10                  development, similar to what's being proposed  
11                  on Route 33, on a piece of property right now  
12                  that would be considered waste land because it  
13                  used to be mined for sand, and now it's just  
14                  been flattened out and it's sitting there.

15                  So I will bring that land owner  
16                  to the Township now because we just heard  
17                  about him, he just stepped up. And he, as a  
18                  land owner, is partners with others in town  
19                  that have properties that he is also willing  
20                  to bring.

21                  All I'm advocating is put  
22                  together a plan -- I'm basically begging you  
23                  to put together a plan that's more  
24                  conservative, not the aggressive plan that's  
25                  going to allow a package treatment plant in

1 Millstone, on the Millstone Township River.  
2 That's completely wrong for the environmental  
3 sensitivity of that area and for the rest of  
4 Millstone.

5 I can't think of one spot in  
6 Millstone that's really proper for a sewage  
7 treatment plant.

8 That's my portion. I know  
9 there's others that want to speak.

10 MS. PINNEY: I would agree with  
11 you. I'm just concerned that we put ourselves  
12 in jeopardy and have somebody taking over our  
13 zoning or our Township.

14 MR. MALTZ: I agree. The one  
15 thing we don't want to do is jeopardize our  
16 zoning. And I'm afraid that the package plant  
17 will jeopardize our zoning.

18 MAYOR GRBELJA: I just want to  
19 say, even if the plan goes in, it would be  
20 probably a year and a half before this is even  
21 looked at. So if you have people that are  
22 willing to sell their property and you send  
23 them to us, and we will sit down and we will  
24 talk to them. What happens is, that's fine,  
25 we have looked at some mines in town. The

1 Township has, on a number of occasions, looked  
2 to purchase property.

3 We do have some problems with  
4 mines, and there are some mines that we have  
5 that when you're talking about the type of  
6 soils that you have, that really have been  
7 mined right down to the Marl level, which  
8 means that they're waterproof and they're not  
9 perking.

10 But if you have anybody, and  
11 we've said this at every single meeting that  
12 we have had, if you have a land owner that is  
13 interested in working with the Township, all  
14 they have to do is call me, we'll set up a  
15 meeting with the COAH Work Group.

16 MR. MALTZ: Mayor, you have said  
17 that in the past, and we appreciate that. And  
18 that's exactly what we plan on doing.

19 As a taxpayer in Millstone I have  
20 been speaking with these individuals about  
21 them building it and them renting it and them  
22 running it, and they haven't walked away yet.  
23 And that's the win-win for Millstone Township  
24 because we don't have to buy the facility.

25 MAYOR GRBELJA: That's exactly

1       what I want them to do. And that's exactly  
2       the type of partner that we want. But, in  
3       order for them to be included in our plan,  
4       even though they're going to build it, or even  
5       though they're going to do whatever they're  
6       going to do, and they fit under the rules,  
7       which certainly Donna will advise us on as to  
8       make sure that it's a legitimate plan, that it  
9       can become part the plan.

10                But if they don't come to us and  
11       they're talking to you or they're talking to  
12       anybody else in here, it's not helping us to  
13       get it in the plan, because this is where they  
14       have to come if it's a viable alternative.

15                MR. MALTZ: I agree with you and  
16       I think at this time they are ready to step up  
17       to the plate. And, hopefully, we'll have the  
18       time to do this, to include it in the final  
19       plan. Thank you.

20                CHAIRMAN NEWMAN: Thank you. Mr.  
21       Davison, do you want to...

22                MR. DAVISON: I just want to say  
23       two things. One is, perhaps I was a bit  
24       cavalier. The reason, really, that they don't  
25       swear in attorneys is that we are officers of

1 the court, and we are expected to, at all  
2 times, treat what we say as though we are  
3 sworn in. So that's the real reason.

4 I don't want to sound  
5 self-righteous, but I looked around at a  
6 number of attorneys here and I said I probably  
7 did them all a disservice by trying to be  
8 cavalier and, I guess, lighten the mood.

9 The second thing is that I did  
10 indicate that there was a scenario under  
11 which, if this plan is submitted and it gets  
12 certified and we do the rezoning and the  
13 developer goes through the site plan process,  
14 there could come a point in time in which the  
15 developer has certain rights that become  
16 vested.

17 But I won't go -- because I took  
18 too much time, I think, before explaining the  
19 various ifs, ands and buts with legislation,  
20 litigation and the approval process -- but  
21 that is a very long, torturous road for the  
22 developer. A lot of hurdles until the  
23 developer gets to the point where there would  
24 be a vested right in which then he would have  
25 in his pocket, so to speak, the ability to put

1 in a cyclet system.

2 So that it's not as soon as we  
3 submit the plan, bingo, he's home free and  
4 he's golden. There are many, many roads to  
5 travel and hurdles to go over.

6 Thank you.

7 CHAIRMAN NEWMAN: Just a comment  
8 on that question, I was going to ask you. And  
9 I know you just said it but sometimes I need  
10 to restate it so I can make sure I understood,  
11 because I think this is really important point  
12 for me and it touches on what Evan said.

13 If this is voted on tonight, and  
14 if none of the extensions we're all hoping  
15 for, none of the changes we're hoping for. So  
16 it's voted on, it's submitted to COAH, and  
17 those couple of years are going through the  
18 process of COAH looking at it and then the  
19 rezoning and all that stuff. If in that  
20 intervening time some of the people that have  
21 spoke to us tonight, and maybe others that the  
22 Mayor and the Work Group are talking to, do  
23 come forward and do present those reasonable  
24 viable other plans, and we can dramatically  
25 reduce the density and intensity on this

1 subject site on 33, if not eliminate it?

2 I don't know, just to what you  
3 said, he doesn't have the right to a cyclet  
4 system?

5 MR. DAVISON: The thing that he  
6 does have -- and this complicates it a bit,  
7 and Mr. Coppola can expand on this further --  
8 is once we put his property in the plan, and  
9 we've touched upon this, that cannot come out  
10 of the plan without the acquiescence of the  
11 land owner.

12 In order to gain that  
13 acquiescence there is certain -- that's a  
14 bargaining chip, in essence, that he has. So  
15 that it depends on what the economy is like at  
16 the time, what his desire is, and what other  
17 possible incentives, if you will, in terms of  
18 zoning that would include septic would be  
19 acceptable to him.

20 He has stated in no uncertain  
21 terms that he has no intention of holding the  
22 town to the affordable units there. That if  
23 we don't need them anymore, take them out.

24 He has not said, however, that I  
25 don't want the same square footage of

1 commercial or retail space there.

2 CHAIRMAN NEWMAN: Anyone else  
3 want to approach the microphone? Okay,  
4 approach the microphone.

5 COMMITTEEMAN ABILHEIRA: Elias  
6 Abilheira, 10 Haviland Drive.

7 I think it's very important to  
8 key on two things that Duane Davison, the  
9 Township attorney, a member on the COAH Work  
10 Group, has just said. He thinks, if this plan  
11 was adopted and implemented, there's a very  
12 good chance we would be able to stop cyclet  
13 treatment plants in other places in town.

14 MR. PEPE: Is that what he said?

15 COMMITTEEMAN ABILHEIRA: Is that  
16 what you said, Duane?

17 MR. PEPE: He said it's a very  
18 good chance? Because I need to know the  
19 answer.

20 COMMITTEEMAN ABILHEIRA: Duane, I  
21 heard you say, if this plan is approved and  
22 implemented with the cyclet treatment plant,  
23 that, in your opinion as the Township  
24 attorney, we would have a very good chance of  
25 blocking cyclet treatment plants being

1 implemented in other areas of the town.

2 Is that correct?

3 MR. PEPE: Blocking, not  
4 stopping.

5 MR. DAVISON: That if the other  
6 uses where there was seeking of the cyclet  
7 treatment or package treatment plant was not  
8 in conjunction with Mt. Laurel, yes.

9 COMMITTEEMAN ABILHEIRA: A very  
10 good chance of blocking it. Not guaranteed.  
11 Not for sure. A very good chance.

12 MR. DAVISON: You're an attorney.  
13 You tell me when you have last guaranteed to a  
14 client a particular result?

15 COMMITTEEMAN ABILHEIRA: Duane,  
16 I'm saying there's very good chances,  
17 excellent chances, 99.9 percent chances. I  
18 didn't want to get in a debate.

19 If you meant something else,  
20 please share it with the Planning Board.

21 MR. DAVISON: I'll give you 90  
22 percent.

23 COMMITTEEMAN ABILHEIRA: Okay.  
24 And, Duane, I apologize if you think I was  
25 trying --

1                   MR. PEPE:  Elias, address us,  
2                   okay.

3                   COMMITTEEMAN ABILHEIRA:  Oh, I'm  
4                   sorry.  I apologize to Duane Davison.  A 90  
5                   percent chance.  I was trying to just repeat  
6                   what he said so somebody wouldn't say I was  
7                   saying something different.

8                   So 90 percent chance is a 90  
9                   percent chance.  There's a 10 percent chance  
10                  this will open us to cyclet treatment plants  
11                  in other portions of the town.

12                  Also, if this plan is  
13                  implemented, you've heard it said, the  
14                  developer said he won't use this as a  
15                  bargaining chip, are the words that Duane  
16                  said.  You heard and you can go back and  
17                  listen to the transcript.  I don't believe  
18                  there is a legal, binding agreement with him  
19                  to that effect.

20                  And if there is, maybe Duane, or  
21                  someone on the COAH Work Group, could tell us  
22                  if there's a legal, binding agreement with the  
23                  owner of that property that he will not --  
24                  that he will give up his rights, if this plan  
25                  is changed.

1                   CHAIRMAN NEWMAN: Address your  
2 questions to us.

3                   COMMITTEEMAN ABILHEIRA: Well,  
4 that's my question.

5                   Is there a legal, binding  
6 agreement with the owner of this property that  
7 he will withdraw his desire for a cyclet  
8 treatment plant and increase zoning if you  
9 change the plan at a later date?

10                  BOARD PLANNER: May I?

11                  CHAIRMAN NEWMAN: Yes, go ahead.

12                  BOARD PLANNER: First of all,  
13 there's no increase in the zoning. You know  
14 that. I mean I don't know why you threw that  
15 in, quite frankly.

16                  Secondly, the land owner has  
17 certainly not -- he has not said that he would  
18 give away the right. If they design, they get  
19 approved by cross-acceptance, or I should say  
20 plan endorsement by the State Plan as a  
21 center, they have rights.

22                  So if the number goes down, they  
23 said, okay, we won't necessarily build any if  
24 you don't want us to, but we want what we  
25 worked for to get there. Yes, that's

1 definitely true.

2 That is why at prior meetings,  
3 Committeeman Abilheira, it was said we always  
4 want to have some component of affordable  
5 units in the plan. Probably, though, not in  
6 back, in apartment buildings, but residential  
7 flats or lofts above the retail and offices in  
8 the front portion, along Route 33.

9 That's what's been said. Is  
10 there any misunderstanding about that?

11 COMMITTEEMAN ABILHEIRA: No. I  
12 wanted to make sure that it was clear.

13 BOARD PLANNER: How many times  
14 can I say it to you?

15 COMMITTEEMAN ABILHEIRA: I have  
16 to be frank with you, Mr. Coppola, why people  
17 keep saying he said he won't do this, he said  
18 he won't do that, that is not legally binding  
19 on him, is it?

20 BOARD PLANNER: The he said/she  
21 said stuff escapes me. I'm dealing with the  
22 COAH rules. And I know that it has been  
23 stated, just as I've stated.

24 And I've been at most of the  
25 meetings. In fact, many, many meetings this

1 year. And I think most people that have heard  
2 me speak and heard others speak have heard the  
3 same thing.

4 COMMITTEEMAN ABILHEIRA: I just  
5 want to make sure, because it's my  
6 understanding that this person has said he  
7 will do something if the plan is changed, but  
8 he has not entered into any legally binding  
9 agreement that he will do what has been  
10 represented in private.

11 CHAIRMAN NEWMAN: What we'd like  
12 to do is get you sworn, unless you're speaking  
13 as an attorney.

14 COMMITTEEMAN ABILHEIRA: I'm an  
15 attorney, and I'm speaking as an attorney.

16 I understand that there's an  
17 opinion that this plan is viable. We have  
18 also heard expert testimony tonight that it's  
19 not viable.

20 And if that expert is right,  
21 developers and builders can come in and voice  
22 their objection and have standing in COAH, if  
23 one expert is right and the other one is  
24 wrong.

25 MAYOR GRBELJA: My money is on

1 Rich.

2 BOARD PLANNER: That's not even  
3 accurate. The reason is --

4 COMMITTEEMAN ABILHEIRA: Well,  
5 actually, I didn't have a question pending.

6 BOARD PLANNER: Do you mind if I  
7 respond to your statement?

8 COMMITTEEMAN ABILHEIRA: As long  
9 as it's not cutting into the time that you ask  
10 from the public.

11 CHAIRMAN NEWMAN: It's absolutely  
12 not.

13 BOARD PLANNER: The point is,  
14 Chet's response is something to do with the  
15 implementation of the plan, not the plan. The  
16 plan is viable under COAH's rules. Period,  
17 end of quote.

18 Chet was accurately talking to  
19 about the feasibility of something else. The  
20 plan acknowledges that you have to have --

21 UNIDENTIFIED SPEAKER: Do you  
22 want to look at him?

23 COMMITTEEMAN ABILHEIRA: No, I'm  
24 listening. I've been listening. I'm just  
25 looking for Chet.

1 UNIDENTIFIED SPEAKER: You show  
2 him respect.

3 CHAIRMAN NEWMAN: Thank you, but  
4 we'll keep order from the podium.

5 BOARD PLANNER: The plan  
6 requires, and the whole process will require,  
7 again, plan endorsement. Endorsement by the  
8 Office of Smart Growth and DEP approval.

9 So at that point, if those other  
10 agencies say no, that it's not feasible,  
11 that's different than submitting a plan that's  
12 not viable at the outset. It's a different  
13 situation.

14 COMMITTEEMAN ABILHEIRA: And I  
15 respect your opinion that the provision of a  
16 cyclot treatment plant is viable on this  
17 property, it cannot be subject to an objection  
18 and used by a builder.

19 BOARD PLANNER: Anybody can  
20 object. You know that.

21 COMMITTEEMAN ABILHEIRA: The law,  
22 I believe -- actually, I have a different  
23 question for the Planning Board attorney, Mr.  
24 Steib.

25 If the Planning Board votes on

1       this tonight, is this an amendment to our  
2       Master Plan?

3                       BOARD ATTORNEY:  Yes.

4                       COMMITTEEMAN ABILHEIRA:  So even  
5       if they change it at a later date, they have  
6       now amended our Master Plan to provide for a  
7       plan which allows a cyclet treatment plant and  
8       they are saying this is in compliance with our  
9       Master Plan.

10                      Is that correct?

11                      MR. PEPE:  Actually, that's not  
12       completely -- would it be safe to say it's  
13       okay to add it if it is in conjunction with  
14       COAH?

15                      Is that a dramatic change to -- I  
16       mean clearly it's a change to the Master Plan.  
17       But would that help to protect us in the town?

18                      BOARD ATTORNEY:  First thing you  
19       have to understand is that the Master Plan is  
20       not an enforceable document.  The Master Plan  
21       is this Board's vision for the development of  
22       this community.

23                      That vision does not come into  
24       reality until the governing body has then  
25       taken the Master Plan, looked at it, and said

1 we are now going to implement it through the  
2 enactment of zoning regulations that will  
3 permit this development.

4 MR. PEPE: So, Elias, it puts it  
5 back to you.

6 BOARD ATTORNEY: And the bottom  
7 line is what this board is doing this evening  
8 would be amending the Master Plan Housing  
9 Element and Fair Share Plan.

10 That then presumably goes to the  
11 governing body, who has to then endorse it,  
12 and submit it within the requisite time,  
13 whether it's 12 noon, December 31st, or  
14 whether it's 12 noon March 31st of 2009, or  
15 June 1st of 2009, depending upon what happens  
16 with this proposed extension.

17 And at that point there still  
18 hasn't been enacted a zoning ordinance that  
19 somebody could come in and make an application  
20 on. But that won't happen until COAH approves  
21 the plan, at which point then, presumably --  
22 unless the governing body wants to go ahead  
23 and zone in advance of substantive  
24 certification.

25 MR. PEPE: It all goes to you.

1                   COMMITTEEMAN ABILHEIRA: My  
2 question is different. The vote on the  
3 Planning Board tonight, is the question that  
4 the Planning Board is going to vote on is do  
5 you find this plan and its sections in  
6 compliance with the Master Plan and agreeing  
7 it should become part of our Master Plan?

8                   BOARD ATTORNEY: It's not a  
9 matter of what is in compliance. It becomes  
10 the Master Plan.

11                  BOARD PLANNER: Can I jump in,  
12 too, Mr. Chairman?

13                  Your Master Plan talks about a  
14 number of goals. One of the goals is to  
15 achieve a plan of provision of affordable  
16 housing in conformance with COAH's rules. And  
17 you know that to be the case. Everybody does.  
18 It's in there.

19                  The provision of affordable  
20 housing is a constitutional obligation. What  
21 this plan is doing, this Master Plan Housing  
22 Plan Element, is saying that in order to meet  
23 that constitutional obligation, in conformity  
24 with the State Plan, we are calling for a  
25 center-type designation, which by definition,

1 in accordance with the State Plan, is the  
2 preferred location for affordable housing  
3 developments.

4 As a result of that, in order to  
5 accomplish that on this particular project,  
6 there would be a cyclet system.

7 Your question about this, a  
8 planning question really, is it changing the  
9 intent of the Master Plan not to have  
10 across-the-board, non-septic system support  
11 for development. The answer is no, it is not  
12 changing that at all.

13 COMMITTEEMAN ABILHEIRA: Thank  
14 you. That wasn't my question. I appreciate  
15 the input.

16 I think an important issue that I  
17 would like to clarify is a representation has  
18 been made that I submitted as an alternative  
19 plan to allow 500 houses and a plan that would  
20 bust our zoning. I just wish to clarify.

21 For the Planning Board and the  
22 public, I introduced a plan which I felt  
23 should be reviewed to see if there is a viable  
24 alternative to satisfy our COAH requirement  
25 without sewage treatment plants and

1 high-density apartments.

2 It was my expectation that that  
3 would be a genesis for the COAH Work Group to  
4 move off the position that's been taken in  
5 writing to me, as an elected official, that a  
6 sewage treatment plant is needed to satisfy  
7 our COAH obligation under current rules.

8 I never expected that plan to be  
9 the final plan. I expected everyone to rally  
10 around it. To improve it, make it better.  
11 Find a compromise between the two plans.

12 Mr. Davison provided me with some  
13 excellent comment that allowed me to see that,  
14 as with the plan for the sewage treatment  
15 plant, if it was implemented we could only  
16 back out if the land owner agreed, which  
17 caused me to immediately go back to the  
18 drawing board and present a plan which did not  
19 provide for any inclusionary development  
20 whatsoever, and does not provide for a single  
21 additional house to be built in this town at  
22 market rate.

23 CHAIRMAN NEWMAN: Is that the  
24 second plan that you submitted fairly  
25 recently?

1 COMMITTEEMAN ABILHEIRA: Yes.

2 CHAIRMAN NEWMAN: And Rich has  
3 it, but he has not had a chance to give  
4 comment on that.

5 COMMITTEEMAN ABILHEIRA: Right.  
6 And I would like to have that marked as the  
7 detailed plan as opposed to notes that I  
8 conveyed, as the Mayor requested, as the  
9 alternative plan which everyone will see, and  
10 the Planning Board has been provided, contains  
11 no inclusionary development. No busting of  
12 our zoning.

13 MR. PEPE: Elias, how long have  
14 you been working on this plan that it just  
15 comes to us now?

16 COMMITTEEMAN ABILHEIRA: I found  
17 out on October 20th --

18 MR. PEPE: October 20th. You  
19 just gave it to us now?

20 COMMITTEEMAN ABILHEIRA: I found  
21 out on October 20th, 2008 for the first time.  
22 Because it was never mentioned at a public  
23 meeting, and a document was never presented to  
24 me before that, that there was an intention to  
25 submit a Fair Share Element Plan with

1       septic -- with a sewage system and  
2       high-density apartments, something that every  
3       elected official that I know of was on the  
4       record as stating they would never allow, and,  
5       in fact, criticized in elections and campaign  
6       material other persons for suggesting package  
7       treatment plants and senior housing on  
8       high-density lots to satisfy our COAH  
9       obligation.

10                   MR. PEPE: I'm aware of them.  
11       And I have a question to --

12                   COMMITTEEMAN ABILHEIRA: If I  
13       could finish? And then I'll answer any  
14       questions.

15                   MR. PEPE: Okay.

16                   COMMITTEEMAN ABILHEIRA: Mr.  
17       Coppola has given the opinion that pursuant to  
18       the black letter of the New Jersey Annotated  
19       Code, Chapter 5, 97, Third-Round Substantive  
20       Rules of COAH, that in order to include a  
21       municipally sponsored, 100-percent-affordable  
22       development under the rules, you have to have  
23       a contract option or show the ability to  
24       control the property, set forth the property  
25       by lot, block and street address, or it is not

1 possible to submit a complete plan to COAH and  
2 be in compliance. And I believe everyone on  
3 the Planning Board saw that, had seen that  
4 provision.

5 I would ask that this email from  
6 a principal planner at COAH be marked into  
7 evidence.

8 BOARD ATTORNEY: Before you mark  
9 that, let me mark the document that you gave  
10 us previously.

11 This is P-3, and it has a title  
12 of Millstone Master Plan Housing Plan Element  
13 and Fair Share Plan. Bears a date of December  
14 8th, 2008. And I'm going to indicate that  
15 this is the plan that's prepared by Mr.  
16 Abilheira.

17 - - -

18 (The above-mentioned document is  
19 marked as P-3 for Identification and admitted  
20 into Evidence.)

21 - - -

22 CHAIRMAN NEWMAN: You also just  
23 handed me what is approximately ten copies. I  
24 just want to make sure, this is all copies of  
25 the same plan?

1 COMMITTEEMAN ABILHEIRA: Yes.

2 CHAIRMAN NEWMAN: So you want to  
3 note that, mark that.

4 COMMITTEEMAN ABILHEIRA: And I  
5 believe I handed out enough for everybody. If  
6 not, I have more.

7 BOARD ATTORNEY: This appears to  
8 be an email from Maria Connelly, Maria G.  
9 Connelly, looks like the Principal Planner,  
10 New Jersey Council on Affordable Housing.  
11 Bears a date of Wednesday, December 10th, 2008  
12 4:55:18 p.m..

13 This will be P-4.

14 - - -

15 (The above-mentioned document is  
16 marked as P-4 for Identification and admitted  
17 into Evidence.)

18 - - -

19 COMMITTEEMAN ABILHEIRA: Again,  
20 to make it clear, I think, as Chet did also,  
21 this is no way intended as an insult towards  
22 Mr. Coppola. He is entitled to his opinion as  
23 an expert. I respect his opinion as an  
24 expert.

25 However, N.J.A.C. Chapter 5,

1 Section 97, the Third-Round Substantive Rules  
2 for COAH, based upon my reading as an attorney  
3 for 15 years of interpreting state statute,  
4 the State of New Jersey, talking to numerous  
5 attorneys with expertise in planning and who  
6 have represented planning boards, talking to  
7 planners and talking to the principal planner  
8 at COAH who's going to be the first person to  
9 review the Housing and Fair Share Element,  
10 according to her, when it is submitted to COAH  
11 by Millstone from the plain reading of the  
12 statute, which does provide as one option to  
13 submit a municipally sponsored,  
14 100-percent-affordable development as,  
15 according with the rules by Mr. Coppola, also  
16 does clearly and in plain reading of the black  
17 and white words, black letter law, state at  
18 N.J.A.C. Chapter 9:97-3.1 --

19 BOARD PLANNER: It's Sub D.

20 COMMITTEEMAN ABILHEIRA: No,  
21 that's your plan, Mr. Coppola. I apologize.

22 Chapter 5:97-3.2a, Paragraph 4.  
23 "An implementation schedule that sets forth a  
24 detailed timetable that demonstrates a  
25 realistic opportunity as defined under

1 N.J.A.C. 5:97-1.4, and a timetable for the  
2 submittal of all the information/documentation  
3 required by N.J.A.C. 5:97-6 based on the  
4 following," and it goes into detail, "can be  
5 used to submit a plan to COAH to comply with  
6 their obligation for third round."

7           You do not, and this Planning  
8 Board, until they have direct communications  
9 with COAH, should not make a decision on this  
10 plan because it's being made with the  
11 representation by one expert -- who I respect  
12 his opinion but strongly disagree, as does  
13 COAH and many other attorneys and planners --  
14 that you have to have lot and block numbers  
15 and contracts on properties for a municipally  
16 sponsored plan.

17           If that's the case, a timetable  
18 has to be prepared and addended to my plan to  
19 submit it to COAH.

20           Now, unfortunately, we're here  
21 today, and I don't know if it's any longer  
22 feasible, I had hoped everyone was going to  
23 get together throughout the weekend and work  
24 on this instead of picking apart plans,  
25 because I'm not picking apart Mr. Coppola's

1 plan.

2 It is a plan which can be  
3 submitted to COAH which I feel it will be  
4 found viable, but I understand him and others  
5 feel otherwise. Other people feel it will not  
6 be viable. This is another plan that I and  
7 other experts think could have been made  
8 viable if it had been worked on by the entire  
9 Township before today.

10 BOARD PLANNER: Just a response,  
11 Elias. I have an email from you, okay, when  
12 you sent the first plan to me at five somewhat  
13 time, and you asked specifically for me to  
14 review it and report back to you Monday.

15 You didn't ask me to consider  
16 alternate plans. You asked me to review the  
17 plan that you presented. On Monday I get  
18 another email.

19 So I don't like being told that I  
20 should have been doing something else. I did  
21 exactly what you asked me to do. On Monday,  
22 at 1:12 p.m., when you gave me the second  
23 alternative, at that point you told me don't  
24 worry about the first alternative. Well I had  
25 already spent all day Sunday reviewing it, as

1       you requested.

2                       So please don't say that you  
3       somehow expected me, as the consultant to the  
4       town, to disregard what you requested me to  
5       do. I think that is blatantly unfair, sir.

6                       COMMITTEEMAN ABILHEIRA: Mr.  
7       Coppola, I didn't indicate that it was your  
8       decision. I had requested at the Wednesday  
9       night Township Committee meeting that we  
10      review and find alternative plans to address  
11      this issue without sewage treatment plants  
12      which COAH, I, and many other experts, I  
13      think, all agree is a viable option in  
14      contradiction of your opinion. And, again, I  
15      respect your opinion.

16                      I did not say you made the  
17      decision to review that plan. I didn't say  
18      you did. The Mayor said I had --

19                      BOARD PLANNER: I made the  
20      decision because you asked me to.

21                      COMMITTEEMAN ABILHEIRA: The  
22      Mayor directed me to send it to you for you to  
23      review.

24                      BOARD PLANNER: You asked me, in  
25      an email to me, Elias, to review it.

1                   CHAIRMAN NEWMAN: Hold on a  
2 second, everyone. This is a meeting and we  
3 need that to be properly recorded and heard by  
4 everyone.

5                   COMMITTEEMAN ABILHEIRA: I have  
6 an email from the Mayor directing me to submit  
7 to Mr. Coppola. I agree that Mr. Coppola did  
8 as he was directed to. My comment is not  
9 directed at Mr. Coppola.

10                   My comment is it is time for the  
11 COAH Work Group to bring in people, like Evan  
12 Maltz and residents with different opinions,  
13 to seriously consider the fact that under the  
14 current-round substantive rules of COAH we can  
15 satisfy this obligation without ever  
16 considering a cyclet treatment plant.

17                   I urge you all to talk tonight  
18 when you're done hearing all of the public,  
19 and before you adopt this plan, table it to a  
20 date a majority of the Board can appear. Even  
21 if it's on December 29th -- I apologize for  
22 asking you to do this. Table this plan. Give  
23 us a chance to get an extension. Give us a  
24 chance to involve the public, different groups  
25 of differing opinions that believe a cyclet

1 treatment plant is not needed. Don't pass  
2 this tonight. Give us time.

3 I wish there was more time. I  
4 apologize to this Planning Board and to the  
5 public that I didn't know well enough or do  
6 due diligence enough to see that this plan was  
7 coming down the pike. But that is not going  
8 to give me an excuse to say this has to be  
9 passed, a cyclet treatment plant, because  
10 there is no other option. The fact is there  
11 are many other viable options and there always  
12 have been.

13 And, again, I apologize to the  
14 public for not realizing this was coming. As  
15 soon as I got the email from Mr. Coppola with  
16 the plan, two days before it was going to be  
17 introduced, I immediately shot him a request  
18 for information.

19 I have been following for  
20 information, working diligently. And my due  
21 diligence search, extensive communications  
22 with Coppola establishing -- and with COAH,  
23 and communications I document from emails from  
24 the principal planner at COAH, establishes  
25 that our obligation can be met without a

1 sewage treatment plant.

2 And the clear meaning of the law  
3 expressly does not require us to have lot and  
4 block numbers for every property we intend to  
5 use for a municipally sponsored plan.

6 Thank you.

7 MR. PEPE: Elias, a question for  
8 you, so I can help to make an informed  
9 decision.

10 The idea of, again, inclusionary  
11 zoning, the idea of up-zoning property you  
12 constitute the Master Plan -- I guess that's  
13 sort of offset with the idea of this package  
14 sewage plant or cyclet system, whatever you  
15 want to call it.

16 So let's assume that there's a  
17 10-percent chance that if we put it here, we  
18 might get it somewhere else in town. That's  
19 one factor. Offset by the concept of up  
20 zoning, and creating the map that we see over  
21 to your right, my left.

22 What's more complaint with the  
23 Master Plan, in your opinion -- not your  
24 opinion as a Township Committee guy, not your  
25 opinion as a lawyer or whatever else you might

1 be -- you, as an individual?

2 What's better?

3 COMMITTEEMAN ABILHEIRA: My plan  
4 does not include up-zoning, anything on that  
5 map and any change in our zoning.

6 I understand, and again, I wish  
7 to make it clear, Mr. Coppola followed the  
8 instructions in an email the Mayor sent me and  
9 then I forwarded to him. I have no criticism  
10 of the evaluation he did.

11 The point is, and I made it very  
12 clear on Monday, based upon communications I  
13 received from Duane Davison, the inclusionary  
14 development is not an option based upon  
15 Duane's legal opinion. I will advance.

16 So I took it out of my plan,  
17 rewrote Mr. Coppola's plan to provide for a  
18 municipal sponsored 100-percent-affordable  
19 development, which would be done by way of an  
20 implementation plan which would set forth a  
21 schedule for in the future to identify the  
22 lots and the blocks and commit that the  
23 Township is going to pursue the property.

24 MR. PEPE: So, if I heard that  
25 correctly, it will place our obligation

1 throughout the town in smaller subdivisions,  
2 if you will?

3 COMMITTEEMAN ABILHEIRA: It's not  
4 even subdivisions in which COAH uses. You  
5 will take a 10-acre lot and put not more than  
6 5,000 and 6,000 square foot of structures on  
7 it. You will take a three-acre lot, put a  
8 3,500 square foot structure on it.

9 MR. PEPE: Again, we're back to  
10 that concept of the 10-acre zoning.

11 What happens now; it's not there  
12 anymore?

13 COMMITTEEMAN ABILHEIRA: This  
14 doesn't have to go in the RU-P Zone. You can  
15 acquire land. You can acquire land in the  
16 R-130 Zone.

17 This is the point, and I urge you  
18 to table this matter and have a subgroup of  
19 yours go with me and Mr. Coppola and meet with  
20 the principal planners at COAH -- because they  
21 agreed to meet with representatives of  
22 Millstone Township -- and understand that we  
23 do not have to have, on December 31st, lot,  
24 block and contracts.

25 MR. PEPE: Do we, just in your

1 opinion, do we need to submit a plan, and is  
2 that part true?

3 COMMITTEEMAN ABILHEIRA: We need  
4 to submit the plan that I presented without  
5 cyclot treatment plant, with the valuable  
6 input of everybody else to refine it to COAH.

7 It will be viable. It will  
8 satisfy our obligation. And it includes no  
9 inclusionary development, no up-zoning.

10 MR. PEPE: That being said, maybe  
11 that's true. Just again, so I can understand,  
12 Mr. Coppola, you are clearly more versed in  
13 this subject than me.

14 Unfortunately this plan is  
15 represented in somewhat of a -- the deadline  
16 has been presented to this committee. Your  
17 plan, or whoever's plan it might be, was also  
18 given to us -- I sent you an email because I  
19 had heard that there was another plan which I  
20 never received, so you sent to it me, thank  
21 you, on I think it was yesterday.

22 So I've had -- unfortunately, I  
23 have to go to work and I am responsible for a  
24 job at a company, so I just can't stop what  
25 I'm doing. But I did, actually, I did my best

1 to understand it. As dumb as I might be, it  
2 takes me a long time to understand this stuff,  
3 but I did.

4 Again, there were parts of it,  
5 though, that I'm a little confused about. One  
6 is, I'll start to go through it, the resources  
7 of the town, meaning one thing is water,  
8 right.

9 Elias, when you sat on the  
10 Planning Board there was a hydrologist who  
11 made a presentation to the Planning Board, I  
12 was actually new on the Board. And it was  
13 quite a remarkable presentation. What he said  
14 was basically, and this is for everybody's  
15 benefit in this town, next time you talk about  
16 somebody building houses, guess what, you guys  
17 want to build I think at the time it was 3,000  
18 homes was the full build. It was 3,000, so we  
19 get 1,000 more homes, and the hydrologist said  
20 if you guys do it, you're out of water. He  
21 said the town can't support it.

22 You know what I thought was  
23 really odd, we just kept approving homes.  
24 Blatantly, it was just a joke.

25 Fortunately people sort of have

1       woken up to this concept. We still haven't  
2       really addressed the hydrologist, and the  
3       issue of not having enough water in town.  
4       But, again, back to the concept of resources,  
5       I don't feel that we're taking those into  
6       consideration.

7                       I'll tell you what, I'm not a  
8       hydrologist, I'm not a demographer, I'm none  
9       of those things. But what I am is the guy  
10      sitting on a board who needs to make an  
11      educated decision based on the information  
12      presented by the professionals we all hired --  
13      you hired Mr. Coppola, as well. The input  
14      that's created by the people in this room,  
15      trying to understand what they're all about,  
16      trying to understand what they want to  
17      achieve.

18                      So, I'll tell you what, I don't  
19      think your plan was submitted in a timely  
20      fashion, whatever the plan might be, for us to  
21      really make an accurate decision.

22                      So I'm going to ask Mr. Coppola  
23      to reflect on it. And maybe we should all  
24      learn a little bit about it, and maybe, who  
25      knows, we can come to the --

1                   COMMITTEEMAN ABILHEIRA: Before  
2 Mr. Coppola talks about the plan, and then I  
3 will sit down, here is my point.

4                   To every one of you Planning  
5 Board members tonight to consider, you have an  
6 option tonight to not pass an element -- the  
7 Housing Element Plan to become part of our  
8 Master Plan which provides for the use of  
9 cyclet treatment plants.

10                  Listen, the COAH Work Group has  
11 been saying how frustrated they are with time  
12 frames. I'm frustrated with the time frames,  
13 as well.

14                  MR. PEPE: There's no person in  
15 this room who's not pissed off.

16                  COMMITTEEMAN ABILHEIRA: It looks  
17 like -- and I have been talking to Trenton  
18 like crazy, everybody has. And it's good that  
19 we're all doing that together. It looks like  
20 there's going to be an extension.

21                  You've heard the public comment  
22 tonight. You've heard the public comment  
23 tonight. I'm asking you, as Planning Board  
24 members, who not one of you want this cyclet  
25 treatment plant, to vote yes on it, carry this

1 to December 29th, to December 30th, when you  
2 can get a quorum again.

3 You've heard the public comment.  
4 If you don't feel you have enough time to  
5 consider another plan, carry this so we will  
6 hopefully get the extension this week or next  
7 week. And then this was never voted on and  
8 approved by the Planning Board as a portion of  
9 our Master Plan --

10 (Audible applause.)

11 COMMITTEEMAN ABILHEIRA: And ask  
12 people, like Evan Maltz and myself, whoever  
13 else in this room has a different opinion, to  
14 sit down and be part of this process to remove  
15 this cyclet treatment plant. Please.

16 CHAIRMAN NEWMAN: Thank you. Mr.  
17 Coppola?

18 BOARD PLANNER: The COAH rules do  
19 say that you could have an implementation  
20 schedule. The problem I have in applying that  
21 to the second alternative plan is the second  
22 alternative plan puts all the required family  
23 rental units in a very nebulous state.

24 I don't believe, from  
25 conversations with COAH staff, I never put the

1 question in an email, that they would allow a  
2 two-to-three-year hiatus for the provision of  
3 the family units in an unspecified way.

4 You're talking about a minimum of 14  
5 properties, by the way, in your scenario.

6 Second thing is you're taking 38  
7 credits for units that don't exist for  
8 certain. The COAH rules, I believe, are --  
9 when we looked at for that magnitude that you  
10 have to have more certainty.

11 If there's a time extension, we  
12 can certainly, I'm sure that the town would  
13 entertain that, if you want to commit -- you  
14 know, you would have to commit to buy at least  
15 14 properties in order to implement the plan.  
16 And unspecified costs, you don't know what  
17 those costs are.

18 You're signing, to some extent, a  
19 blank check if you're committing to do this,  
20 but it's possible.

21 I don't think it is -- I don't  
22 think it's a viable plan. Nor do I think,  
23 quite frankly, in balance, it's a better plan  
24 than what you have now.

25 COMMITTEEMAN ABILHEIRA: It does

1 not include a cyclet treatment plant.

2 CHAIRMAN NEWMAN: Mr. Abilheira,  
3 you've had a chance to speak. We had Mr.  
4 Coppola respond. I do want to see if we can  
5 get to some other members of the public.

6 UNIDENTIFIED SPEAKER: He can  
7 have my time.

8 COMMITTEEMAN ABILHEIRA: I just  
9 want to say, it's been stated by Mr. Coppola  
10 we could amend this plan.

11 If it becomes determined that  
12 it's not financially reasonable or feasible we  
13 could amend the plan as many times as we have  
14 to, he said. And this plan doesn't give any  
15 zoning change rights to any people.

16 CHAIRMAN NEWMAN: Thank you. At  
17 the beginning of the meeting I had said that  
18 we would limit our comments to five minutes  
19 per person, obviously we haven't. We've  
20 gotten more conversations between the board  
21 and the public, so we didn't want to foreclose  
22 comments by the public because of that. I'm  
23 still determined to get to that goal.

24 I also said that we would try to  
25 conclude at ten because we have other business

1 of the board. It's obviously about 10 after  
2 10, so I think the only rational thing to do,  
3 sorry everybody, let's say, if we don't  
4 dramatically disagree, continue a little bit  
5 more, and let's set a new goal of 10:30.

6 Thank you, sir.

7 UNIDENTIFIED SPEAKER: I'll be  
8 the first one to hit the five-minute limit.

9 CHAIRMAN NEWMAN: You can talk  
10 next. Sorry, we didn't mean to interrupt you.  
11 Go ahead.

12 BOARD ATTORNEY: Sir, please  
13 raise your right hand and be sworn. Do you  
14 either swear or affirm the testimony you give  
15 in connection with this matter will be the  
16 truth, the whole truth, and nothing but the  
17 truth?

18 MR. CAMPION: I do.

19 BOARD ATTORNEY: And your name  
20 and address?

21 MR. CAMPIONE: Mike Campione, 262  
22 Sweetmans Lane.

23 When I left the house this  
24 morning or -- it seems like this morning --  
25 several hours ago, my wife, knowing how strong

1 I feel about some issues in town, said "Be  
2 nice." So I'm going to be nice and I'm going  
3 to be less than five minutes.

4 Several years ago I was on the  
5 Environmental Commission in this town and I  
6 remember one of the first topics that  
7 mentioned, John Finley and other people we got  
8 involved in was the signs. Which way were the  
9 horses going to face. Which color the horses.  
10 How big the signs were going to be. Where we  
11 were going to put them. And, you know, we  
12 debated a lot of that. But what we didn't  
13 debate, and what certainly impressed me, was  
14 when we said Millstone was an environmentally  
15 concerned community.

16 And it certainly occurred to me  
17 at that time that that could be a slogan or it  
18 could be a belief. And what I see is that  
19 it's been a belief. It's impacted the  
20 decisions that the boards make and commissions  
21 make. It's impacted the Master Plan. It's  
22 impacted this town all to our benefit.

23 I'm not an expert. I didn't know  
24 who COAH was until a couple of weeks ago. He  
25 could have been Noah's brother, for all I

1 know. And I'm certainly not as qualified as  
2 these folks. But we make a big mistake, we  
3 let the cat out of the bag, we lose our  
4 virginity if we say conceptually we approve of  
5 this sewage treatment plant.

6 We will create a document and I  
7 know we are all hoping and praying, and I  
8 don't know what the probabilities are and I'm  
9 not smart enough to figure it out, that it  
10 will never happen, but there will be a  
11 document that says for some reason, at some  
12 point in time, that belief approached a  
13 slogan.

14 And I know it's tough to ask you  
15 people, because I know how much work Nancy and  
16 all these folks have put in, and believe me, I  
17 respect that, and I don't mean to denigrate  
18 that in any way. I'm just asking for a little  
19 more work because, to me, this is a very, very  
20 tough issue.

21 I don't want a document that says  
22 it's okay to put a waste treatment plant  
23 anywhere in Millstone, for any reason. And I  
24 would ask you -- I don't know all about these  
25 other plans, and I understand you have to make

1 the least worst choice. If we don't get a  
2 plan in, that stinks. And if we get a plan in  
3 that indicates we want a waste treatment  
4 facility or it's conceptually okay, that  
5 stinks, too. They both stink.

6 I'm asking you to do something --  
7 a little bit more work. And I know that's  
8 tough to do. Put it off. Have a meeting on  
9 the 29th. I think the delay -- hey, I killed  
10 the microphone.

11 I think the delay will take  
12 place. And even if it doesn't, then on the  
13 29th I'll feel a little better not because the  
14 cycllet system is there, but because you put in  
15 a little more effort and you made it clear  
16 that it's a belief, it's not a slogan on our  
17 sign.

18 Thank you.

19 CHAIRMAN NEWMAN: Thank you.  
20 Anyone else wish to take the microphone?

21 MS. TANNENBAUM: Hi, Brenda  
22 Tannenbaum, Union Court. I'm certainly not  
23 going to be as technical as anybody else  
24 that's been up here.

25 BOARD ATTORNEY: Hold on. Please

1 raise your right hand. Do you either swear or  
2 affirm that any testimony you give in  
3 connection with this matter will be the truth,  
4 the whole truth, and nothing but the truth?

5 MS. TANNENBAUM: I do. I guess I  
6 just want to make a comment because I was here  
7 a couple years ago when there was an issue  
8 with the incinerator/crematorium, and their  
9 professionals who said it was okay. But we as  
10 residents fought so hard to keep that out, and  
11 I'm just hoping, you know, with the cyclet  
12 system, we, as residents, as all of you know  
13 and some of you are aware, don't want those in  
14 town either.

15 And if there's any way -- it  
16 sounds from the meeting I was at the last time  
17 and this meeting, this is probably not going  
18 to pass anyway, it's not going to possibly get  
19 the approvals it needs to be built, so we have  
20 to have another plan anyway. So rather than  
21 put in writing that we are willing to accept  
22 this cyclet treatment system, we have to come  
23 up with another plan.

24 And again, I just implore those  
25 of you who fought the incinerator because it's

1 not good for Millstone Township, this is worse  
2 than the incinerator ever would have been.

3 So, again, please table it. It  
4 sounds as though you need a new plan anyway.  
5 So let's think of what that new plan could be,  
6 and keep cyclet systems out of any writing,  
7 laws, amendments for Millstone Township.

8 Thank you.

9 MR. LACROIX: Edward Lacroix, 9  
10 Arrowhead Way.

11 BOARD ATTORNEY: Do you either  
12 swear or affirm that any testimony you give in  
13 connection with this matter will be the truth,  
14 the whole truth, and nothing but the truth?

15 MR. LACROIX: Yes. I just have a  
16 couple of questions. I'll be short, too.

17 I took a look at the COAH website  
18 because I was trying to figure out where the  
19 number came from that was in the plan, the  
20 170-some-odd units. And the thing I pulled  
21 off it said that one of the questions that  
22 they asked and they give a response, it said:

23 "COAH used the best statewide  
24 data available to determine the amount of  
25 vacant land available in New Jersey. COAH is

1       aware that local data may be more accurate  
2       than statewide data. Any municipality may  
3       submit actual local data to COAH and we will  
4       work with municipalities and adjust the  
5       projections accordingly. In fact, COAH has  
6       created worksheets your town can use to do  
7       these calculations now and make needed  
8       adjustments."

9                        Has that been done?

10                      MAYOR GRBELJA: That is exactly  
11       why we filed the lawsuit because COAH, when  
12       they used their data and they used all of the  
13       materials that they had, included land that is  
14       in the middle of a circle, a traffic circle as  
15       developable land.

16                      MR. LACROIX: Right. That's what  
17       the answer to this question is addressing.  
18       But the specific question I asked is have you  
19       done the worksheet?

20                      BOARD PLANNER: That's a letter,  
21       right, from Lucy?

22                      MR. LACROIX: No. This is from  
23       the COAH website.

24                      BOARD PLANNER: That's Lucy's  
25       letter, right.

1                   MR. LACROIX: State of New  
2 Jersey, Department of Community Affairs, COAH  
3 Worksheet.

4                   BOARD PLANNER: Understood. You  
5 can change the projections but the law --  
6 what's it called now, the black word of the  
7 law or whatever, black letter -- states that  
8 whatever you decide, whatever you input there,  
9 the obligation that COAH prescribes is your  
10 minimum obligation. It never goes away under  
11 COAH's current rules. And I think you're  
12 assuming that it would by that.

13                   COAH also issued a letter, which  
14 I thought was the one, and it may be the same  
15 one, that is talking about adjusting if you  
16 can't -- if you don't have amount of land or  
17 whatever else, you can do this and that, even  
18 when you do that, we've done it for two of our  
19 towns, the total number doesn't go away. We  
20 have a town, Little Silver, their obligation  
21 is their last round 197. A vacant land  
22 adjustment will probably get it down to  
23 probably around 20.

24                   The 177 difference never goes  
25 away. They ask for overlay zoning. They ask

1 for in-fill development zoning. They ask for  
2 anything we want to achieve that number.

3 That's the problem, a fundamental  
4 problem, as the Mayor said, with the rules.  
5 It's one of the fundamental reasons why you're  
6 suing COAH with that Clinton group. So it  
7 doesn't get you anywhere.

8 One of our other towns has a good  
9 system, as sophisticated as Monmouth County,  
10 in Somerset County, and they did an actual  
11 vacant land. They identified the vacant land  
12 in the township that COAH said justifies the  
13 number for that town. That land is along a  
14 fault line of the Sourland Mountain.

15 So the data is very, very faulty.  
16 But simply by saying we disagree with the  
17 data, or even going through a worksheet,  
18 doesn't lower the number.

19 MR. LACROIX: They're admitting  
20 in this response that it's faulty. It's the  
21 best data they had available. The answer that  
22 they gave is that the town can work to come up  
23 with a better number.

24 Now I understand what you just  
25 said about the fact that you still stick with

1 the same number, but, I mean, that doesn't  
2 make sense to me compared to the answers they  
3 give on their website.

4 BOARD PLANNER: I understand what  
5 you're saying. All I'm stuck with is the --  
6 whatever the heck it's called -- the law, and  
7 that's what I'm jumping at.

8 We're fighting it on a different  
9 level and hopefully we'll be successful, along  
10 with many other towns to get these rules  
11 brought into reason. But I'm certainly not  
12 going to recommend that we take a worksheet --

13 MR. LACROIX: It says to work  
14 with COAH with the worksheet.

15 BOARD PLANNER: I understand. I  
16 understand. But when you deal -- I've dealt  
17 with COAH for many years, many years. I have  
18 been in situations, I have been in rooms, I  
19 have heard things said by directors of COAH  
20 over the years, don't worry about this, don't  
21 worry about that, oh, we'll take care of it.  
22 You get in front of them with a plan and  
23 suddenly this is what's important.

24 And I am just never going to put  
25 a town that I represent into jeopardy of going

1       into something on a wish, and that's how I  
2       feel that is.

3                       Farmingdale, I was called in  
4       there a number of years ago. The Mayor at  
5       that point had been told down at the League of  
6       Municipalities by COAH a year or so before, he  
7       said -- the Mayor said, all our remaining  
8       lands, and there's very little, is wetlands.  
9       "Don't worry about it," they said.

10                      He took that and interpreted that  
11       we don't have to do anything. Well, it turns  
12       out he could have gotten -- they could have  
13       submitted a plan and had a zero obligation.  
14       He listened to that and it turned out that one  
15       property when it had an LOI, an actual  
16       demarcation of the wetlands, had a couple of  
17       acres of upland. They were sued. The  
18       developer busted the zoning for that piece of  
19       land. It was the only vacant piece of land.  
20       They didn't get any affordable housing. They  
21       spent a fortune.

22                      I don't want to put the town in  
23       that position, and I'm not going to recommend  
24       it. As much as I understand there's a chance  
25       for this and a chance for that. My hope is

1       that there will be an extension and, you know,  
2       that the town can then put some dollars.

3                     If we're talking about, as an  
4       example in the alternative plan, 14 separate  
5       lots and maybe ten acres, I'm not a real  
6       estate expert, but I'm sure they're going for  
7       maybe a half a million dollars each, so the  
8       town, then, would be committing \$7 million to  
9       buy those properties.

10                    And I think Donna can chime in on  
11       the amount of money that you're going to need  
12       to subsidize because the economies of scale  
13       aren't going to make it through normal grants.

14                    MS. ROSE BLAZE: Yes, I think the  
15       financing is really more of my specialty than  
16       most of these other things.

17                    Financing is most of my specialty  
18       with regard to COAH. And when we provide a  
19       consultation to a community, we look at what  
20       cost we can defer to other places. And part  
21       of that -- part of those subsidies come from  
22       the State and they come from the Federal  
23       Government, and they come from sometimes in  
24       the past, Regional Contribution Agreements,  
25       and sometimes the county has some money.

1                   Under the scenario, and in part  
2                   of the implementation plan that Mr. Elias  
3                   referred to, you would have to cost out all of  
4                   the potential properties that you're looking  
5                   at, and roughly just, when you're looking at  
6                   small sites, you lose all economies of scale.  
7                   You have to build separate septic systems.  
8                   You have much higher operating and management  
9                   costs which reduce the amount of contribution  
10                  financing can contribute. And you have to  
11                  bond for all of those expenses in advance  
12                  because you're not -- you don't have any other  
13                  dedicated sources of those monies to offset  
14                  that.

15                  So just roughly, okay, just  
16                  roughly off the top of my head, you would be  
17                  looking at a bond of about \$17 million to do  
18                  the 85 units as municipally sponsored  
19                  projects.

20                  Right now in the State of New  
21                  Jersey there are no general accepted  
22                  applications being taken for most of the state  
23                  subsidies. So they would be looking at the  
24                  municipality picking up a good portion of  
25                  that.

1                   That's one of the conditions you  
2                   have to consider in support of one plan over  
3                   the other is the cost to the Township.

4                   MR. LACROIX: Mayor, that letter,  
5                   have they responded to you?

6                   MAYOR GRBELJA: Actually that  
7                   letter was submitted for them to use in the  
8                   regulations that they were going to put  
9                   forward in June.

10                  Any of the comments that we had  
11                  made at that particular point, obviously fell  
12                  on deaf ears. What they did is they just  
13                  increased the regulations in June, and then  
14                  from June and July they continued to add  
15                  additional amendments.

16                  They really didn't adopt the  
17                  rules until I believe it was almost August.  
18                  And that's one of the reasons why we decided  
19                  to enter into the litigation to have them  
20                  understand that the data that they used was  
21                  flawed.

22                  I had a meeting with Senator  
23                  Doria where we sat down with DCA, Lucy  
24                  Voorhees, and I specifically talked about the  
25                  fact that their data was flawed. And this was

1 going back, I believe it was sometime probably  
2 in the late spring, early summer. And I have  
3 to tell you something, they were just, oh, no,  
4 our data is not flawed, our data is not  
5 flawed.

6 One of the things that we have  
7 within this lawsuit with these 17 other  
8 municipalities is they are actually pulling  
9 documents from each particular municipality  
10 showing that they are counting the land within  
11 a traffic circle as being developable. They  
12 are showing them that they are counting land  
13 that has a 50-foot drop as being developable.  
14 And that's part of what the attorneys are  
15 doing right now in the litigation that we  
16 have.

17 We were very selective about who  
18 we chose to enter into a lawsuit with. We  
19 have selected communities that comply first  
20 and second round, and have submitted an  
21 initial plan. And our initial plan was  
22 submitted for 70 units under the old  
23 regulations or the regulations that they had.

24 But we are waiting at this  
25 particular point, and the feedback that we've

1 gotten from our attorney has been very  
2 beneficial. And I think they're a little bit  
3 embarrassed.

4 So someone came up here and said  
5 before that Lesniak was going to put something  
6 out to throw the rules out. I thought he was  
7 just looking to extend the deadline, but if  
8 somebody was true and said that they're  
9 actually looking to throw the rules out,  
10 that's probably the best thing that they could  
11 do. Because if the information comes out to  
12 show how flawed the data is and how ridiculous  
13 it is with the numbers that they had come up  
14 with, it's going to be very embarrassing to  
15 the State. It just shows their sheer  
16 incompetence.

17 MR. LACROIX: I guess the final  
18 statement is a lot of people said a bunch of  
19 things. I mean we all agree that I think  
20 every plan out there is flawed. I don't see  
21 the point in approving that plan tonight.

22 I think it can be tabled to  
23 whatever date you guys can agree on, until  
24 more information comes in. And then you can  
25 make a decision. And I hope you'll do that.

1 (Audible applause.)

2 CHAIRMAN NEWMAN: Hold on one  
3 second.

4 MR. RUNDELLA: So what direction  
5 does that put us in the question was for the  
6 attorney on the Board. Can we, like a lot of  
7 folks are asking, table this so we don't vote  
8 on it tonight, see what happens in terms of if  
9 an extension does happen, call a special  
10 meeting of the Planning Board next week, the  
11 week after, where the board could vote at that  
12 time?

13 BOARD ATTORNEY: The answer is  
14 yes, but I think there's some things you have  
15 to consider in connection with that.

16 First, yes, you could carry this  
17 to another date. And then the question  
18 becomes what date is reasonable under the  
19 circumstances. One of the reasons why you  
20 would want to carry this matter would be to  
21 find out whether or not there is going to be  
22 an extension, in which case the pressure would  
23 be off and you would have more time to  
24 reasonably look at alternatives.

25 So you wouldn't want to carry it

1       until probably next week because you don't  
2       know when this is going to happen, you want to  
3       carry it as late as you can, which probably is  
4       into the week following, December 22nd, 23rd.

5                     You don't want to carry it to the  
6       following week because you're governing body  
7       has had time -- if you wind up with a gun to  
8       your heads, have to make a decision, have to  
9       adopt something, your governing body has to  
10      have the ability to endorse it and submit it  
11      before the end of the year.

12                    So everybody winds up with a gun  
13      to their head at that point, and the governing  
14      body, as I understand it, their next meeting  
15      is next week.  It's next Wednesday?

16                    MAYOR GRBELJA:  Yes.

17                    BOARD ATTORNEY:  So that doesn't  
18      give you enough time for this extension  
19      process likely either.  So they would have to  
20      have a Special Meeting as well following your  
21      meeting.  So those are the dynamics that are  
22      involved.

23                    There is another dynamic, too,  
24      that you have to understand.  Reasonably, it  
25      would not be reasonably a purpose to carry

1       this meeting with the idea that in the interim  
2       there's going to be some magical plan that is  
3       a great plan that comes out of the woodwork  
4       that you're going to adopt, because you're not  
5       going to be able to do that under the confines  
6       of the law. Because if there's a significant  
7       substantive change to the Master Plan  
8       Amendment, that would have to be in the  
9       planning office ten days in advance of the  
10      meeting, which is virtually impossible at this  
11      point because you then have to have it  
12      available, you would have to re-notice that  
13      there is a new change, a new plan that's being  
14      proposed. It's not going to happen before the  
15      end of the year.

16                   MR. PEPE: Is that criteria  
17      created by this Township, or is it the  
18      protocol of the these sort of meetings?

19                   In other words, do we have the  
20      ability to modify those laws?

21                   I'm sure there's certain laws  
22      that are not in our control, but I'll let you  
23      tell me if I'm right or wrong.

24                   BOARD ATTORNEY: The land use law  
25      requires that when go in to adopt the Master

1 Plan, that Master Plan must be in the planning  
2 office available for review and filed with the  
3 County Planning Board ten days in advance of  
4 the hearing on that proposal.

5 If you had minor language changes  
6 or clarifications in the plan that you have  
7 before you now, that could be done at another  
8 meeting because it wouldn't be a substantive  
9 change, but if you're going to change the plan  
10 that is being proposed to something like what  
11 Committeeman Abilheira has proposed, that, I  
12 would consider, to be a substantial  
13 substantive change, and that document would  
14 have to be in the Planning Board office for  
15 review, in the County Planning Board office  
16 for review, and a notice advising the public  
17 that there is now a new significantly  
18 different plan for them to review. It would  
19 have to be published.

20 MAYOR GRBELJA: I think that  
21 that -- Mike, thank you very much for that  
22 clarification, because I think what happens is  
23 you're talking about, and one of the whole  
24 reasons why we had almost a six-week period to  
25 come up with a plan, after they told us that

1       our obligation was going to be 172 units and  
2       three units credit, we had six weeks to come  
3       up with a plan that is viable.

4                   Our planner, who I respect  
5       tremendously, is telling us that we have to  
6       have a plan that's viable.

7                   If you think that not having a  
8       plan on December 31st or delaying a vote this  
9       evening, that within three days or four days  
10      you're going to going to get anything  
11      different than the plans that have been  
12      submitted as Alternate 1 and Alternate 2,  
13      where we're going to be able to list property,  
14      blocks and numbers --

15                   (Stenographer Note: Accurate  
16      record was not able to be taken at this  
17      portion due to public outburst with many  
18      unidentified and overlapping speakers.)

19                   MAYOR GRBELJA: Excuse me.  
20      Excuse me.

21                   CHAIRMAN NEWMAN: Thank you for  
22      your screaming. The board has the floor at  
23      this point, and then we're going to turn it  
24      over to this woman to speak.

25                   UNIDENTIFIED SPEAKER: To the

1 public. You turned it over to the public.

2 CHAIRMAN NEWMAN: Of course I  
3 did. We are both talking. And you can speak  
4 next, if you would like.

5 Thank you, Mayor.

6 MAYOR GRBELJA: It is not going  
7 to be something that we're going to be able to  
8 produce and have in place on December 31st.  
9 In the event we vote on a plan tonight and  
10 they give us an extension, the plan is not  
11 submitted. And the plan is adopted, the plan  
12 then is changed. If we have a three-month  
13 period, then what we do is we have three  
14 months, and we have some of the stuff that we  
15 have that we're currently working on as far as  
16 properties that we've identified, we will be  
17 able to -- we're further along with those  
18 properties. If it's a six-month deadline then  
19 we have the ability to do that as well. We  
20 have the option to change and modify the plan.

21 If there's no deadline and it's  
22 not submitted to COAH, no clock starts.

23 CHAIRMAN NEWMAN: Go ahead,  
24 please.

25 MS. SLUZAS: Yes, my name is

1 Dorothy Sluzas, S-l-u-z-a-s. And I live at 7  
2 Arrowhead Way.

3 BOARD ATTORNEY: Would you raise  
4 your right-hand, please. Could you just swear  
5 or affirm that any testimony you give in  
6 connection with this proceeding will be the  
7 truth, the whole truth, and nothing but the  
8 truth?

9 MS. SLUZAS: I do. From my point  
10 of view it sounds like you guys have a really  
11 tough decision to make. And if you're, in all  
12 good conscience, struggling with any portion  
13 of any of these plans, then you owe it to  
14 yourselves and you owe it to us as the public  
15 to give us more time. Because you don't want  
16 to rush into a decision. You don't want to be  
17 backed into a corner, you don't want to be  
18 pushed into a decision. You really should  
19 make your decision independently with your  
20 conscience in check.

21 Please don't turn Millstone into  
22 a cesspool.

23 MR. CLARK: Jeff Clark, 11 Dugans  
24 Grove Road.

25 BOARD ATTORNEY: Raise your right

1 hand and be sworn, please. Do you either  
2 swear or affirm that any testimony you give  
3 today will be the truth, the whole truth, and  
4 nothing but the truth?

5 MR. CLARK: The truth, yes.  
6 Chris, you're going crazy up there, I guess.  
7 But I wouldn't do it tonight. We just can't  
8 have a sewage treatment plant in the town.  
9 Because you put a sewage treatment plant on  
10 33, you open the door for Monroe and  
11 Manalapan, which has sewers, and we become the  
12 next Route 18. And it will go eight miles  
13 into Millstone. It won't just stop at 33.

14 It will look like, not that those  
15 municipalities look bad, but you know the  
16 ruralness we have here and it's just nice to  
17 come home from work, like you said. And you  
18 will ruin that if you pass this plan.

19 And I'm going to turn the floor  
20 over to Scott Demonte.

21 MR. DEMONTE: Scott Demonte, 17  
22 Indian Path.

23 CHAIRMAN NEWMAN: Scott, before  
24 you go, before you start, we are now past  
25 10:30. Again, the board does have other

1 important business -- not that this isn't  
2 critically important -- so I'm going to ask,  
3 if we could limit it to another three  
4 comments, and then we'll call it closed to the  
5 public session.

6 Go ahead.

7 BOARD ATTORNEY: Sir, please  
8 raise your right hand and be sworn, please.  
9 Do you swear or affirm that any testimony you  
10 give in connection with this matter will be  
11 the truth, the whole truth, and nothing but  
12 the truth?

13 MR. DEMONTE: Yes. Again, I  
14 don't envy you guys at all. It's a tough  
15 decision to make. But I'm here to talk about  
16 things that I heard tonight that really kind  
17 of raised a couple of things in my mind.

18 And I'm going to take you back  
19 since I've been living here, '91. And I don't  
20 know, I heard Nancy say about a site  
21 assessment hasn't been done on the property.

22 CHAIRMAN NEWMAN: You have to use  
23 the microphone.

24 MR. DEMONTE: That a site  
25 assessment had to be done on the property.

1       And I'm thinking, well, a site assessment has  
2       been done on this property and they took into  
3       account that there was wetlands there, that  
4       you're on a highway, there's traffic  
5       considerations, there's a whole development  
6       behind there.

7                       But did you take into account the  
8       things we have already been through in that  
9       development and that we still are under duress  
10      from?

11                      In '91, when I moved in, I had to  
12      get the speed reduced on my road. I had to  
13      get the trucks off of my road. Because I get  
14      a thoroughfare in the morning and afternoon  
15      from people coming and going to the Turnpike.  
16      The Township didn't do anything for that. I  
17      had to do it. It took me two years. That was  
18      in '91.

19                      Then, after that, then we had the  
20      issues with the lights, the Hole-in-One Golf  
21      course. This Township gave them a variance to  
22      put lights up onto our development. Another  
23      thing I had to come to the town and fight.

24                      Then there was the rock crusher,  
25      another two years. A lot of money spent.

1 I see the signs for "An  
2 Environmentally Concerned Community" on Route  
3 33 on the south side, I don't see it on the  
4 north side.

5 (Audible applause.)

6 MR. DEMONTE: What I'm asking is  
7 was that taken into consideration?

8 I can go on. You had the  
9 incinerator. You had the incinerator prior to  
10 when I came here. It doesn't seem plausible  
11 that we're allowing these things to occur.

12 And I don't envy you guys to make  
13 a decision. I know how hard you work and I  
14 see the wrestling in your faces. But, you  
15 know, you have a little bit of time here,  
16 you've been rushed already. You've got some  
17 plans in that possibly could work. I'm asking  
18 you to get together, table this. Table this  
19 tonight no matter what it takes.

20 You have four committeemen here I  
21 see, ask them right now, will you come to a  
22 meeting on December 29th, along with the  
23 Planning Board. Say, hey, look, could we come  
24 up with a better meeting?

25 Who cares if we've got a gun to

1       our heads. We've had that gun to our head  
2       before and we had to fight that.

3                   I'll say it again, I don't envy  
4       you guys. You've got a tough decision here to  
5       make. But I'm tired of fighting. I'm tired  
6       of the south side being the ones recognized as  
7       the place that's environmentally sensitive.  
8       What about us on the north side? It's not  
9       right.

10                   UNIDENTIFIED SPEAKER: It's not  
11       their backyard.

12                   UNIDENTIFIED SPEAKER: Always on  
13       our side.

14                   MR. DEMONTE: I don't like to use  
15       that tone. I don't want to use that tone  
16       because I'm not against COAH. I'm for this.

17                   I tried to read through this  
18       myself. I know that there's objections on  
19       both sides. I've talked to lawyers. I have a  
20       personal friend who's dealing with a Mt.  
21       Laurel right now, he's a lawyer for that town.

22                   There's no interpretation that  
23       really says you have to declare the lot,  
24       parcel and condition of this property in this  
25       plan.

1                   MR. PEPE: The issue becomes --  
2                   and you made great points. But the problem is  
3                   with the property itself, that actually the  
4                   other uses, I think, are actually worse.

5                   I don't think TGI Friday's and  
6                   the guy emptying a dumpster --

7                   (Stenographer Note: Accurate  
8                   record was not able to be taken at this  
9                   portion due to public outburst with many  
10                  unidentified and overlapping speakers.)

11                  CHAIRMAN NEWMAN: We need to  
12                  maintain some level of order, or we can just  
13                  close the public hearing.

14                  So, Scott, if you want to wrap  
15                  up, that would be fantastic.

16                  MR. DEMONTE: So I ask you, you  
17                  have these committeemen here tonight, you  
18                  heard a lot of my issues before, and I can  
19                  even go on and on with our septic issues and  
20                  our well issues.

21                  Was that taken into consideration  
22                  when you said this site is a good spot for  
23                  this plan, to put this center back in this  
24                  spot? That's what I'm asking you.

25                  I'm asking you as committee

1 members tonight to table this. Get together.

2 Those plans are flawed.

3 This plan by Mr. Coppola, I know  
4 it's thorough, it probably could be improved.  
5 You probably can take out this cesspool thing,  
6 45,000 gallons.

7 Matt, you're an engineer. I'm an  
8 engineer. You do the math. That's a lot of  
9 water no matter where you put it. If it  
10 fails, you've got big issues. And it will  
11 fail. Somewhere down the road it's got to be  
12 replaced. So you have to deal with that.

13 Look into those considerations,  
14 please. Thanks.

15 CHAIRMAN NEWMAN: Thank you.  
16 We'll take two more comments.

17 MR. FINLEY: Good evening. My  
18 name is John Finley.

19 Just for the record, former  
20 Planning Board, former Zoning Board member,  
21 former Chairman of the Environmental  
22 Commission.

23 And just for the record, too, for  
24 Mr. Campione, I wanted the deer and the bunny  
25 put on the sign, not necessarily a horse.

1                   BOARD ATTORNEY:  Sir, if you  
2                   could raise your right hand and be sworn,  
3                   please.  Do you either swear or affirm that  
4                   any testimony you give in connection with this  
5                   matter will be the truth, the whole truth, and  
6                   nothing but the truth?

7                   MR. FINLEY:  I do.  I'm also  
8                   currently a County Board of Health member.  I  
9                   have heard a lot of the testimony tonight.  
10                  One of the things I was going to talk about,  
11                  I'll be very brief, was my objection to a  
12                  cyclet sewage treatment plant.

13                  In every board that I sat on --  
14                  and I had the honors to help develop the  
15                  current Master Plan.  I see some of the people  
16                  up on the dais -- the Mayor, Chairman, Mr.  
17                  Newman, Mary Pinney -- that were colleagues of  
18                  mine on the Environmental Commission, Planning  
19                  Board and Zoning Board.  Never once did we  
20                  ever endorse package treatment plants, never.

21                  As part of our Master Plan  
22                  development there were discussions in and  
23                  around senior housing.  There were discussions  
24                  in and around -- there was COAH plans.  There  
25                  was discussions in and around what we could do

1       for commercial ratables. And one of the  
2       things we discussed is in order to make them  
3       more viable, we discussed in order to make  
4       them more viable we would probably have to put  
5       in package treatment plants to do it. Every  
6       single time the committees that I was on  
7       rejected that notion.

8                     I'm simply asking you to reject  
9       that notion again. I'm asking you to simply  
10      table this plan.

11                    A little frustrating because I  
12      just heard from the attorney, Mr. Steib, that  
13      you don't have the time to look at other  
14      alternatives and to do it legally, especially  
15      if there's a substantive change.

16                    So I'm asking you to table the  
17      plan. Let's see what happens from the State,  
18      do we get that relief. What we still have the  
19      time to do is, before the deadline, if this is  
20      the best plan that we can come up with, we  
21      submit the plan at the last minute.

22                    Don't tip our hand tonight.  
23      Don't turn around and say we endorse these  
24      cyclot plants. Don't do it now.

25                    We still have some time to wait

1 to see if we get an extension from the State.  
2 That's simply my question. I ask you to table  
3 this plan tonight. Thank you.

4 CHAIRMAN NEWMAN: Thank you. And  
5 the last comment, please?

6 MR. SOMERS: William Somers,  
7 Somers, 1 Arrowhead Way. S-o-m-e-r-s.

8 BOARD ATTORNEY: Do you either  
9 swear or affirm the testimony you are about to  
10 give this Board will be the truth, the whole  
11 truth, and nothing but the truth?

12 MR. SOMERS: I do. One of the  
13 Planning Board members asked if this could be  
14 tabled. And although the attorney, Michael  
15 Steib, and our Mayor tried to discourage that  
16 from being tabled, their literal answers were  
17 that it could be, and that they would have  
18 three days to try to make a different plan.

19 You have three days to try to  
20 make a different plan, and then you'll still  
21 have your 10-day notice to have another  
22 meeting.

23 Am I missing something? I think  
24 that's what was said.

25 CHAIRMAN NEWMAN: Absolutely

1       they're saying that. Except, and I'm not  
2       saying anything you're saying is wrong, except  
3       the reality of will there be a new plan in  
4       three days, we'll have to meet the 10-day  
5       notice process. Can we have a hearing, can  
6       the town have a hearing, and can we make the  
7       deadline.

8                        You've stated a bunch of facts,  
9       I'm not saying your facts are wrong, but there  
10      is so many factors around those if that's what  
11      you're thinking about.

12                      MR. SOMERS: If you try and fail,  
13      you've lost nothing. If you vote tonight  
14      you're voting for a sewage treatment plant.  
15      That's what you're voting for.

16                      Everyone on this board can say I  
17      don't want to see a sewage treatment plant in  
18      Millstone. I feel like I don't want to go  
19      wrong with this. When you raise your hand and  
20      vote, that's what you're voting for.

21                      There is no reason, there is no  
22      logical reason to not at least try to at least  
23      table this. To give yourselves three days.  
24      To work on the plan that's been submitted as  
25      an alternative. To try and come up with

1 something different.

2 Direct Richard Coppola, excuse  
3 me, direct Richard Coppola to not spend all  
4 his time trying to defend his plan which  
5 includes the sewage treatment plant, but  
6 direct him to try to find a way to make a plan  
7 that doesn't have a sewage treatment plant.

8 CHAIRMAN NEWMAN: And I certainly  
9 do not appreciate the comments regarding Rich.  
10 He's worked really hard to do the best for us  
11 as a Township, and to make sure that  
12 everything that can go in is in, can be  
13 approved.

14 With respect to us approving the  
15 sewage treatment plant, I disagree. That's  
16 not what would take place if this plan was  
17 voted on by this board tonight. But we can  
18 always disagree.

19 MR. SOMERS: You're voting to  
20 change the Master Plan to allow -- I mean how  
21 could you -- how could you possibly argue that  
22 you're not endorsing a sewage treatment plant?

23 MR. PEPE: Mr. Finley made an  
24 excellent point about the idea of all the hard  
25 work he's done on the boards prior to this.

1                   The idea of a package treatment  
2                   plant was never part of the equation.  
3                   Clearly, the only reason why anybody would  
4                   consider this at any point is not because we  
5                   think it's a cool thing to get, it's because  
6                   the State is jamming it down your throat.  
7                   Your throat, our throat, everybody here.

8                   So, that being said, that being  
9                   said, we have to consider all alternatives.  
10                  Keep in mind, it's nobody's desire to do this.

11                  The idea of a package sewer  
12                  treatment plant, cyclet system, whatever it  
13                  is, in this case and where our thoughts are,  
14                  at least my thoughts are, is if I was to agree  
15                  with it -- and I'm not saying I am -- is that  
16                  it gives me a 10 percent window of how to  
17                  follow-up. If I go with the idea of  
18                  inclusionary zoning --

19                  MR. SOMERS: Please, no one here  
20                  is asking for inclusionary zoning.

21                  MR. PEPE: Well, I'll tell you  
22                  what, the idea of reducing 10 acres to 7  
23                  acres, that's clear failure.

24                  MR. SOMERS: I understand.

25                  MR. PEPE: And it's clearly

1 contrary to the Master Plan.

2 MR. SOMERS: No one got up to  
3 this microphone from the public and urged for  
4 inclusionary zoning.

5 MR. PEPE: And nobody wants a  
6 package treatment plant either.

7 MR. SOMERS: Right. I'm asking  
8 you, I'm begging you, if you -- this is not a  
9 not-in-my-backyard issue. I don't want this  
10 anywhere. But ask yourselves, treat this as  
11 if this was your backyard. What would you  
12 want you're elected officials to do?

13 I'm a public servant, too. And  
14 I'm asking you, I'm begging you, take three  
15 days. Try to come up with a different plan.

16 How could you disagree with that?

17 MR. PEPE: I did have a situation  
18 in my backyard, but what I did think about was  
19 I thought about a scenario where it was me and  
20 my own personal desires versus the desires and  
21 benefit of the town. And clearly, me, being  
22 one person, took a problem in their backyard  
23 for the benefit of a lot of people in this  
24 room. Some people I recognize by face.  
25 That's fine. It's stupid to think one person

1 is bigger than the benefit of us all.

2 But, understand, the only reason  
3 why anything like this would ever be  
4 considered is just because of something that  
5 is going on on a state level, not a desire  
6 from anybody here.

7 MR. SOMERS: No one in Millstone  
8 benefits from a package sewage plant being put  
9 on this property. No one in Millstone  
10 benefits.

11 CHAIRMAN NEWMAN: The only  
12 benefit is that it let's us comply with the  
13 regulation that we could otherwise have a  
14 bigger problem with.

15 The other point I wanted to  
16 make -- I'm sorry to interrupt you. But the  
17 other point I wanted to make is if we vote for  
18 this Master Plan Amendment, which includes a  
19 reference to a site that would need some kind  
20 of sewer system, a cyclet system to make it  
21 viable, that doesn't mean we're voting for a  
22 sewer system that we intend to fail or that we  
23 intend to be wrong or we intend to be  
24 defective.

25 I can assure you that if there is

1 a point, for any reason, that a cyclet system  
2 comes before me, as a Planning Board member,  
3 for some type of an approval -- for a site  
4 plan, of course, that's the only approval we  
5 could give -- it's not going to get my  
6 attention until my engineer, and an expert  
7 over and above my engineer, tells me that it  
8 is as fail safe as can be possible based on  
9 modern engineering science.

10 MR. SOMERS: No one wants a  
11 working sewage plant there either.

12 What we want you to do, what  
13 we're begging you to do, what everyone has  
14 been asking you to do is to not vote on this  
15 today. To give yourself three more days to  
16 try to come up with something better so that  
17 you can have a meeting at a later point.

18 What downside do you have to  
19 that? I don't understand.

20 CHAIRMAN NEWMAN: I, personally,  
21 if I, personally, thought three more days, or  
22 however many hours that is, 72 hours, was  
23 going to equal something better or different,  
24 it's something to think about. But I don't --  
25 I, personally, don't think it's going to yield

1 anything different.

2 Now we've all talked about or  
3 we've heard conversation about there's going  
4 to be, or there might be, or there should be  
5 an extension. And we're all crossing our  
6 fingers on both sides of the table that that  
7 happens for any number of reasons.

8 If this is voted on tonight, and  
9 that extension hits any time after this, the  
10 plan doesn't go anywhere. It wasn't...

11 MR. SOMERS: No one is saying --  
12 hey, we understand that you're not -- you  
13 vote, you're going to withhold it, and if  
14 there's an extension, great, you have more  
15 than enough time.

16 What we're asking you to do, what  
17 everyone is asking you to do is to not vote on  
18 this tonight.

19 Three days is a long time to work  
20 on a plan that doesn't specify block and lots.  
21 That has that plan where you say Millstone  
22 will come up within a year we will specify  
23 properties. That's what buys you the time.

24 And if two to three years Mr.  
25 Coppola thinks is unrealistic and won't be

1       viable in the plan, then make it one year,  
2       make it six months. Whatever you have to do  
3       to not specify in this Master Plan, to change  
4       the Master Plan to include a sewage treatment  
5       plant.

6                   CHAIRMAN NEWMAN: Thank you.

7                   MAYOR GRBELJA: That's it.

8                   CHAIRMAN NEWMAN: We're going to  
9       close the public. We're going to close the  
10      public session. I'm well past any established  
11      deadline that I made.

12                   I appreciate everyone's  
13      conversation and input and thoughts,  
14      professionals or otherwise. Thank you very  
15      much.

16                   MAYOR GRBELJA: I just want to  
17      make a statement. I have been involved with  
18      this process over a long period of time, and  
19      knowing how long it takes to come up with a  
20      plan and to come up with something that's  
21      viable, three days is going to do nothing  
22      except put this off to another time where  
23      we're going to be facing the same thing.

24                   For those of you that said you  
25      didn't know about this plan until October

1       22nd, we asked people, send us properties.  
2       Tell us who we can talk to. Let's come up  
3       with a plan. And since October 22nd nothing  
4       has come forward.

5                    You're fooling yourself, and I'm  
6       speaking to my Planning Board, you're fooling  
7       yourself if you think that in three days  
8       something is going to come up that is going to  
9       change this particular plan.

10                   Second of all --

11                               - - -

12                   (Unidentified, unintelligible  
13       voices from speakers in the public.)

14                               - - -

15                   MAYOR GRBELJA: Excuse me. If  
16       there's a delay in the time period as outlined  
17       by the State, that is going to buy us time.

18                   If we have to submit a plan on  
19       December 31st, we still have time. We have  
20       properties that we are looking at. We haven't  
21       been sitting back and waiting for properties  
22       to come to us. We have been looking.

23                   So I don't believe that three  
24       days is going to buy us any additional time  
25       for us to come back at the end of the year if

1 the deadline is not changed.

2 The residents that were here  
3 today brought a developer that certainly  
4 talked about, "I filed builder remedy suits."  
5 We already have a wolf in the house.

6 - - -  
7 (Unidentified, unintelligible  
8 voices from speakers in the public.)

9 - - -  
10 CHAIRMAN NEWMAN: Thank you for  
11 maintaining order. What we're going to --

12 - - -  
13 (Unidentified, unintelligible  
14 voices from speakers in the public.)

15 - - -  
16 CHAIRMAN NEWMAN: Thank you for  
17 maintaining order. I appreciate that.

18 What we're going to do, I wanted  
19 to ask the board, I think we would like to  
20 take a five or ten minute break for the  
21 benefit of our staff.

22 COMMITTEEMAN KUCZINSKI: Mr.  
23 Newman, can I make one suggestion?

24 CHAIRMAN NEWMAN: We closed the  
25 public portion.

1                   COMMITTEEMAN KUCZINSKI:    Can I  
2           just make one concession?

3                   CHAIRMAN NEWMAN:    No.  We just  
4           closed the public portion.

5                   UNIDENTIFIED SPEAKER:    He's a  
6           committeeman.

7                   COMMITTEEMAN KUCZINSKI:    I just  
8           wanted to make a suggestion that will solve,  
9           possibly, a problem.

10

- - -

11

(Unidentified, unintelligible  
12           voices from speakers in the public.)

13

- - -

14

                  CHAIRMAN NEWMAN:    How can I  
15           reasonable let you go?  We've closed the  
16           public portion.

17

                  How can we reasonably let you do  
18           that, because you know there's three other  
19           people behind you?  I'm sorry.  Thank you.

20

                  CHAIRMAN NEWMAN:    One of the  
21           board members had a question here?

22

                  Hold on.  Could we keep quiet?  
23           I'm sorry, go ahead.

24

                  MR. WEINTRAUB:    Mr. Steib, is  
25           there any opportunity or benefit or

1 possibility that the vote be tabled to wait,  
2 potentially see if there is an extension  
3 granted?

4 (Audible applause.)

5 BOARD PLANNER: Frankly, I'll  
6 just give you my opinion on what maybe a  
7 course of action could be.

8 I think one of the things that  
9 the board should do tonight is authorize a  
10 letter be sent to COAH asking for an  
11 extension, just in case Roberts' letter has  
12 any effect. So you get it down there in  
13 advance of COAH's meeting next Wednesday.

14 Second thing I think you should  
15 do, frankly, is there is no other viable plan  
16 that I can think of that I have gotten -- we  
17 have gone through everything that has been  
18 discussed tonight with the alternative. If  
19 the plan wants to eventually -- we just talked  
20 tonight between Donna's analysis of the  
21 subsidies and cost of the land for the  
22 unspecified lands. You might be upwards of  
23 \$27 million, which is fine, if that's what the  
24 town wants to do. Certainly it's not  
25 something that I'm going to recommend that the

1 town put in as a viable plan.

2 So for that reason I think what  
3 you should do is consider adopting the plan  
4 tonight. I think you should not submit the  
5 plan, obviously, in any case, until the 30th  
6 or the 29th. I think that's the Monday of  
7 December. And I think there's likely a chance  
8 that there will be an extension.

9 I want to just tell you, though,  
10 I don't necessarily think -- unless you want  
11 to spend upwards of \$27 million, however --  
12 that you're going to come up with another  
13 viable plan. And that's the hard fact.  
14 Unless the numbers go down.

15 That's my recommendation. For  
16 what it's worth, I don't think postponing it  
17 does anything for you. And certainly three  
18 days you're not going to come up with  
19 anything.

20 CHAIRMAN NEWMAN: We're going to  
21 take a very short five-minute break.

22 UNIDENTIFIED SPEAKER: He's asked  
23 a question. Let him answer it.

24 MR. WEINTRAUB: No, it's been  
25 answered.

1                   CHAIRMAN NEWMAN: We're going to  
2 take a very short break and we'll get back to  
3 it. Thanks, everybody.

4                   (Time noted, 10:58 p.m.)

5                   - - -

6                   (A recess was taken at this time.)

7                   - - -

8                   (Time noted, 11:20 p.m.)

9                   MR. PEPE: We're turning the  
10 mikes back on.

11                  CHAIRMAN NEWMAN: Thank you very  
12 much, Mr. Vice-Chair. We're back on.

13                  Okay, we're back on the record  
14 after our extended five-minute break. Thank  
15 you, everyone, for your courtesies.

16                  We have heard the public comment  
17 portion. We have had our consultant give us  
18 his thoughts. We have had a chance to read  
19 and review the plan, as well as hear the  
20 comments from the public.

21                  At this point I think the only  
22 thing that I would like to do is ask if anyone  
23 from the Board, I know everyone has had a  
24 chance to say some things, but if anyone from  
25 the Board wanted to add any additional

1        comments, I would certainly allow that. And  
2        then we're going to have to consider a motion  
3        on the matter at hand.

4                    Is there any further comment from  
5        anyone on the board? And please remember to  
6        hold the mike towards you.

7                    MR. KURZMAN: Yes. Not that I  
8        think anything is going to change over the  
9        next week, but I'm going to suggest that we  
10       put off the inevitable. Hopefully something  
11       will change. I don't know.

12                   But that we table this for one  
13        week, and, you know, maybe, I don't know --  
14        just I can't get it up to say that we have to  
15        do it tonight.

16                   CHAIRMAN NEWMAN: Well, obviously  
17        there's a practical --

18                    (Audible applause.)

19                    CHAIRMAN NEWMAN: Excuse me.  
20        We're trying to figure this out.

21                    Obviously there's a practical  
22        concern if we table it for one week, which  
23        that would be a joint meeting with the  
24        Township Committee for their meeting next  
25        week. I don't know how many of us can

1 actually make it, and that's a concern.

2 I don't even know if our attorney  
3 can make it.

4 - - -  
5 (Unidentified, unintelligible  
6 voices from speakers in the public.)

7 - - -  
8 CHAIRMAN NEWMAN: We're trying to  
9 work, which is what you want us to do.

10 Mike, would you be available?

11 BOARD ATTORNEY: I have another  
12 meeting to attend. I would have to send  
13 someone.

14 CHAIRMAN NEWMAN: Okay. Mr.  
15 Coppola, I understand you weren't going to be  
16 attending the meeting, in any event?

17 BOARD PLANNER: I will be up in  
18 Peapack-Gladstone at a public hearing next  
19 Wednesday night.

20 CHAIRMAN NEWMAN: I guess I'm  
21 just going to do it by a show of hands from  
22 Board members.

23 And, Pam, if you could just watch  
24 us and count how many of us could even make a  
25 meeting on the 17th. I'm checking my calendar

1 as we talk.

2 (Audible applause.)

3 CHAIRMAN NEWMAN: I haven't  
4 checked mine yet.

5 BOARD SECRETARY: I need to have  
6 a quorum.

7 CHAIRMAN NEWMAN: I didn't raise  
8 my hand yet because I'm still looking.

9 So, based on your comment, it  
10 would appear that we could achieve a quorum on  
11 that date, despite the fact that we have to  
12 make some adjustments with our attorney. And,  
13 obviously, there would be a notice concern.

14 BOARD SECRETARY: I would notice  
15 for the meeting.

16 CHAIRMAN NEWMAN: So notice would  
17 be carried on the record.

18 MAYOR GRBELJA: Can I just say  
19 one thing?

20 CHAIRMAN NEWMAN: Of course.

21 MAYOR GRBELJA: I have a concern  
22 with our planner not being present. And I  
23 would rather take -- if we're going to do  
24 this, I would rather pick another day when  
25 he's present. Because far too much goes on.

1 He's our expert. And I think that we're  
2 vulnerable when he's not here.

3 MR. PEPE: I actually agree.

4 MS. PINNEY: I agree.

5 MR. PEPE: Of what day are you  
6 available?

7 BOARD PLANNER: Sunday afternoon  
8 at 2 p.m..

9 MAYOR GRBELJA: That's fine with  
10 me.

11 BOARD PLANNER: I am available on  
12 the 16th. That's a Tuesday night. And that's  
13 the only night next week.

14 MR. PEPE: While everybody is  
15 sorting through their schedules, who does know  
16 they're available on that Tuesday?

17 Mary, we said he's available next  
18 Tuesday as opposed to next Wednesday.

19 MAYOR GRBELJA: What about  
20 Township Committee, too? We meet next  
21 Tuesday.

22 CHAIRMAN NEWMAN: But if Tuesday  
23 is on the table -- you know, I look at this, I  
24 start seeing emails, I start getting  
25 nervous -- but if Tuesday is on the table,

1       then there's a question of the room, and  
2       there's a question of -- then we wouldn't be  
3       having a joint meeting with the council. We'd  
4       have another meeting to make a decision, which  
5       would I guess, in theory, if I read your point  
6       correctly, in theory that would give us that  
7       time to just see if there was an extension  
8       granted through the State. At least give us  
9       time to extend that letter of extension which  
10      Rich recommended.

11                   BOARD PLANNER: I think you  
12      should send the letter tomorrow.

13                   CHAIRMAN NEWMAN: Irrespective.  
14      Well, that certainly could be part of any  
15      motion.

16                   Go ahead. Do you have a mike  
17      down there?

18                   MR. PADO: I can't recall who  
19      made the comment, but I do remember somebody  
20      in the audience saying -- or maybe from our  
21      professionals -- that COAH was willing to meet  
22      with us, or our COAH board?

23                   MAYOR GRBELJA: Who?

24                   MR. PADO: I don't remember.

25                   COMMITTEEMAN ABILHEIRA: I

1       said COAH is willing to have representatives  
2       of Millstone come to meet with the planner,  
3       myself and --

4                   MR. PADO:  I guess Mr. Abilheira  
5       made that comment.  I didn't know who made it.  
6       But I remember it.

7                   Is that doable?  Is it something  
8       that we can get done within the next day or  
9       two?

10                  MAYOR GRBELJA:  Could I just  
11       basically say one thing, are you questioning  
12       the ability of our professional to represent  
13       us?

14                  MR. PADO:  Me?

15                  MAYOR GRBELJA:  Yes.

16                  MR. PADO:  No.

17                  MAYOR GRBELJA:  Because that's  
18       absolutely what you're doing when you're  
19       saying that you --

20                  MR. PADO:  I think you're totally  
21       wrong.  First of all, I commend Mr. Coppola  
22       for what he did.  I'm not questioning his  
23       ability.  I didn't put Mr. Coppola on the  
24       stand.

25                  All I'm asking is that why don't

1 we hear it right from the horse's mouth, COAH?

2 MAYOR GRBELJA: Mr. Pado, if we  
3 have a meeting on December 16th -- if you have  
4 a meeting on December 16th, and you're going  
5 to bring COAH here, that means that you aren't  
6 going to have a plan in place. And I thought  
7 the whole thing was to give a couple of days,  
8 and if there's no other alternatives, then on  
9 the 16th what we would do is we would vote for  
10 the plan that's in front of us.

11 Now what you're doing is you're  
12 saying, oh, we'll come back on the 16th, and  
13 what we're going to do at that particular  
14 point is we'll listen to COAH and come up with  
15 something at that point.

16 The brainstorming session is for  
17 somebody to submit to us beforehand some type  
18 of a viable plan that will be distributed to  
19 this committee, to the committee to make a  
20 decision.

21 We're not going to sit there on  
22 the 16th and try to come up with a plan. It's  
23 either there's something viable that comes up  
24 within the next couple of days that identifies  
25 lot and block numbers, or not.

1                   MR. PADO: Then I suggest you get  
2                   you and your team together tomorrow and start  
3                   thinking about something.

4                   (Audible applause.)

5                   MAYOR GRBELJA: Mr. Pado --

6                   MR. PADO: If you want to throw  
7                   it back at me, I'll throw it right back at  
8                   you.

9                   MAYOR GRBELJA: Mr. Pado, maybe  
10                  you don't know --

11                  (Stenographer Note: Accurate  
12                  record was not able to be taken at this  
13                  portion due to public outburst with many  
14                  unidentified and overlapping speakers.)

15                  CHAIRMAN NEWMAN: Hold on a  
16                  second. We not only have to be in order with  
17                  the public but with our members. We have to  
18                  show respect to each other.

19                  The COAH Work Group, which the  
20                  Mayor has been a part of for a long time, has  
21                  worked really hard.

22                  MR. PADO: We've worked hard to  
23                  listen to it. That doesn't mean that there in  
24                  any way --

25                  MR. PADO: Mitch, I'm not saying

1 Mr. Coppola is wrong. I'm on his side for  
2 crying out loud.

3 Where did it go wrong that I'm  
4 against Mr. Coppola or the Mayor?

5 CHAIRMAN NEWMAN: Nobody said  
6 that.

7 MR. PADO: I was just trying to  
8 make a --

9 CHAIRMAN NEWMAN: The only issue  
10 that I heard is if we are going to say let's  
11 bring COAH and let's see what they say, we're  
12 not voting on any plan. All we're doing is  
13 we're trying to do more of what the COAH Work  
14 Group has done. We're trying to do what Rich  
15 has already done.

16 Rich doesn't -- I'm sorry to  
17 speak for you, Rich -- he doesn't perform or  
18 work in a vacuum.

19 BOARD PLANNER: There is no  
20 possibility of having -- I am familiar with  
21 rules. The items that have been suggested as  
22 alternatives I don't think are viable options.

23 They also will cost the town.  
24 You're going to sign the check, you heard, you  
25 heard from your other consultants about how

1       many millions of dollars. I'm not  
2       recommending that to the town because I think  
3       it's a blank check that you're going to be  
4       signing.

5                   I think you have, the advantage  
6       of not voting tonight, if that's your  
7       decision, and postponing it until next  
8       Tuesday, is that Tuesday is supposedly the day  
9       that the extension will or will not be taken  
10      up by the state legislature. That's what I  
11      understand.

12                   If it's not extended, my  
13      recommendation is you adopt the plan that you  
14      have before you, and then still not submit it  
15      until the end of the month. And then if there  
16      is an extension or things change, fine.

17                   I don't see -- you know, we could  
18      talk, and that's a lot of talk tonight, about,  
19      oh, well there's a thousand options. There's  
20      not a thousand options. There's just not.

21                   So you could believe, anybody  
22      could believe what they want. I am simply  
23      telling you what I understand. I've been  
24      pretty close to it. The COAH Work Group has  
25      been very close to it. All these options have

1       been thought out.

2                       The one that was not considered,  
3       quite frankly, was the inclusionary one that I  
4       guess was on the table last Friday and was off  
5       the table Monday, which I already responded  
6       to.

7                       But as far as getting individual  
8       parcels throughout the town, that's why you  
9       have Donna Rose Blaze here. You're talking  
10      about a huge amount of money that you're going  
11      to have to agree to bond.

12                      So that's something a consultant  
13      doesn't come to a town and say, oh, by the  
14      way, I have a great plan for you, it will cost  
15      you \$30 million. You have \$2 million in your  
16      housing trust, but it's only 28 more. Not  
17      when you have a chance to have a plan that  
18      meets the criteria of the State Plan and gets  
19      it done for nothing at the same time that  
20      you're allowing the non-residential land uses  
21      that are basically already allowed.

22                      So whatever the board decides is  
23      fine, and I'll work with the board in any way.  
24      I am not, though -- please don't assume that  
25      you're going to come up with any another plan.

1 I think that is fool-hearted and misleading.

2 So the question is really, that  
3 you're banking on, if you don't vote tonight,  
4 in my opinion, you're going to authorize  
5 hopefully a letter to be sent asking for an  
6 extension in anticipation that Roberts will  
7 have some effect with COAH. It's an iffy  
8 thing. And COAH's meeting is already next  
9 Wednesday, so you want to get that letter out  
10 tomorrow.

11 And then the only other  
12 advantage, or the only other reason for not  
13 voting tonight, is that you don't vote on the  
14 plan with the cyclet-type system if you don't  
15 have to.

16 Quite frankly, I think there's no  
17 harm in voting on it. I think you could put  
18 in your resolution, if you adopted it tonight,  
19 that it's basically -- you're adopting this  
20 under duress due to the fact that the rules of  
21 COAH have been late coming and are still not  
22 finalized.

23 And, number two, you want to  
24 protect yourself from a builder's remedy  
25 lawsuit, and that if anything changes you will

1 possibly rescind the plan. You could do that,  
2 too.

3 So that's probably what you would  
4 end up doing next Tuesday anyway, if that's  
5 what you want.

6 MR. PADO: Rich, let me  
7 reiterate. I've read your report twice.  
8 You've made it perfectly crystal clear to me  
9 what you think, and I understand. And you've  
10 enlightened me a great deal.

11 My intent was, before I got  
12 hammered, was making sure all our bases are  
13 covered. And that COAH, before we jump to  
14 anything, are they going to give us an  
15 extension. Not to cut you off.

16 BOARD PLANNER: Well, that's  
17 fine. I thought you said, and I think the  
18 response you got -- and I shared that, quite  
19 frankly -- was that you're going to somehow  
20 sit down with COAH, I mean we sit down with  
21 COAH. I don't want to get into he said/she  
22 said and that kind of stuff. I speak to Maria  
23 once a week.

24 So, you know, I understand  
25 everything. I don't want to get involved in



1 anyone else have any comments before we  
2 entertain a motion?

3 At this point I would look for  
4 one of our Board members to propose a motion.

5 Obviously there is different  
6 alternatives to your motion, whether it be to  
7 vote to approve the plan presented. Obviously  
8 the opposite of that is to also, if that  
9 motion is made, you can vote against it.

10 There's also been discussion  
11 regarding a motion for an extension, or to  
12 extend our time to what we have all talked  
13 about as the only viable date unfortunately is  
14 the 16th.

15 The motion might also consider  
16 stating that anything we're doing is under  
17 some theory or some view of duress, based upon  
18 the time frames that COAH has set forth for  
19 us.

20 It's also something you might add  
21 to your motion that we authorize our attorney  
22 to, tomorrow, send that letter to COAH telling  
23 the people at COAH that this Planning Board  
24 demands an extension of time and demands that  
25 we hear back from them by Tuesday at 5.

1       Whether that's realistic or not we could still  
2       ask.

3                       MR. PEPE:   Absolutely.

4                       CHAIRMAN NEWMAN:  I understand  
5       they don't meet until Wednesday, but it's  
6       worth a shot.

7                       BOARD PLANNER:  It is.

8                       CHAIRMAN NEWMAN:  And that the  
9       theory, as Rich said to that, will be at least  
10      we're on the record with them, we've taken the  
11      time to do that, and we've taken the time to  
12      see if any of the legislative things that we  
13      talked about from our first public speaker to  
14      a couple others can actually hit pay dirt in  
15      next whatever that is, five or six days.

16                      BOARD PLANNER:  Mr. Chairman, if  
17      I could just add, too, if there is a motion  
18      that you adopt it tonight, or next Tuesday for  
19      that matter, that not only are you under  
20      duress for the timetable because of the  
21      lateness of the rules and the fact that  
22      they're not completed, but the fact that also  
23      you would not have in this plan an alternate  
24      treatment facility were it not for the fact  
25      that we want to have a viable plan and you do

1 not want to be in default and be subject to a  
2 builder's remedy. Making it very clear that  
3 that's the only reason that you've done that.

4 CHAIRMAN NEWMAN: I'm sure  
5 between now and next Tuesday, if we put it off  
6 to Tuesday, as we all think about what we will  
7 do on Tuesday, we're going to have, if that  
8 cyclet system is still in the mix, we're going  
9 to have every possible reservation to make --  
10 we'll all have every possible reservation put  
11 on the record if that's what we're left to  
12 vote on.

13 But, in the meantime, perhaps an  
14 extension will be in the cards and we'll,  
15 hopefully, be responsive to what we heard  
16 tonight and put every chance...

17 I spoke more than I should have.  
18 In any event, so we're back to what we said,  
19 it would be appropriate to have a motion from  
20 somebody on the Board to talk about any of the  
21 matters I had discussed, or take a different  
22 direction.

23 And that motion would, of course,  
24 need a second, conversation between the board,  
25 and then we would have a roll-call vote as we

1 always do.

2 Would someone like to proffer a  
3 motion this evening?

4 MR. PEPE: I'll make a motion to  
5 extend our vote due to the extent of -- how do  
6 I word this -- I'll make a motion to extend  
7 our meeting until Tuesday when we'll have an  
8 opportunity to hopefully gain some more  
9 information from other people.

10 What else needs to be added to  
11 this?

12 UNIDENTIFIED SPEAKER: Will we  
13 have a public portion?

14 MR. PEPE: So the deadline for --  
15 oh, subject to --

16 MAYOR GRBELJA: The deadline  
17 changing.

18 MR. PEPE: -- subject to the  
19 deadline changing.

20 Is that wordy enough? You tell  
21 me. You're the lawyer, right?

22 BOARD ATTORNEY: Essentially  
23 you're making a motion to carry this meeting  
24 to Tuesday -- the motion is to adjourn this  
25 meeting until Tuesday, December 16th, 2008.

1                   You need to give me a time and a  
2                   place.

3                   MR. PEPE: 7 o'clock, here.

4                   BOARD ATTORNEY: 7:00 p.m.

5                   BOARD SECRETARY: Are we going to  
6                   have to see if our gentleman is going to be  
7                   here to televise this? I may not have that  
8                   availability to us.

9                   Mr. Gilman?

10                  VIDEOGRAPHER: I don't have my  
11                  calendar here.

12                  MR. PEPE: Well is the municipal  
13                  building open?

14                  BOARD SECRETARY: The municipal  
15                  building has court on Tuesdays.

16                  MR. PEPE: Anybody want to offer  
17                  up their house?

18                  CHAIRMAN NEWMAN: Hold on. So  
19                  did we agree that this facility is open?

20   - - -

21   (Unidentified, unintelligible  
22   voices from speakers in the public.)

23   - - -

24                  CHAIRMAN NEWMAN: Hold on,  
25                  everyone has got to be quiet for another few

1 minutes. Sorry about that.

2 BOARD SECRETARY: Tuesday, this  
3 building, 7 o'clock. Mr. Gilman will be here,  
4 we can have it here.

5 CHAIRMAN NEWMAN: So that's a  
6 yes?

7 BOARD SECRETARY: That's a yes.

8 &&& CHAIRMAN NEWMAN: And we're not  
9 adjourning this meeting, we are carrying this  
10 application.

11 BOARD ATTORNEY: This topic, yes.  
12 You'll need a second on that.

13 And before you take a vote, I  
14 think you should inquire -- you inquired of  
15 the board members as to availability on the  
16 17th, you didn't as to the 16th.

17 You did for the 16th, as well?

18 MR. PEPE: Quick hand, 16th, yes  
19 or no? I can't see everybody. Does that make  
20 it?

21 BOARD SECRETARY: We have a  
22 quorum.

23 CHAIRMAN NEWMAN: Are you  
24 available on Tuesday the 16th?

25 MR. PEPE: Yes.

1                   BOARD SECRETARY:  And our  
2 professionals, as well?

3                   BOARD PLANNER:  I am.

4                   MR. PEPE:  Yes.

5                   CHAIRMAN NEWMAN:  And our  
6 attorney will get an alternate.

7                   BOARD SECRETARY:  Mr. Shafai?

8                   MR. PEPE:  Matt?

9                   BOARD ENGINEER:  Do I have any  
10 choice?

11                   MR. PEPE:  No.  I just would like  
12 to preface my motion with I challenge --  I  
13 challenge the people in this audience who seem  
14 to be defending it, to come up with a viable  
15 plan.

16                   I really believe that this board  
17 heard outstanding testimony from our  
18 professionals.  And I am lead, as a person  
19 who's going to cast a vote, to believe that  
20 our professionals are correct saying that a  
21 lot and block is needed.  That the black  
22 letter of the law, however it was worded,  
23 needs to be filed, based on Rich's  
24 professional opinion.

25                   Nobody, nobody at all has come to

1 me with even close the credentials that he  
2 has. So let's all agree that we're going to  
3 go by what we believe to be true from our  
4 professionals --

5 UNIDENTIFIED SPEAKER: We don't  
6 have to agree with that.

7 UNIDENTIFIED SPEAKER: I'm not  
8 agreeing with that.

9 CHAIRMAN NEWMAN: We're not  
10 talking at individuals.

11 MR. PEPE: You know what,  
12 indirectly I am talking to you because I'm  
13 asking you to come up with a plan.

14 We have a plan that seems to  
15 work. We believe that we can satisfy -- shake  
16 your head yes, shake your head no.  
17 Nonetheless, though, it is what it is.

18 So, please, Evan, you have been  
19 very instrumental in this. You seem to know  
20 landowners who seem to be willing to  
21 participate. I'm calling you out. I'm asking  
22 for your help.

23 MR. MALTZ: We're coming forward  
24 to step up to the plate.

25 (Audible applause.)



1 MR. PEPE: Yes, it does.

2 CHAIRMAN NEWMAN: We have a  
3 motion. One of the longest motions in our  
4 history.

5 Do we have a second?

6 MR. KURZMAN: I'll second that.

7 CHAIRMAN NEWMAN: Is there any  
8 further discussion or comment from anyone on  
9 the Board?

10 MR. PEPE: Seeing none...

11 CHAIRMAN NEWMAN: Seeing none,  
12 Mr. Vice-Chair...

13 Seeing none --

14 MR. BLANCO: I have a question.  
15 Are you going to have a public comment portion  
16 on that night?

17 CHAIRMAN NEWMAN: No. The public  
18 comment portion has been closed.

19 MR. BLANCO: Next Tuesday it's  
20 just a vote?

21 CHAIRMAN NEWMAN: Just a vote,  
22 yes. Seeing none, Pam, would you call the  
23 roll?

24 BOARD SECRETARY: Mr. Pepe?

25 MR. PEPE: Yes.

1 BOARD SECRETARY: Mr. Kurzman?

2 MR. KURZMAN: Yes.

3 BOARD SECRETARY: Mr. Blanco?

4 MR. BLANCO: Yes.

5 BOARD SECRETARY: Mr. Pado?

6 MR. PADO: Yes.

7 BOARD SECRETARY: Ms. Pinney?

8 MS. PINNEY: With tremendous

9 reluctance, yes.

10 BOARD SECRETARY: Mr. Weintraub?

11 MR. WEINTRAUB: Yes.

12 BOARD SECRETARY: Mr. Sico?

13 COUNCILMAN SICO: Yes, with a

14 comment that we make our decision next week.

15 BOARD SECRETARY: Ms. Grbelja?

16 MAYOR GRBELJA: Yes.

17 BOARD SECRETARY: And Chairman

18 Newman?

19 CHAIRMAN NEWMAN: Yes.

20 CHAIRMAN NEWMAN: Thanks

21 everyone.

22 We have to now continue, despite

23 the lateness of the hour and us all working a

24 full day, the board has to continue with the

25 business of the board.

1                   If you're leaving, do so quickly  
2                   and quietly. Thank you.

3                   Pam, any problem with us pushing  
4                   off the minutes to our next meeting?

5                   BOARD SECRETARY: No, there won't  
6                   be any problem with that.

7                   CHAIRMAN NEWMAN: As the  
8                   privilege of the chair we are going to put off  
9                   adopting our minutes that's on the agenda  
10                  until our next meeting.

11                  The next thing on our agenda, is  
12                  Resolution PO8-11 and PO8-10, Perl Acres North  
13                  and South. I think they have been  
14                  distributed.

15                  Does anyone like to make a motion  
16                  to adopt those two resolutions? And we'll do  
17                  them...

18                  MR. PEPE: I'll make a motion to  
19                  adopt those two resolutions.

20                  CHAIRMAN NEWMAN: Is there a  
21                  second?

22                  MR. KURZMAN: Second.

23                  CHAIRMAN NEWMAN: All right, we  
24                  have a second. Any comments or suggested  
25                  revisions?

1                   BOARD SECRETARY: Who made the  
2 motion on that?

3                   MR. PEPE: I did. Mr. Kurzman  
4 seconded.

5                   CHAIRMAN NEWMAN: Hey, Scott,  
6 and everybody else, give us a quiet moment,  
7 please?

8                   BOARD SECRETARY: Chris, you  
9 weren't available for Perl Acres. You need a  
10 motion...

11                  CHAIRMAN NEWMAN: Would anyone  
12 else want to?

13                  MAYOR GRBELJA: I'll make the  
14 motion.

15                  CHAIRMAN NEWMAN: We have a  
16 motion by Nancy.

17                  BOARD SECRETARY: Mr. Kurzman on  
18 the second?

19                  CHAIRMAN NEWMAN: Mr. Kurzman on  
20 the second. Any further comment or  
21 discussion?

22                  Seeing none, all in favor of the  
23 resolution say aye -- sorry, roll-call vote,  
24 Pam. Sorry, board.

25                  Call vote, Pam.

1 BOARD SECRETARY: Yes, sir.

2 Ms. Grbelja?

3 MAYOR GRBELJA: Yes.

4 BOARD SECRETARY: Mr. Kurzman?

5 MR. KURZMAN: Yes.

6 BOARD SECRETARY: Mr. Pado?

7 MR. PADO: Yes.

8 BOARD SECRETARY: Ms. Pinney?

9 MS. PINNEY: Yes.

10 BOARD SECRETARY: Mr. Weintraub?

11 MR. WEINTRAUB: Yes.

12 BOARD SECRETARY: Mr. Beck?

13 MR. BECK: Yes.

14 BOARD SECRETARY: Mr. Rundella?

15 MR. RUNDELLA: Yes.

16 BOARD SECRETARY: Chairman

17 Newman?

18 CHAIRMAN NEWMAN: Yes. I

19 understand the Resolution PO8-07, St. Joseph's

20 Church, is being adjourned to next meeting.

21 There's some items the applicant has to take

22 care of.

23 BOARD ATTORNEY: A condition of

24 the Board's acting on the resolution was that

25 the applicant provide us with a confirmation

1 as to the agreements with the adjacent  
2 property owners who were securing some  
3 property. That documentation has not yet been  
4 submitted.

5 CHAIRMAN NEWMAN: Thank you.  
6 That will be held until January, next regular  
7 meeting. We consider Tuesday to be a Special.

8 I'm skipping around to New  
9 Business. We're going to table that to our  
10 next meeting, unless somebody has an  
11 objection.

12 Last, we also have to address the  
13 Millstone Township Master Plan and Zoning  
14 Regulations to figure our Re-Examination  
15 report. We have received the report by Mr.  
16 Coppola, and I think that was dated December  
17 9th.

18 BOARD PLANNER: Yes. Real  
19 quickly, members of the Board, this report is,  
20 first part of it, essentially you have to  
21 adopt re-examination every six years. This  
22 report is more administrative. It recommends  
23 no changes that will be forthcoming next year.  
24 You'll have a re-examination report but this  
25 outlines areas that we are indeed updating and

1 that will come out in the forthcoming report.

2 So this is really just to meet  
3 the letter of the statute that you have for  
4 Re-examination Report adopted every six years.

5 CHAIRMAN NEWMAN: Thank you. Any  
6 questions from the Board? Seeing none, no  
7 further questions, thank you, Mr. Coppola, for  
8 taking care of this in such a busy time for  
9 yourself and the Township.

10 I'm going so fast, would someone  
11 like to make a motion to adopt the Master Plan  
12 and Development Regulation Periodic  
13 Re-Examination Report, dated December 9th,  
14 2008?

15 MR. BLANCO: I will.

16 MR. PEPE: I'll second.

17 CHAIRMAN NEWMAN: Motion and  
18 second. Any comment or further discussion  
19 from anyone on the Board? Seeing none, Pam,  
20 would you call the roll?

21 BOARD SECRETARY: Mr. Blanco?

22 MR. BLANCO: Yes.

23 BOARD SECRETARY: Mr. Pepe?

24 MR. PEPE: Yes.

25 BOARD SECRETARY: Ms. Grbelja?

1 MAYOR GRBELJA: Yes.

2 BOARD SECRETARY: Mr. Sico?

3 COUNCILMAN SICO: Yes.

4 BOARD SECRETARY: Mr. Kurzman?

5 MR. KURZMAN: Yes.

6 BOARD SECRETARY: Mr. Pado.

7 MR. PADO: Yes.

8 BOARD SECRETARY: Ms. Pinney?

9 MS. PINNEY: Yes.

10 BOARD SECRETARY: Mr. Weintraub?

11 MR. WEINBERG: Yes.

12 BOARD SECRETARY: Chairman

13 Newman?

14 CHAIRMAN NEWMAN: Yes. Thank

15 you. Thanks, everyone.

16 Unless there's anything else,

17 there's a motion on the table for an

18 adjournment?

19 MAYOR GRBELJA: Make the motion.

20 CHAIRMAN NEWMAN: A motion and a

21 second?

22 MR. KURZMAN: Second.

23 CHAIRMAN NEWMAN: Anyone opposed

24 wishes to stay the night.

25 (Hearing concluded at 11:40 p.m.)

## 1 C E R T I F I C A T E

2

3 I, ANGELA C. BUONANTUONO, a Shorthand  
4 Reporter and Notary Public for the State of  
5 New Jersey, certify that the foregoing is a  
6 true and accurate transcript of the hearing of  
7 said witness(es) who were first duly sworn by  
8 me, on the date and place herein before set  
9 forth.

10 I FURTHER CERTIFY that I am neither  
11 attorney nor counsel for, nor related to or  
12 employed by, any of the parties to the action  
13 in which this hearing was taken, and further  
14 that I am not a relative or employee of any  
15 attorney or counsel employed in this action,  
16 nor am I financially interested in this case.

17

18

19

20

21 \_\_\_\_\_  
ANGELA C. BUONANTUONO  
22 Shorthand Reporter

23

24

25