COLTS NECK TOWNSHIP
TOWNSHIP COMMITTEE REGULAR MEETING MINUTES
MAY 22, 2024, 7:00 P.M.
CONOVER ROAD PRIMARY SCHOOL

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1. Mayor Rizzuto called the meeting to order at 7:00 p.m.

2. Mayor Rizzuto asked everyone to join him in the salute to the flag.

3. Administrator Capristo read the following Sunshine Statement: "The notice requirements of the New Jersey Public Meetings Law have been satisfied by noticing the Asbury Park Press on April 3, 2024, stating that a regular meeting of the Township Committee would be held on May 22, 2024, at 7:00 p.m., Conover Road Primary School, 56 Conover Road, Colts Neck, NJ 07722, Town Hall. A copy is on file in the office of the Township Clerk."

4. Roll call by Municipal Clerk Lindsey indicated the following:

Present:	Mayor Frank Rizzuto, Deputy Mayor Tara Torchia Buss, Committeeman Michael Viola, Committeeman J.P. Bartolomeo and Committeewoman Sue Fitzpatrick
Also Present:	Kathleen Capristo, Township Administrator, Trina Lindsey, Municipal Clerk, Meghan Bennett, Township Counsel, Thomas Trautner, Affordable Housing Attorney, Beth McManus, Affordable Housing Professional Planner, David Puchalski, Chemical Engineer/Affordable Housing Consultant
Absent:	None

5. **Approval of minutes:**

   a. May 8, 2024 – Executive Session
   b. May 8, 2024 – Regular Meeting

   Mayor Rizzuto called for a motion to approve. On a motion by Committeeman Bartolomeo, seconded by Deputy Mayor Buss and a unanimous roll call vote, the minutes were approved as presented.

RECORD OF VOTE					
	M S	Yes	No	NV	Ab
Mayor Rizzuto		X			
Deputy Mayor Buss	S	X			
Viola		X			
Bartolomeo	M	X			
Fitzpatrick		X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent					

6. **New business:**

   a. Approval of Vouchers

   Committeeman Viola stated that he reviewed all of the vouchers and found all to be in order. Committeeman Viola made a motion to approve the bill list.

   Mayor Rizzuto called for a second to Committeeman Viola's motion, seconded by Committeewoman Fitzpatrick and a unanimous roll call vote, the bills list was approved.

RECORD OF VOTE					
	M S	Yes	No	NV	Ab
Mayor Rizzuto		X			
Deputy Mayor Buss		X			
Viola	M	X			
Bartolomeo		X			
Fitzpatrick	S	X			
M - Moved S - Seconded X - indicates vote NV - Not Voting Ab - Absent					

Mayor Rizzuto recuses from any bills/vouchers in connection with the Colts Neck Fire Department.

Deputy Mayor Buss recuses from any bills/vouchers in connection with the shared municipal court with Holmdel Township.

Committeeman Viola recuses from any bills/vouchers in connection with Best Horticultural and Joleen Landscaping.

7. **Affordable Housing Presentation:**

Committeeman Viola, Tom Trautner, Affordable Housing Attorney, Beth McManus, Affordable Housing Professional Planner and David Puchalski, Chemical Engineer/Affordable Housing Consultant presented a presentation to the members of the public. Committeeman Viola noted that the presentation would be available on the Colts Neck Township website the following morning. The presentation can be found on the township website at: https://cdn.townweb.com/coltsneck.org/wp-content/uploads/2024/05/Affordable_Housing_Presentation_May_22_2024.pdf

Committeeman Viola gave an update on the round III obligations and provided an introduction of A4/S50 Round IV obligation.

Mr. Trautner explained to the public that every municipality in the state of New Jersey has a constitutional obligation to create zoning that would allow for affordable housing development for low- and moderate-income persons and families. Mr. Trautner explained that the Township Committee and the professionals held this meeting to keep the public informed about the laws which are ever changing.

Mr. Trautner stated that a group of concerned residents submitted to the Governing Body a report that was created by TRC Companies. Mr. Trautner stated that there have been allegations made that the Township Committee should take action to stop the Colts Neck Manor project. Mr. Trautner explained that he does not recommend that the Township take any action to attempt to stop the Colts Neck Manor project. Mr. Trautner stated that in order for the township to move towards a judgment of compliance, the township had to enter into a settlement agreement and explained that a builder's remedy lawsuit would be filed if the township attempted to stop the project. Mr. Trautner explained to the public what a builder's remedy lawsuit is and explained that the township would lose control over its zoning if that happened.

Mr. Puchalski discussed the concern of the residents in regard to the septic system for the Colts Neck Manor project and the concern of the system failing. Mr. Puchalski stated that discharge for septic is regulated by the EPA and explained the process the applicant and the applicant's professional must take to obtain permits from the NJDEP. Mr. Puchalski stated that the Township Committee does not have any jurisdiction over the design and approval of the wastewater system as that is all NJDEP's jurisdiction. Mr. Puchalski stated that every wastewater system comes with safety factors. Mr. Puchalski stated that once the system is built, a wastewater treatment operator is assigned to that location and monitors and maintains the system. Mr. Puchalski also spoke about the concern in the TRC report about forever chemicals. Mr. Puchalski stated that the proposed wastewater system for the Colts Neck Manor project does not treat for forever chemicals and stated that there are no mandates in the state of New Jersey to treat forever chemicals and stated that no other project in the state is required to treat forever chemicals.

Upon completion of the affordable housing slide presentation, Mayor Rizzuto explained that the floor would be opened to the public for a question-and-answer session.

8. **Public Comment:**

Mayor Rizzuto called for a motion to open public comment. On a motion by Committeeman Viola, seconded by Committeeman Bartolomeo and a unanimous voice vote, public comment was opened.

Kedar Phadke, resident, stated that the residents in attendance are in attendance because they care about the town. Mr. Phadke stated that the residents put together their hard-earned money to hire a professional to produce the report from TRC Companies. Mr. Phadke stated that the residents want the town to fight the project and if fighting the project fails the residents will not blame the Governing Body. Mr. Phadke stated that he looked around the room and sees two Attorney's, a Planner, an Engineer and three police officers to prevent the residents from speaking their voice. Mr. Phadke spoke about the Planning Board meetings that took place in 2021 for this project and stated that the town dropped the ball and did not ask questions. Mr. Phadke stated that he hopes the Township Committee will take the residents' views into account when making decisions.

Frank Lecesse, resident, asked if any work has been done to determine the population of residents once the Colts Neck Manor project is built and what effect that will have on the resident's taxes.

Committeeman Viola responded to Mr. Lecesse stating that the township knows how many three-bedroom, two bedroom, etc. apartments there will be, but the township does not have a specific number and won't have that answer until the property is built and the township knows how many residents will live there.

Mr. Lecesse spoke about doing the calculation on a basis of 1,000 residents which he stated seems appropriate. Mr. Lecesse asked if the Builders Remedy Lawsuit has ever been challenged as unconstitutional.

Mr. Trautner responded to Mr. Lecesse stating that it has been challenged and has not been won by any municipality and stated that if the township lost, the number of units the developer could build could change as well as the township would lose control of its zoning and planning.

Dan Buzzetta, resident, stated that the Township of Millburn was raised as an example in a previous affordable housing and asked if there is any update on that town and if they legally fought the proposed project in their town.

Mr. Trautner responded stating that Millburn Township ultimately decided to accept the settlement agreement to which many residents were unhappy with that decision as well. Mr. Trautner stated that newly elected officials for the township promised residents to get the town out of the settlement agreement. Mr. Trautner stated that the township was hit with legal fees and is in the process of going through the Superior Court where a Special Master will decide the zoning for Millburn.

Diana Hnat, resident, asked if the septic system for the Colts Neck Manor project fails who is financially responsible to repair the system.

Mr. Puchalski responded stating that the project is projected to be all rental units therefore the financial responsibility would fall on the owner of the property.

Matthew Jenkins, resident, spoke about having a background in construction and stated that the developer will only have a certain amount of funds in an insurance policy. Mr. Jenkins stated that the town will end up being financially responsible if the system fails and the developer doesn't have the sufficient amount of funds in an insurance policy to repair the system.

Mr. Trautner responded stating that the township can insist on whatever funds and guarantees that are permissible by law. Mr. Trautner stated that the township cannot

require additional insurance or additional guarantees and stated that there are laws that prohibit that.

Mr. Puchalski stated that if a septic system fails, it fails slowly. Mr. Puchalski explained that with a system such as the one proposed by Colts Neck Manor if one system failed, there would be eleven others working while that one system was repaired.

Mr. Jenkins asked if the township has a professional on its side that is reading the TRC Companies report and its findings. Mr. Puchalski replied stating that he is that professional for the township.

Roseann Scotti, resident, stated that she has never been so disappointed in the Governing Body as she has been the last several years. Ms. Scotti stated that when the Colts Neck Manor project was introduced years ago, the residents raised concerns at that time. Ms. Scotti stated that she has read through the State plan and the Monmouth County plan and stated that Colts Neck Township should not be zoned for sewer systems or high-density housing. Ms. Scotti asked Tom Trautner if he is an environmental attorney. Ms. Scotti stated that the residents have to sit there and listen to someone who isn't an environmental attorney pick apart the TRC Companies report that the residents dug in their pockets and paid to have produced. Ms. Scotti stated that there are things that the township can do, and the town needs to hire the appropriate professionals to do them.

Marie Tilton, Freehold resident, asked if a traffic study has been conducted for the Colts Neck Manor project. Ms. Tilton spoke about the traffic impact when The Grande was built and how it created traffic issues for those who cannot get out of their driveways. Ms. Tilton also spoke about the traffic impact when the Route 18 overpass was built.

Committeeman Viola responded stating that the applicant presented a traffic study during their application process. Committeeman Viola stated that the Colts Neck Manor project will have roughly 686 parking spaces. Committeeman Viola also stated that Route 537 is a County Road and Colts Neck does not have jurisdiction.

Committeeman Bartolomeo stated that he and Committeeman Viola were on the Colts Neck Planning Board zoom meetings when the Colts Neck Manor project was before the County Planning Board. Committeeman Bartolomeo stated that he did ask questions regarding the traffic impact and was told that Colts Neck did not have jurisdiction over the County Road.

Committeeman Viola stated that the township asked for the speed limit to be reduced and also requested a bond which was all denied, and the township was told that the speed limit could actually legally increase.

Marianne Cucolo, resident, asked Beth McManus what the term regional income means.

Ms. McManus responded stating that in New Jersey the income limit for affordable housing is based on the region that the affordable housing units are located in. Ms. McManus explained that Colts Neck is in region 4 which includes Monmouth County, Mercer County and Ocean County. Ms. McManus then gave examples of family sizes and income requirements to qualify for affordable housing.

Ms. Cucolo commented that she was disappointed because she thought the meeting was to review what the next phase of affordable housing obligation would be like. Ms. Cucolo stated that instead the meeting was more to shake a finger at the residents for the TRC Companies report. Ms. Cucolo spoke about forever chemicals that cause cancer. Ms. Cucolo stated that during the application process for Colts Neck Manor Mr. Kushner stated that the wastewater treatment plant would not have an operator on site over the weekends and that there will be an alarm system. Ms. Cucolo stated that Colts Neck is the test project for New Jersey. Ms. Cucolo stated that she had hoped that the TRC Companies report would be read by the NJDEP. Ms. Cucolo stated that she hoped that everyone would see from the TRC Companies report that we can make this

system better. Ms. Cucolo asked what everyone will say when the system fails, and the water is contaminated.

Kevin O'Brien, resident, stated that it has been just about one year's time since a committeeman raised his middle finger towards him during a meeting. Mr. O'Brien stated that the gesture from the committeeman has not silenced him. Mr. O'Brien asked the Township Committee to explain why they will not record meetings. Mr. O'Brien stated that the back-and-forth engagement during public comment is a nice change, and he hopes this will continue for future Township Committee meetings. Mr. O'Brien asked for a status in regard to warning notices from the police department for violators of parking rules. Mr. O'Brien stated that the Township Administrator is a well-paid employee, however, there are times that Report of Concerns are submitted and go unanswered. Mr. O'Brien stated that he was appalled that Ms. Capristo directed the Health Director, Tom Frank, not to engage with him. Mr. O'Brien stated that as for the Colts Neck Manor project he takes no position for or against the project, however, the township may want to consider the Supreme Court decision Sackett v. EPA. Mr. O'Brien stated that during the March 11, 2020, meeting on affordable housing Committeeman Viola stated that the final number of units would be 180 and has now stated that the round IV obligation could be as high as 1,000 units. Mr. O'Brien presented some math calculations regarding traffic and trips per day. Mr. O'Brien then commented on potential issues with the millions of gallons of water that will come from the aquifer stating how can Colts Neck handle that amount of water coming out of the aquifer without it affecting the wells. Mr. O'Brien spoke about the impact on the schools stating that it will be an approximate increase of 478 children to the schools and the approximate cost to educate those children is around $12 million dollars.

Committeeman Viola responded stating that the legislation for the round IV obligation just came in a few weeks ago and he does not recall ever stating that the obligation could be up to 1,000 units. Committeeman Viola stated that the wells of current residents will not be affected because the water sources are public and will come from Freehold for Charleston Meadows and Marlboro for Colts Neck Manor.

There was a back-and-forth exchange between Mr. Kevin O'Brien and Committeeman Viola regarding the number of units and the March 11, 2020 meeting minutes. Mayor Rizzuto mentioned to Mr. O'Brien that his public comment exceeded the four minutes allowable to each person. Mayor Rizzuto stated that there was a room full of people present and that Mr. O'Brien has made public comment for over seven minutes. Mr. O'Brien refuted stating that he received an email from Administrator Capristo stating that the four minute rule was waived for this meeting.

Elaine Mann, resident, asked when the wastewater system fails for the Colts Neck Manor project where will the residents of those units be placed and asked is there a contingent plan to house those residents that would be displaced. Ms. Mann stated that she received a response of no responsive documents for an OPRA request that she submitted requesting documentation in regard to the 20 to 1 acre exchange for the new municipal building. Ms. Mann stated that she and her husband were able to obtain the document from the state. Ms. Mann stated that a lot of senior citizen residents were unable to attend the meeting tonight and the Township Committee does not record their meetings. Ms. Mann questioned why Administrator Capristo is reimbursed for a Zoom account expense if the committee is not recording their meetings. Ms. Mann asked why the Township Committee cannot offer zoom meetings to the public. Ms. Mann noted several items on the bills list.

Bill Tipton, resident, stated that the reality is that there is language in contracts and insurance policies that limits the owner's responsibility when something like the wastewater system fails. Mr. Tipton stated that would put the burden on the residents of Colts Neck. Mr. Tipton asked since the NJDEP is the one who approved the proposed wastewater treatment system, do they have any liability if the system fails.

Tom Trautner responded stating that he is unaware of any situation in the state where that scenario has come up for the NJDEP.

Dave Puchalski responded to Mr. Tipton stating that septic systems are not catastrophic failures. Mr. Puchalski explained in detail that when a system is failing, and the water

rises there are alarm systems in place to notify the operator of the issue. Mr. Puchalski explained that a Professional Engineer has to certify the As Built design of the plan and stated that there is also an operations plan and a field failure plan and power plan that are all monitored and maintained.

Mr. Tipton asked where he could find the criteria for those plans.

Mr. Puchalski reviewed the permitting process for the NJDEP and stated that those permits are available to the public from the NJDEP.

Mr. Tipton stated that he does not have much confidence in the people who work in the public sector and asked when those permits will be made available to the public by the NJDEP.

Mr. Puchalski explained that Mr. Tipton can contact the NJDEP and asked to be notified when the permits are issued and ask when testing will be conducted.

Mr. Tipton stated to Beth McManus that the percentages that she reviewed in the slides during the presentation the math does not add up correctly.

Ms. McManus explained that 50% of the units have to be for a family and 25% must be rentals as well as half of the rental units must be for a family. Ms. McManus explained that the math does not follow typical math as it becomes percentages of percentages.

Deputy Mayor Buss stated that she is disappointed that many residents walked into the meeting upset, angry and making their own judgments. Deputy Mayor Buss stated that she sat in the audience just like the residents in attendance and questioned things that were happening in the town. Deputy Mayor Buss spoke about being on the township committee now and the number of hours the Governing Body members have dedicated to affordable housing. Deputy Mayor Buss stated that the Governing Body does the best that they can with the information they have at the time. Deputy Mayor Buss stated that the Governing Body appreciates the members of the public in attendance and stated that we all live in Colts Neck and are all impacted by the development of affordable housing. Deputy Mayor Buss stated that this cannot be a concept of "Us v. Them", stating that everyone needs to work together. Deputy Mayor Buss thanked the professionals for their work and guidance and stated that the professionals hired by the township are on our side.

Committeeman Viola stated that this should be a collaborative effort with the public stating that the Governing Body members live in Colts Neck too and have the same vested feelings that the public has.

Christine Tipton, resident, asked if the new legislation addresses adjustments to housing as for military bases and spoke about Colts Neck having Naval Weapons Station Earle and that the military base is not included in Colts Neck's calculations, however the township does not receive any credit for having a military base.

Committeeman Viola stated that he does not believe the legislation specifically addresses obligation regarding military.

Ms. Tipton asked if it is common practice for the NJDEP to approve self-certified plans from a developer.

Mr. Puchalski stated that the developer is not certifying the plan, it is their professionals who will certify the plan.

Elaine Mann, resident, asked if everyone in the audience would consider signing a petition for volunteer emergency responders to receive additional benefits.

Roseann Scotti, resident, commented that the Township Committee just spoke about this being a collaborative effort with the public and stated that the TRC Companies report was supposed to be just that. Ms. Scotti stated that the TRC Companies report contradicts the NJDEP approving the self-certified developer's wastewater treatment plan. Ms. Scotti stated that the Colts Neck Manor project is a bomb for this town.

Joseph Visci, resident, thanked the Governing Body for their efforts and stated that the law is the law. Mr. Visci stated that he believes if the township took the TRC Companies report and fought the project the state would look at that as though the town is trying to undermine the obligation.

Committeewoman Fitzpatrick stated that the Governing Body understands the anger of the residents and stated that they are all angry as well, however, there are laws that have to be followed. Committeewoman Fitzpatrick stated that this is a mandate, and the township is trying to find the best way to meet our obligation. Committeewoman Fitzpatrick stated that she is in favor of farmland preservation and that is why her family chose to move to Colts Neck.

Committeeman Viola reiterated that the Mt. Laurel decision and doctrine states that every municipality must create zoning for fair and affordable housing.

Vince Scotti, resident, stated that the Governing Body is mixing the two issues together stating that the residents understand the obligation and the mandate of affordable housing, however, it is the Colts Neck Manor application that the residents do not agree with. Mr. Scotti accused the Governing Body of dropping the ball during the application process and doing more to stop it.

Mayor Rizzuto stated that the characterization that the citizens of Colts Neck have handed the Governing Body this golden ticket, the TRC Companies report, and the Governing Body is doing nothing with it is an unfair characterization. Mayor Rizzuto stated that the township is limited in what they can do. Mayor Rizzuto stated that this legislation and mandate comes from the state and encouraged everyone to vote. Mayor Rizzuto spoke about the fact that there aren't any municipalities that have fought the Mt. Laurel doctrine and won their case, which losing would result in the township losing control over zoning and planning.

Committeeman Bartolomeo gave a history on the property where the Colts Neck Manor project will be built.

Tom Trautner stated that the township cannot use the TRC Companies report to stop the Colts Neck Manor project.

Ruben Pritcher, resident, stated that what he is hearing from the residents is that we want the Colts Neck Manor project to be safe for all of the residents of Colts Neck.

Mayor Rizzuto responded to Mr. Pritcher asking does he believe that the Governing Body members wish for the town to be unsafe.

Tom Papalilla, resident, asked if there are calculations in the wastewater treatment plan for the amount of garbage and things like left over dinner that will be flushed into the system as well. Mr. Papalilla stated that he is from Brooklyn and people would be surprised at the amount of garbage that goes into the system.

Dave Puchalski responded stating that is a part of the maintenance plan.

Mayor Rizzuto announced that the meeting has a hard stop time of 10:00 p.m. and the meeting has reached that time.

Committeeman Viola stated that there is a tripod set up at the entrance of the room with a QR code to sign up for news and notices on the township website and urged residents to sign up.

As there were no further comments and/or questions from the public, Mayor Rizzuto called for a motion to close public comment. On a motion by Deputy Mayor Buss, seconded by Committeeman Viola and a unanimous voice vote, public comment was closed.

9. **Adjournment:**
As there was no further business, Mayor Rizzuto called for a motion to adjourn. On a motion by Deputy Mayor Buss, seconded by Committeewoman Fitzpatrick and a unanimous voice vote, the meeting adjourned at 9:58 p.m.

Trina Lindsey, RMC
Municipal Clerk

APPROVED: 06/12/24