MONTGOMERY TOWNSHIP COMMITTEE
SPECIAL MEETING
MONDAY, JANUARY 27, 2025
12:00 P.M.

AGENDA TO THE EXTENT KNOWN

1. **MEETING CALLED TO ORDER**

2. **ROLL CALL** – Singh ( ), Barragan ( ), Keenan ( ), Taylor Todd ( ), Ahn ( )

   ALSO PRESENT – Rubinstein Quiroga ( ), Savron ( ), Fania ( )

3. **NOTICE OF MEETING** – In compliance with the Open Public Meetings Act, adequate notice of this meeting was provided on January 22, 2025 to the Courier News and the Star Ledger, posted on the municipal bulletin board, and filed with the Township Clerk.

4. **SALUTE TO THE FLAG**

5. **PUBLIC COMMENT** – Members of the public wishing to address the Township Committee on matters pertaining to the Township will be limited to three minutes per person. If comments are similar to those already stated, please indicate your support or opposition.

6. **RESOLUTION #25-1-54 – Committing to the Township's Fourth Round Affordable Housing Obligation as Calculated by DCA**

WHEREAS, the Township of Montgomery, County of Somerset, State of New Jersey, (hereinafter the "Township") has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations and obtained a Third Round Judgment of Compliance and Repose thereby immunizing the Township from builder remedy litigation until July 1, 2025, In the Matter of the Application of the Township of Montgomery, County of Somerset, Superior Court of New Jersey, Law Division, Somerset County, Docket No.: SOM-L-924-15; and

WHEREAS, on March 20, 2024, P.L. 2024, c.2 was signed into law which amended the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter "Amended FHA"); and

WHEREAS, the Amended FHA abolished the Council on Affordable Housing, ("COAH"), and delegated its responsibilities to the New Jersey Department of Community Affairs (hereinafter "DCA"), the New Jersey Housing and Mortgage Finance Agency, and the Affordable Housing Dispute Resolution Program (hereinafter "Program"), created by the same law; and

WHEREAS, the Amended FHA requires the DCA to calculate non-binding estimates of fair share obligations on or before October 20, 2024; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the Fourth Round obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA employed three (3) factors to allocate the Regional Need to each applicable municipality: equalized non-residential valuation, income capacity, and land capacity; and

WHEREAS, the DCA Report calculates the Township's Fourth Round (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 73 and a Prospective Need or New Construction Obligation of 260; and

WHEREAS, the Amended FHA provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311(m)); and

WHEREAS, COAH regulations authorize vacant land adjustments, durational adjustments and other adjustments; and

WHEREAS, COAH regulations authorize municipalities to secure an adjustment to their rehabilitation obligation through a windshield survey; and

WHEREAS, based on the foregoing, the Township accepts the DCA calculations of the Township's fair share obligations and commits to its fair share of 73 units present need and 260 units prospective need subject to any vacant land, windshield survey and/or any other additional authorized adjustments it may seek as part of the Housing Plan Element and Fair Share Plan it subsequently submits in accordance with the Amended FHA; and

WHEREAS, the Township reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Township also reserves the right to adjust its position in the event of any rulings in the Montvale case (MER-L-1778-24) or any other such litigation or legislative action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the Township reserves the right to take such position as it deems appropriate in response thereto; and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Township's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish, for example, unchallenged numbers by default on March 1, 2025; and

WHEREAS, in light of the above, the Governing Body of the Township of Montgomery finds that it is in the best interest of the Township to declare its commitment to the obligations reported by the DCA on October 18, 2024 subject to the reservations set forth herein; and

WHEREAS, in addition to the above, the Acting Administrative Director of the Administrative Office of the Court issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the FHA shall file an action in the form of a declaratory judgment complaint . . . . in the county in which the municipality is located . . . . within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner"; and

WHEREAS, the Township seeks a certification of compliance with the Amended FHA and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED on this 27th day of January, 2025 by the Township Committee of the Township of Montgomery, Somerset County, New Jersey as follows:

1. All of the above recitals are incorporated into the operative clauses of this resolution.

2. For the reasons set forth in this resolution, the Township of Montgomery hereby commits to the DCA Fourth Round Present Need Obligation of 73 units and the Fourth Round Prospective Need Obligation of 260 units described in this resolution, subject to all reservations of rights which specifically include:

a) The right to adjust these obligations based on a windshield survey, lack of land, sewer, water, regional planning inputs, or any combination thereof;
b) All rights to revoke or amend this resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA;
c) All rights to take any contrary position in the event of a third party challenge to the obligations.

3. The Township hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in Somerset County within 48 hours after adoption of this resolution, attaching this resolution.

4. The Township authorizes its Affordable Housing Counsel to attach this resolution as an exhibit to the declaratory judgment action that is filed and to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate.

5. The Township hereby directs its Township Clerk to post this resolution on the Township website within 48 hours after adoption of this resolution, attaching this resolution.

6. The Township shall undertake all acts necessary to adopt a Housing Plan Element and Fair Share Plan to address its present and prospective need obligations as provided for by the Amended FHA, for filing by June 30, 2025 as part of the declaratory judgment action authorized herein.

7. This resolution shall take effect immediately, according to law.

MOTION to adopt Resolution #25-1-54 _____ Second _____

ROLL CALL VOTE:

COMMITTEE MEMBER	YES	NO	ABSTAIN	ABSENT
Ahn				
Taylor Todd				
Keenan				
Barragan, Deputy Mayor				
Singh, Mayor				

7. **ADJOURNMENT**

MOTION to adjourn _____ Second _____ Favor_____ Opposed _____