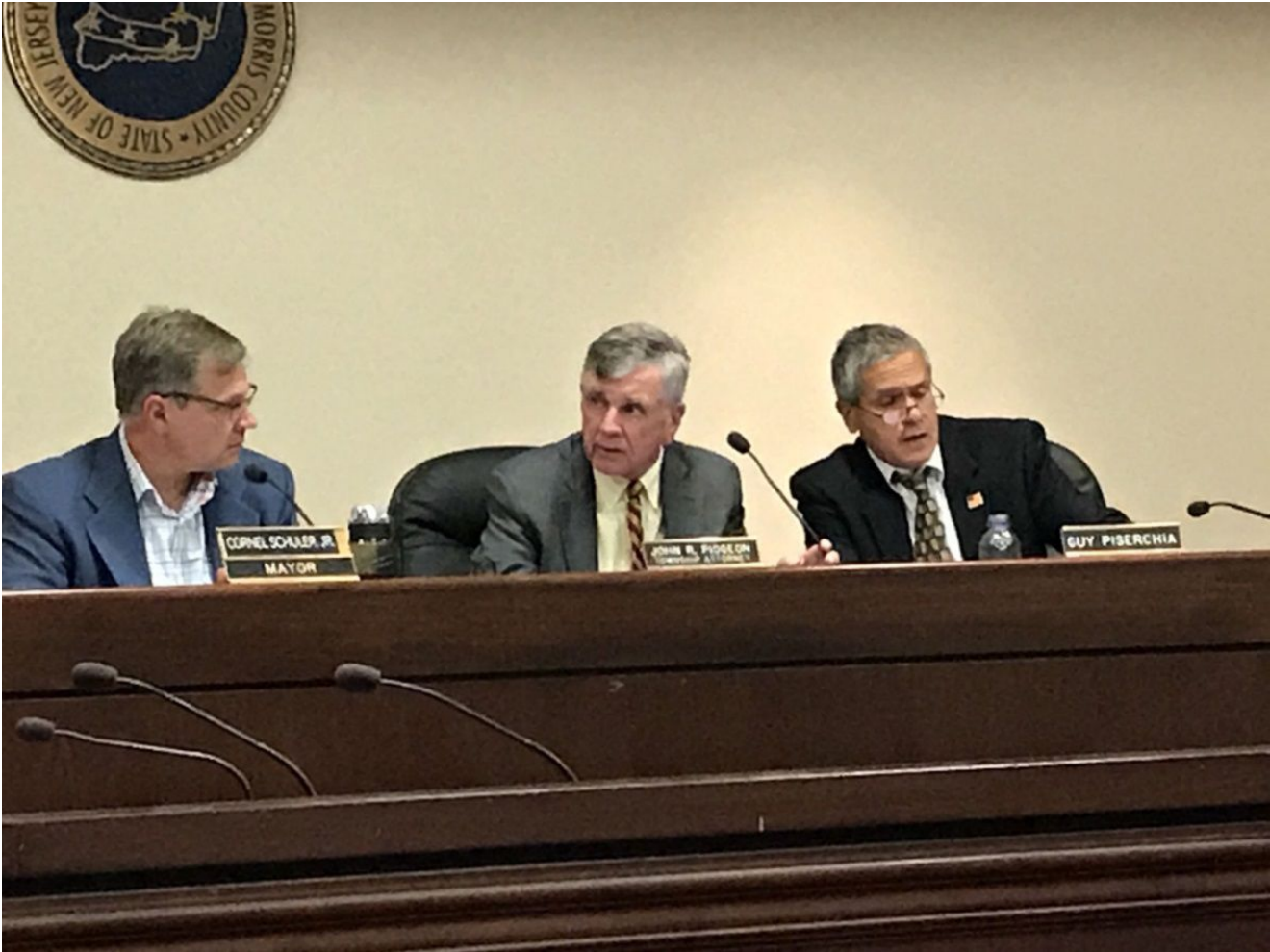


# Echoes~Sentinel



Township Attorney Jack Pidgeon, center, explains the terms of Long Hill's settlement with the Fair Share Housing Center at the Wednesday, Sept. 13, Township Committee meeting. Pidgeon is pictured with Mayor Cornel Schuler, left, and Committeeman Guy Piserchia.

**LONG HILL TWP.** - The township has reached an agreement with the Fair Share Housing Center to settle its state-mandated third round affordable housing obligation.

The agreement, which was approved by the Township Committee at its Wednesday, Sept. 14 meeting, would require the township to accommodate a total of 360 new housing units on four sites around town, of which 54 to 72 units would have to be set aside for affordable housing. To be in compliance, the township would need to provide the zoning to allow for the new housing units; no new units would technically need to be constructed.

If approved in State Superior Court, the deal would protect Long Hill from builder's remedy lawsuits through July 1, 2025, when the third round expires.

The sites identified in the agreement are as follows:

- The 11.5-acre Tifa site on Division Avenue in Millington

- Five lots totaling 7.87 acres on the eastern side of Warren Avenue near the PSE&G right-of-way
- The Valley Road Redevelopment Area, seven lots totaling 4.4 acres on both sides of Valley Road near the Main Avenue intersection
- A 5.15-acre vacant lot located at 617-6121 Valley Road, Gillette, across the street from the strip mall that houses the post office

Under third round affordable housing rules, 15 percent of rental units must be set aside as affordable housing, or 20 percent of for-sale units.

Under the agreement, the township would facilitate the construction of 138 total units at the Tifa site. If a rental complex were built at Tifa, 21 of those units would be reserved for affordable housing. If the complex were entirely comprised of for-sale apartments, 28 of those units would be reserved for affordable housing.

The township would accommodate 94 units on the land off Warren Avenue. Fourteen rental units would be set aside as affordable, or 19 for-sale units.

The Valley Road Redevelopment Area would be zoned to house 66 units, meaning 10 units would be marked as affordable in a rental complex, or 13 if all units were for sale.

The township would accommodate another 62 units at the Valley Road lot in Gillette. Nine rental units would be set aside as affordable, or 12 for-sale units.

### *Sewer Capacity*

Significantly, Fair Share Housing Center and Long Hill have agreed to a “durational adjustment,” in this case meaning the obligation would be deferred until the sewer system can accommodate the new housing units. The township has operated under a voluntary sewer ban since 2000.

The agreement binds Long Hill to provide the necessary sewer capacity for the new units by July 1, 2020. If adequate sewer capacity is not provided by that date, Fair Share can nullify the deal, stripping the township of its immunity.

**Residents are to vote in a Nov. 7 referendum** to either sell the sewer system to the utility company New Jersey American Water for \$11 million, or have the township retain ownership. In the event of a sale, New Jersey American Water would be responsible for increasing capacity. If Long Hill keeps the system, township officials say sewer rates would be immediately raised to pay for the necessary improvements.

### *‘Prospective Need’*

Following two years of litigation and negotiations with Township Attorney Jack Pidgeon and Township Planner Jessica Caldwell, Fair Share Housing Center has placed Long Hill’s “prospective need” at 220 affordable housing units, down from its expert’s original projection of 314 units. Prospective need accounts for the estimation of future housing demand. The difference marks a 30 percent reduction.

Under the agreement, Long Hill would satisfy a sizeable portion of the 220-unit obligation through existing affordable housing units at the Lounsberry Meadow, Chestnut Run and Stirling Manor developments. The township was able to further offset its obligation by extending deed restrictions on age-restricted units at Lounsberry Meadow.

The remainder of the obligation would be satisfied by inclusionary zoning at Tifa, the Valley Road Redevelopment Area, the Warren Avenue site and the Valley Road site in Gillette.

Fair Share found the township has a “present need” obligation of six units, five of which the township has satisfied through a housing rehabilitation program. The township would rehabilitate one more housing unit to comply with the obligation.

### *‘A Bird In The Hand’*

Pidgeon said at Wednesday’s meeting he believed the proposal to be Fair Share’s final offer, “the end of the road.” If the committee were to reject the offer, Pidgeon said, the township could have its immunity revoked and subsequently face a builder’s remedy suit.

In a builder’s remedy suit, a developer would sue the township for failing to allow for the development of affordable housing units. If the developer managed to win the suit, which precedent shows to be the likely outcome, the developer could build a large multi-family housing complex at a much higher density than the township would have ever bargained for. A developer could theoretically build a 1,000-unit complex to satisfy a town’s obligation of 200 affordable units, said Pidgeon, who cited The Hills, the sprawling development in Bedminster that came as a result of such a suit.

“The whole purpose of this settlement is to protect the township against builder’s remedy lawsuits for the next eight years at this point in time,” Pidgeon explained. “So if we don’t have a settlement or an order from the court, builders, property owners would have the right to sue the township and offer to build affordable housing in return for a density bonus.”

The attorney said he and Caldwell, the planner, had participated in at least six in-person settlement conferences with Fair Share over the past two years, in addition to numerous telephone conferences. On top of identifying potential affordable housing locations and densities, he said, Fair Share’s main sticking point was how to proceed with the sewer ban issue.

“It’s not an ideal settlement agreement,” said Pidgeon. “I think it’s the best we could do under the circumstances and, as I said, the motivating factor was to satisfy our legal obligation and at the same time have the least impact on the character of Long Hill Township.”

Committeeman Bruce Meringolo said he believed the deal was “the best of a bad situation,” a sentiment which Committeeman Matthew Dorsi and Deputy Mayor Brendan Rae endorsed as well.

“I think that we are in a situation similar to other municipalities where Fair Share has favor with the court over us and we’ve got to do something,” said Meringolo, “because if we don’t we’re going to open ourselves up for something potentially worse.”

Pidgeon said the Township Committee had previously made the decision not to hitch its hopes to the consortium of towns retaining the services of Richard B. Reading. Reading, a court-appointed special master, has formulated his own obligation estimates for each town in the consortium. Reading’s statewide obligation estimate is drastically lower than that of the Fair Share Housing Center.

The committee decided not to take the risk of the court rejecting Reading’s numbers, Pidgeon said, avoiding in his estimation an expensive, protracted legal process that will likely end up in the State Supreme Court. Even then, Pidgeon said, the Supreme Court could reject Reading’s numbers even if some Superior Court judges have accepted them.

In any case, Mayor Cornel Schuler noted at Wednesday's meeting, the township would be betting on Reading's obligation for Long Hill being significantly lower than 220. Rae noted that a bird in the hand is worth two in the bush.

Rae and Schuler commended the work of Long Hill's professionals throughout the process.

"I think to have a number like 54 when you're negotiating with effectively a gun on the other side of the table is pretty good out of 330," said Schuler.

### *Not Unanimous*

While the committee was unanimously in favor of accepting the settlement, the body was divided on just when to accept it.

Schuler and Dorsi preferred to hold off on formally accepting the agreement until the next Township Committee meeting on Wednesday, Sept. 27, giving residents an opportunity to voice their opinions before the committee. Other than a township employee and a township volunteer, there were no residents in the audience on Sept. 13.

Rae, Meringolo and Committeeman Guy Piserchia believed there was little upside in waiting two weeks, but there was the potential downside of Fair Share altering or walking away from the deal, though Meringolo noted that was unlikely.

Schuler and Dorsi disagreed.

"Fair Share has been sitting on finalizing this settlement for nine months," said Schuler. "I can't imagine that they're going to even notice two weeks while we let the public review, and at least give them an opportunity to hear an explanation from us as to what this is about."

Dorsi said he did not disapprove of the deal, "but I still think people should be allowed to voice their opinion even though there's nothing we can really do."

The committee voted 3-1 to authorize Pidgeon to sign the agreement, with Dorsi casting a 'no' vote and Schuler abstaining. Pidgeon noted residents will have the opportunity to opine on the deal at a fairness hearing before Superior Court Judge Michael E. Hubner. The hearing, at which Judge Hubner will make a ruling on the settlement, is to be held within 30 days of the court receiving notice of the settlement.

*Thank You,*

*Ahmed Naga  
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