

Town of Lewisboro Housing Committee  
Notes from the Meeting held February 26, 2013

Present were: Tom Herzog (chair), Peter Parsons (Town Supervisor), Rich Ellrodt, Glen DeFaber and Linda Rae.

The meeting was called to order at 7:35 pm.

1. LEPHOCA: The committee approved a last change to the proposed LEPHOCA resolution, changing the word "homes" in paragraph 4 to "units." Linda Rae agreed to make the correction and send the amended resolution to Peter Parsons and Tom Herzog.
2. The Annual Survey. Tom passed out the draft survey and a Summary of the 2012 Survey Results and Recommendations. There was an 83% response rate; income range of \$20,381 - \$127,035, median income \$43,727, mean \$50,662. Three units were over the maximum allowed income. Of the non-responders, one letter was returned "forwarding time expired"; one not picked up after three notifications; one owner was deceased; and three surveys were ignored. Because the 2013 survey is about to go out, it was decided to wait until responses come in from the new survey before taking action with the non-responders for 2012.

A. The committee discussed whether owners should be compelled to sell if they no longer qualify?

1) Tom said the Town could incur expensive lawsuits. Linda Rae said Bedford did not force owners to sell. Glen DeFaber said that this means that rentals are our only "teeth" in enforcing income limits.

2) Peter said that the purchasers qualified on the preferential list (ie., as firefighters, etc.); can they still keep the unit? Tom said that the code does not specify.

B. Tom said that if an owner fails to respond to the survey, the Town can remove the Certificate of occupancy. Both regular and certified letters were sent.

1. In answer to a question as to whether the occupants could be visited, Tom said that the Building Dept. should be responsible for going to the addresses of the occupants who did not respond to the 2012 survey until they find someone to talk to. It was suggested that the building inspector go weekends or nights in order to have a better chance of finding someone at home. Tom stressed the importance of these visits, so that we know who is in the units.
2. Rich Ellrodt went through the six units that did not respond. He said that one had been advertised for rent for \$1,850, \$500 over the limit and so an illegal rental (the ad appeared briefly online). It was pointed out that if the rental has gone through, the renter will get one year before having to move out.
3. Discussion followed on how to make sure the deed restriction is retained in the deeds, as they have been dropped in some recent deeds. It was suggested that we write to the title companies.

C. The committee agreed with all Tom's recommendations, that:

1. The Building Dept. investigate the six non-responding units.
2. The Building Dept. deliver the 2013 survey form by hand to the six non-responding addresses, and that the survey should be given to the occupant personally, not just left at the door, and the necessity to respond explained to the occupant.
3. The 2013 survey should be addressed to occupants, not owners, wherever possible, as it is occupants' income levels that are important.
4. The two middle-income units at Onatru Farm, owned by the Town, should be included in the 2013 survey.

D. Rich made several changes to the proposed draft survey. Glen and Rich felt that occupants should be required to submit their whole tax return.

E. Median Salary. Tom passed out a sheet of figures on median Town salary to use in determining

maximum incomes allowed for the units.

1. Rich said if we use the "budgetted" figures, some Town employees could be disqualified.
  2. Peter favored using the "actual" figures, to open up the housing to more people.
  3. It was noted that the Town Zoning Code 220-2 (I) uses the phrase "Town-Paid wages," so the committee agreed to use the actual median Town salary.
3. Peter said he would let the committee know when the LEPHOCA resolution would come up at the March work session.

The next meeting will be held at the Town House on Tuesday, April 23. The meeting was adjourned at 9:35 pm.

Respectfully submitted,

Linda S. Rae

June 18, 2013

James E. Johnson, Esq.  
DeBevoise & Plimpton, LLP  
919 Third Avenue  
New York, NY 10022

Dear Mr. Johnson:

This responds to your letter of March 23, 2013.

Lewisboro is in no way antagonistic to the goals of the Settlement between Westchester County and H.U.D. This is demonstrated by the Town's vanguard role in using bonus density to create Middle Income Housing in the 1970's and its contribution to regional housing need through its five group homes. Lewisboro's dilemma is that its physical and human geography has created a disparity of purpose between the Settlement, the region, New York State and the municipality.

**The region asks Lewisboro to satisfy needs which require it to remain relatively undeveloped.**

- 1. PROVISION OF DRINKING WATER FOR NEIGHBORING URBAN AREAS:** A primary obstacle and development issue regarding the potential for increased site density within the Town of Lewisboro is the lack of public sanitary sewer and drinking water infrastructure. Approximately 75% of the overall land area within the Town limit is located in the NYC East-of-Hudson Watershed and tributary to various reservoirs within the NYCDEP Watershed Area and drinking water supply. The remaining area within the Town is tributary to drinking water reservoirs for portions of the State of Connecticut. The NYCDEP imposes heightened restrictions and regulations for the treatment and disposal of wastewater within the New York City Watershed for the protection of their drinking water supply. These regulations specifically prohibit

point-source discharge of sewage treatment plant effluent. Treated wastewater effluent is required to be discharged to a subsurface, on-site wastewater treatment system (OWTS) typical of community-type septic systems. The Westchester County Department of Health requires a minimum of one acre of land access for conventional development of single residential lots with OWTS and private wells. It is not uncommon to require more than the minimum to meet regulatory setbacks and sizing requirements. This minimum required lot area also assumes that there are no additional environmental constraints such as unsuitable soils, steep slopes, shallow depth to bedrock and groundwater, and setbacks from wetlands and watercourses; all very common environmental factors prominent throughout the township. These added constraints commonly result in the necessity for 2-3 acres of land to accomplish the same goal. As a result it is impractical to expect high density development where community infrastructure cannot be supported.

2. **REDUCTION OF CARBON-DIOXIDE EMISSIONS:** At noon on May 4, 2013 carbon-dioxide concentrations in the atmosphere at the Mauna Loa Observatory hit 400 parts per million (ppm). At the current rate of increase this reading will rise to 450 ppm in 2037 resulting in an estimated two degree Celsius increase in global temperature – the likely maximum increase which could be safe. To increase development in heavily forested Lewisboro is to strike a blow against efforts to reduce carbon-dioxide in the atmosphere. This is not only because we all rely on this vegetation to reduce carbon-dioxide but also because development in Lewisboro increases dependence on the use of carbon fuels. Even a simple trip to get milk results in the overwhelming majority of the population using a vehicle.
3. **PROVISION OF PASSIVE RECREATION TO OUR REGION:** Lewisboro offers a major resource to the entire metropolitan region via its preserves, reservoirs and streams. The outstanding examples are the 5,738 acres of Westchester's Ward Pound Ridge Reservation and Mountain Lakes Park (these are spread across the towns of Lewisboro, Pound Ridge and North Salem). In addition the Town owns 500 acres of preserves with trails. There are also another 16 preserves in Town with trails accessible to the public plus several without trails.

**New York State wants to foster agriculture in Lewisboro.**

New York State Department of Agriculture is demanding that the Town amend its zoning laws and streamline its procedures so that Agricultural Districts can be created at will. Such districts have the immediate consequence of increasing real estate taxes on other residents by reducing the tax rolls and the longer term result that if such a district is discontinued ten years of back taxes are owed.

**The Municipality of Lewisboro has little in the way of shopping or public transport and relies completely on its volunteers to provide fire and ambulance services.**

Affordable housing works best where there are sidewalks to get to stores and restaurants plus public transport within walking distance. Currently only the extreme western part of the Town provides either of these – an area where New York City has acquired a large proportion of the buildable vacant land in order to protect their watershed from any form of development.

The Town also needs to ensure that its emergency services are well staffed. A thinly populated dispersed town such as Lewisboro can not afford to pay its firemen and ambulance workers. We are already somewhat at risk during storms because too many of our highway workers reside some distance from the Town. It is clear that Lewisboro needs to increase the affordable housing stock where these workers are given preference.

**A way forward for Lewisboro?**

Currently Lewisboro's Town Board is considering a draft of the Model Ordinance which has been prepared by the Housing Committee.

My personal opinion is that the Ordinance should recognize the reality of our area by accepting that large scale development in Lewisboro will not be able to be reconciled with the needs discussed above and that a more practical way forward would be to facilitate accessory apartments and conversion of existing housing stock into two family housing while giving some priority to Town employees and volunteers in a percentage of these conversions.

Very truly yours,

Peter Parsons  
Supervisor  
Town of Lewisboro

Proposed Housing Committee Resolution

*Lewisboro Enhancement and Promotion of Housing Opportunities for Citizens Act (LEPHOCA)*

WHEREAS, the Town of Lewisboro seeks to ensure that its zoning code remains in compliance with applicable federal, state, and county law, as has already been enacted in some twenty Westchester municipalities during 2011 and 2012, including Bedford, North Salem, Pound Ridge and Somers, and

WHEREAS, the Town of Lewisboro intends to encourage development of fair and affordable housing development throughout all of Westchester County, while simultaneously preserving and protecting the uniquely rural character and all environmentally significant areas within our Town, therefore,

BE IT RESOLVED that the Town of Lewisboro Housing Committee recommends that the Lewisboro Town Board, in consultation with all appropriate subsidiary Boards, Committees, and Councils, amend the Town's zoning ordinance (Section 220 of the Town Code) to incorporate the following provisions when adopted:

- (1) Any applicable owner-occupied fair and affordable home is considered "fair and affordable" under LEPHOCA when:
  - (a) the homeowner's household income does not exceed 80% of Westchester County's median income as defined by the U.S. Department of Housing and Urban Development (HUD), and
  - (b) total costs of home ownership (e.g., mortgage, taxes, insurance, common charges, etc.) do not exceed 33% of household income, thereby ensuring the financial stability and security of these homeowners.
- (2) Any applicable fair and affordable rental unit is considered "fair and affordable" under LEPHOCA when:
  - (a) the renter's income does not exceed 60% of Westchester's median income as defined by the U.S. Department of Housing and Urban Development (HUD), and
  - (b) total housing costs for the rental unit (e.g., rent, utilities, common charges, etc.) do not exceed 30% of the renter's household income, thereby ensuring the financial stability and security of these renters.
- (3) No person(s), including those currently residing in the Town of Lewisboro, is/are entitled to any type of preference or priority in applying for or residing in a LEPHOCA fair and affordable home within the Town of Lewisboro (whether the unit is owner-occupied or a rental unit) following the effective date of LEPHOCA.
- (4) Following the enactment and effective date of LEPHOCA, the developer of any newly proposed development that contains ten or more units to be constructed in the Town of Lewisboro must designate, within his application to the Town, one residence for each ten

units built as “fair and affordable” under LEPHOCA.

- (5) When the Town’s Master Plan and Zoning Code are reviewed, it is recommended that they be simplified and streamlined to promote the following zoning/planning strategies which are consistent with the goals of LEPHOCA:
  - (a) encouragement of bonus density/special-use town-wide,
  - (b) cluster-housing guidelines for future Town subdivision applications,
  - (c) economic incentives for construction of and conversion to fair and affordable housing,
  - (d) an expedited project review process, including an early negative declaration under SEQRA, when appropriate.
- (6) All “fair and affordable” homes which are established within the Town of Lewisboro following the effective date of LEPHOCA must remain “fair and affordable”, as defined herein, for a period of fifty years, as mandated by Westchester County.
- (7) All fair and affordable homes which are established within the Town of Lewisboro following the enactment of LEPHOCA shall comply with all other requirements delineated within existing Town of Lewisboro Code provisions (e.g., home appearance, siting, minimum floor area, maximum occupancy of home, applicable health and safety provisions, etc.).
- (8) It is the express intention of LEPHOCA that these recommendations apply solely to future construction, renovations or conversions following the date of adoption of LEPHOCA.
- (9) The Town of Lewisboro Housing Committee shall propose to the Town Board appropriate rules and regulations for the implementation of LEPHOCA within a reasonable time following the effective date of LEPHOCA, if asked to do so.
- (10) All LEPHOCA units, whether for purchase or rent, shall be marketed in accordance with the requirements, policies and protocols established in the Westchester County Fair & Affordable Housing Affirmative Marketing Plan, so as to ensure outreach to racially and ethnically diverse households.



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Town of Lewisboro Housing Committee  
Notes from the Meeting held January 15, 2013

Present were: Tom Herzog (chair), Peter Parsons (Town Supervisor), Joe Cirillo, Linda Press-Wolfe and Linda Rae.

The meeting was called to order at 7:40.

1. Tom announced that the Housing Committee has a new member, Glen DeFaber. Other announcements:  
a) Amy Hodges is the new Housing Committee Secretary

b) We have been invited to a housing forum in Bedford on March 6.

2. The rest of the meeting was devoted to finalizing the proposed LEPHOCA legislation. The committee discussed the revised draft prepared by Tom Herzog. The resolution, originally proposed by Richard Sklarin, had been amended by the Committee at the November 2012 meeting.

Peter suggested that in the first clause, we cite specific towns in Northern Westchester who have enacted zoning changes to comply with the County Model Ordinance. The committee added Bedford, North Salem, Pound Ridge and Somers.

There was discussion as to whether the last sentence of Clause # 7 ("These provisions shall remain in full force and effect, so long as they are not inconsistent with the goal of increasing future 'fair and affordable housing' opportunities in the Town of Lewisboro").

a) Linda P-W said that other town bodies would review the clause and would be likely to change it.

b) Joe Cirillo didn't object to the clause but felt inclined to take it out.

c) Tom felt the sentence didn't add anything and could go. The committee agreed to take out the clause.

Linda Rae pointed out that Bedford included a phrase about marketing, in accordance with the Model Ordinance. Peter said that there was at present nothing in the LEPHOCA resolution to promote integration; he felt that such a reference should be included, or the Monitor would bounce the proposal right back.

a) Linda P-W said the County wanted to see an attempt by municipalities to make sure town codes are free of discrimination.

b) The committee drafted a Clause #10 to comply with the Model Ordinance, with the following language: "All LEPHOCA units, whether for purchase or rent, shall be marketed in accordance with the requirements, policies and protocols established in the Westchester County Fair and Affordable Housing Affirmative Marketing Plan so as to ensure outreach to racially and ethnically diverse households."

The Committee asked Linda Rae to prepare the final draft and email it to Tom, who will prepare a covering letter to the Town Board. Peter said he might share the draft with the County.

The next meeting was scheduled for the 4<sup>th</sup> Tuesday, so that Linda P-W can report back on the County Meeting.

The meeting was adjourned at 8:35.

Respectfully submitted,

Linda S. Rae



Appendix 2

Proposed Housing Committee Resolution – Draft 2 (Rae)

*“Enhancement and Promotion of Housing Opportunities for Citizens Act (LEPHOCA)”*

Draft # 2 revises Richard Sklarin's first draft of the proposed legislation to reflect decisions made at the November 13, 2012 Housing Committee Meeting.

WHEREAS, the Town of Lewisboro seeks to ensure that its zoning code remains in compliance with applicable federal, state and county law, and as already enacted in some 20 Westchester municipalities during 2011 and 2012, while ensuring that the future provision and promotion of fair and affordable housing development exists throughout all of Westchester County, yet simultaneously preserving and protecting the uniquely rural character and all environmentally significant areas within our Town, we recommend that the Town Board, in consultation with all appropriate Boards and Committees, amend its zoning ordinance (Section 220 of the Town of Lewisboro Code) to incorporate the following provisions when adopted:

- 1) Any applicable owner-occupied fair and affordable home is “fair and affordable” under LEPHOCA when: a) the homeowner’s household income does not exceed 80% of Westchester County’s median income as defined by the U.S. Department of Housing and Urban Development (HUD); and b) total costs of home ownership (e.g. mortgage, taxes, insurance, common charges) does not exceed 33% of their household income to ensure the financial stability and security of all Town homeowners.
- 2) Any applicable fair and affordable rental unit is “fair and affordable” under LEPHOCA when: a) the renter’s income does not exceed 60% of Westchester County’s median income as defined by the U.S. Department of Housing and Urban Development (HUD); and b) total housing costs for a rental unit (e.g. rent, utilities, etc.) does not exceed 30% of their household income to ensure the financial stability and security of all current and future Town residents.
- 3) No person(s) currently residing within the Town of Lewisboro is entitled to any type of preference or priority in applying for, or residing within, a fair and affordable home within the Town of Lewisboro (whether owner occupied or a rental unit) following the effective date of LEPHOCA.
- 4) Any newly proposed subdivision development constructed within the Town of Lewisboro containing 10 or more homes (following the enactment and effective date of LEPHOCA) must designate, within its application to the Town, 1 or more residences as “fair and affordable” as set forth herein.
- 5) When the Town’s Master Plan and Zoning Code are reviewed, it is recommended that they be simplified and streamlined to promote the following zoning/planning strategies which are consistent with the goals of LEPHOCA: a) encouragement of bonus density zoning/special use permits town-wide, and cluster housing guidelines for future Town subdivision applications (as well as economic incentives for construction and conversion of fair and affordable housing); and b) an expedited project review process (including an early negative declaration under SEQRA when appropriate).
- 6) All fair and affordable homes which are established within the Town of Lewisboro following the effective date of LEPHOCA must remain fair and affordable, as defined herein, for a period of 50 years as mandated by Westchester County.

7) All fair and affordable homes which are established within the Town of Lewisboro following enactment of LEPHOCA shall comply with all other requirements delineated within existing Town of Lewisboro Code provisions (e.g. home appearance, siting, minimum floor area, maximum occupancy of home, applicable health and safety provisions, etc.) which shall remain in full force and effect, so long as they are not inconsistent with the goal of increasing future "fair and affordable" housing opportunities within the Town of Lewisboro.

8) It is the express intention of LEPHOCA that these recommendations apply solely to future construction, renovation or conversions following the date of adoption.

9) The Town of Lewisboro Housing Committee shall propose appropriate rules and regulations for implementation of LEPHOCA to the Town Board within a reasonable time following the effective date of LEPHOCA.

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