

# EYE ON THE CLIFFS

*"Let us not seek the Republican answer or the Democratic answer, but the right answer. Let us not seek to fix the blame for the past. Let us accept our own responsibility for the future." John F. Kennedy*

November 2018

Carin Geiger, President

Debbie Fehre, Acting Vice President/Secretary

Volume 11

Lynn Liaskos, Treasurer

*Eye on the Cliffs* is a publication of EC for Responsible Government, a non-partisan not-for-profit residents group whose goal is community education about local issues. We do not endorse any political party or candidate. We began as a group of residents who joined with the conservation community to seek a reduction in the height of the LG USA headquarters. We learned that residents working together can make a difference. The quotation above from John F. Kennedy is our mantra. We are also inspired by the words of Abraham Lincoln: *"Let people know the facts and the country will be safe."*

## EDITORIAL

### We will not be silenced, Mayor Kranjac

On October 16, Mayor Kranjac launched into yet another verbal attack against members of the public, including members of the Editorial Board of *Eye on the Cliffs*, for failing to join with him to condemn Police Chief Cioffi and three other senior officers of our Police Department. We want to be clear that **EC for Responsible Government** has not taken any public position on this matter because we do not yet know all the facts. All we know is what Kranjac and Carrol McMorrow have selectively played from tape recordings and read from transcripts. It would be unfair and wrong to condemn and prejudge the police officers without knowing the content of the tapes in their entirety, and hearing both sides. We know from what is happening on the national scene that it is easy to create a spectacle and media circus. Kranjac must be reminded that due process is a basic right of all accused individuals. Without due process, we are no better than a lynch mob.

Two of the principal tenets of our democracy are freedom of speech and freedom of the press. At the October 16 meeting, Mayor Kranjac again disparaged this newsletter and publicly directed that all residents who receive *Eye on the Cliffs* should "throw it out." This publication has been serving the residents of our community for over one year. Our principal objective has been to inform the residents about what we see as major issues and provide residents with accurate information. Although Kranjac criticizes us, he has been unable to identify any erroneous information in our publication. Dictators stifle the press. Sadly, Mayor Kranjac has been acting like one.

During the past three years, Englewood Cliffs has seen a rise in demagoguery, bullying, and intimidation. Lawsuits have replaced discussion and negotiation. The borough is spending \$1.8 million this year for legal costs, which is 10 percent of the total borough budget. Only \$300,000 of this amount relates to fighting the affordable housing lawsuit. Elected officials should encourage public participation and welcome residents who take the time to attend meetings and express their views. Now, residents who question the Mayor's agenda, and who disagree with his comments and actions, are repeatedly challenged, humiliated and belittled. Kranjac denounces them as "enemies of democracy and decency." In contrast, residents who speak up in support of his agenda are praised and never interrupted. In the past year, Kranjac has ordered that the police remove residents from the Mayor and Council meeting room. He has directed the borough clerk to turn off the official meeting tape and camera when he does not want something to be recorded. He abruptly and improperly adjourned a meeting in the middle of a vote, and put the public's safety at risk when he switched off the lights in the meeting room while it was crowded with people. His behavior is abhorrent.

Since 2016, Englewood Cliffs has become a reflection of much that is endangering our democracy. Kranjac's volatile behavior divides and demeans us all. Our community's reputation has been tarnished by his conduct. Residents deserve a government that encourages public debate. We have to know that when we attend a Mayor and Council meeting, either to express our opinions or simply to observe, we will not be chastised by an imperious mayor who does not listen to or tolerate views that differ from his own.

Voting is a privilege which allows us to shape the government that we believe best represents our interests.

Election Day is Tuesday, November 6. Please come out and vote.

## AFFORDABLE HOUSING IN ENGLEWOOD CLIFFS – A CHRONOLOGY

**1975:** New Jersey Supreme Court in the historic Mount Laurel decision affirms that all communities in the state must provide their "Fair Share" of Affordable Housing.

**1985:** The Council on Affordable Housing ("COAH") was established by the State of New Jersey. COAH created rules and procedures for communities to follow to satisfy their constitutional affordable housing obligation. Communities were required to file a Housing Element and Fair Share Plan ("Plan") with COAH and received either "substantive certification" or risked a "builder's remedy" lawsuit. The Plan for each community included a calculation of its affordable housing burden using many factors. The key factor of how much affordable housing each community has to actually provide was based on the availability of suitable vacant land. This is known as the "Vacant Land Adjustment".

**1986 through 1997:** When applied to Englewood Cliffs by our Borough Planner, the Vacant Land Adjustment established our affordable housing realistic development potential ("RDP") to be fewer than ten units.

**March 13, 1997:** The borough files its Plan with COAH complying with regulations then in effect. Our RDP is projected to be nine (9) units.

**November 5, 1997:** Following a site visit to our community, COAH informs Englewood Cliffs that the 28 acre Prentice Hall property, which was vacant at the time (currently the construction site of LG USA's new headquarters), had to be identified as vacant land and made available for affordable housing. The borough refused to comply. Substantive certification by COAH was denied leaving the borough vulnerable to a "builder's remedy" lawsuit. The COAH denial was meaningless, however, because Citicorp had by this time occupied the site. Eventually, LG USA purchased the site for its headquarters. **The 28 acres of land COAH wanted for affordable housing has remained as a corporate site. It never became vacant available land. The borough's realistic affordable housing obligation remained small.**

**1997-2017: No "builder's remedy" law suits were filed against the borough because there was no large tract of vacant developable land.**

**1999 to 2015:** COAH stopped issuing legally acceptable rules and guidelines.

**2015:** New Jersey State Supreme Court rules that COAH is dysfunctional and returns jurisdiction of affordable housing back to the trial courts. These courts were given responsibility to determine each community's affordable housing obligation and whether they were in compliance. The Fair Share Housing Center is involved in each of these determinations.

Englewood Cliffs, along with 300 other municipalities who had not received substantive certification from COAH, filed a new Plan dated November 20, 2015, with the court. Filing the Plan ensured that the borough would have temporary immunity from builder's remedy lawsuits until the court could rule. Immunity continued until December 31, 2017. A "Special Master" was assigned by the court to review the Plan.

**The 2015 Plan filed with the court concluded that there was virtually no vacant developable land in Englewood Cliffs. The Borough Planner wrote that he believed that the borough's realistic affordable housing obligation was limited to nine (9) units. The Lions Club building and adjacent tennis courts, already owned by the borough, were designated as the site on which such units could be built.**

**2016 to 2017:** Meetings held between borough and Special Master. Borough fails to meet court deadlines for updated Plan and vacant land inventory submission. On December 31, 2017, borough's immunity lapses, but is later extended by the court. Borough is chastised by court.

*This is a rendering of the corporate office building Normandy proposed to build at 800 Sylvan Avenue.*



*For more information about Normandy Real Estate Partners and their corporate office building plan go to: <http://www.800sylvan.com>.*

**October 8, 2017:** After four hearings, the Englewood Cliffs Planning Board, in a 4 to 3 vote, denies Normandy's application for a corporate office building on 800 Sylvan Avenue property. Chairman Russell Porrino, JP Lee, Mary O'Shea and Aurel Villari, each appointed by Mayor Kranjac, vote to reject the corporate project primarily because the proposal included (1) a parking garage in the front, (2) shared parking with the Unilever facility which is situated on 8 acres of the 28 acre site, and (3) sub-division of the 28 acres into two separate properties, dividing Unilever's 8 acre leased property from the rest of the proposed corporate site. Mario Bei, a Kranjac appointee who has since resigned, and Ron Kilmartin and Jeff Chinman, appointed by former Mayor Parisi, voted to approve the application.

**November 29, 2017:** Normandy intervenes in the pending 2015 Englewood Cliffs case to which the Fair Share Housing Center ("FSHC") is already a party. It argues that Englewood Cliffs now has 20 acres of vacant land that must be considered in any determination of the borough's fair share requirement. The FSHC agrees, and argues that Englewood Cliffs affordable housing burden has increased from 9 units to 129 units, because of the 20 acres of vacant developable land at 800 Sylvan Avenue that must now be considered. The borough and the FSHC dispute what the borough's realistic affordable housing obligation is. Court ordered mediation efforts have failed. A trial is scheduled to begin on January 22, 2019.

**December 22, 2017:** Normandy files court appeal seeking to reverse the Planning Board's denial of its corporate office building application. The purpose of the appeal is to overturn the Planning Board denial of Normandy's application to build a corporate office building on its property at 800 Sylvan Avenue. Resident Carin Geiger obtains intervenor status to join Normandy in its appeal. The appeal is scheduled for trial on February 15, 2019.

**January 2, 2018:** Normandy files a "builder's remedy" lawsuit seeking to build 600 units at 800 Sylvan Avenue including 15 to 20% affordable housing. A "builder's remedy" can be approved by the court only if linked to a community's failure to provide its fair share of affordable housing. This lawsuit was dismissed without prejudice. The dismissal has been appealed to the Appellate Court and is pending. In the interim, the Superior Court has extended temporary immunity to the borough from any "builder's remedy" lawsuit until January 22, 2019.

**Who is Normandy?** Normandy is a real estate investment firm that invests in properties in the Tri-State and Mid-Atlantic area. It owns 800 Sylvan Avenue.

**What did Normandy do in Englewood Cliffs?** Normandy co-developed the recent modernization of Unilever's Headquarters at 700 Sylvan Avenue. In June 2016, Normandy acquired 800 Sylvan Avenue, a 28 acre property situated between Unilever and CNBC along Route 9W. It sold its interest in the 8 acre portion occupied by Unilever, and filed an application on May 17, 2017 for Planning Board approval to redesign and redevelop the 20 acre balance of the site as a corporate headquarters for sale or lease to another corporation.

Court certifications made under sworn oath and filed by Normandy attest that while it was aware that the borough was not in compliance with its affordable housing obligation, it wanted to develop 800 Sylvan Avenue as a corporate site, and spent \$1.5 million to present and market its corporate plan. See <http://www.800sylvan.com> for a video of the corporate building Normandy proposed to develop.

**What is the Fair Share Housing Center?** The Fair Share Housing Center is a long-time advocate for affordable housing throughout New Jersey. Founded in 1975, it is a well-funded public interest organization entirely devoted to defending the housing rights of New Jersey's poor.

### **What is happening now?**

On September 26, 2018, the Mayor and Council approved a new borough ordinance that requires that any future approved construction of more than 5 residential units in Englewood Cliffs include 15 to 20% affordable housing. There is already one proposed project to which this new ordinance may apply. The project is an approximately 60 foot high 5-story mixed use building with 52 apartments and six stores, located on Sylvan Avenue just south of Bayview Avenue.

In addition, the Mayor and Council have recently approved the purchase of 1.33 acres of land adjacent to Borough Hall using \$1.9 million of restricted COAH trust funds. The borough plans to combine the new site with the Lions Club and tennis courts sites (previously identified for affordable housing), and vacate the street between them. The borough plans to construct 36 to 52 affordable housing units on the combined site. The borough also adopted a resolution of intent to issue borough bonds to pay for any construction costs not otherwise financed, and to guarantee operating cost shortfalls. This could cost taxpayers millions of dollars.

**Commentary:** *The borough has apparently taken these two measures in an attempt to demonstrate to the court that it is making voluntary efforts in connection with the affordable housing litigation. However, since the court has yet to determine the number of units that will satisfy the borough's realistic affordable housing obligation, it is impossible to know what impact these measures will have on the court's final determination. If that number remains at 129, the borough's proposed 36 to 52 unit project will not be sufficient. According to the FSHC, the borough also has an additional burden that is called the "unmet need". The unmet need is a future goal. The FSHC states that our "unmet need" is between 400 to 500 affordable housing units.*

***The affordable housing litigation was filed by Normandy in response to the Planning Board's denial of its corporate office building plan. Normandy's website and numerous articles in real estate magazines showcase Normandy's corporate office plan for the 800 Sylvan site. Had Normandy's application for a corporate office building been approved by the Planning Board, construction of a stellar state of the art office building would probably be underway. Instead, the borough is embroiled in lengthy and costly litigation.***

PRSR.TSTD  
 ECRWSS  
 U.S.POSTAGE  
 PAID  
 EDDM RETAIL

## IMPORTANT NEWS FOR ENGLEWOOD CLIFFS RESIDENTS

\*\*\*\*ECRWSEDDM\*\*\*\*  
RESIDENTIAL CUSTOMER

### DISCIPLINARY CHARGES FILED AGAINST POLICE CHIEF CIOFFI AND OFFICERS REGAN, MURPHY AND HENKELMAN

On October 5, Superior Court Judge Perez Friscia affirmed that the appropriate disciplinary authority in Englewood Cliffs is the Mayor and Council acting jointly. She temporarily enjoined all disciplinary charges that had been unilaterally filed by Kranjac against Cioffi without the approval of the Council. These disciplinary charges related to the Cioffi tapes and several other issues. The penalty sought was termination.

On October 10, the Mayor and Council voted unanimously to place Cioffi on administrative leave *without* pay for 120 days based on the segments of tapes read and played by Carrol McMorrow at public meetings. This is the most punitive financial penalty ever imposed by the borough against one of its employees. It assured that Cioffi would not return to his position because State law mandates that he retire no later than January 31<sup>st</sup>. At that meeting, the Democratic Councilpersons attempted to vote on a motion to dismiss all disciplinary charges so that the borough would be spared the expense of prolonged hearings and appeals. It is not clear whether the Democrats succeeded in dismissing all pending disciplinary charges because Mayor Kranjac, again acting unilaterally, abruptly and improperly adjourned the meeting in the middle of the vote by the three Democratic Councilpersons, who constituted a majority at that meeting. The borough attorney stated the motion to dismiss charges was an improper motion. Nevertheless, Cioffi submitted retirement papers to the State, effective November 1.

On October 23, all the disciplinary charges unilaterally brought by Kranjac were properly voted on by the Mayor and Council, and Cioffi was placed on leave with pay pending his retirement effective November 1. Councilpersons Oh and Aversa abstained from voting, asserting that on October 10 they had dismissed the charges and that the Council had already voted to suspend Cioffi for 120 days without pay. Disciplinary hearings will now be scheduled. There are 120 tapes made by Cioffi which span several years. Most of them are sealed under Federal Court order. Charges relating to the tapes have also been filed against Police Captain Timothy Regan (scheduled to retire in December), Captain Brian Murphy and Lt. William Henkelman. The penalty requested by the Mayor and Council is termination. Subsequent to this meeting, Cioffi withdrew his retirement papers. State law bars him from receiving a pension while disciplinary charges are pending.

### TEN YEARS OF ENGLEWOOD CLIFFS BUDGETS AND TAXES: 2009 TO 2018

YEAR	CONTROL*	TOTAL BUDGET	TAX LEVY	SURPLUS USED	NON TAX REVENUE
2009	D	\$12,681,578	\$10,059,901	\$668,000	\$1,953,677
2010	R	13,270,049	10,527,903	604,000	2,138,146
2011	R	13,587,295	10,463,322	995,000	2,128,973
2012	D	13,361,111	11,304,264	0	2,056,847
2013	D	15,379,494	11,323,637	850,000	3,205,857
2014	D	15,576,074	11,431,031	850,000	3,295,043
2015	D	16,191,586	12,466,818	850,000	2,874,768
2016	R	15,913,605	12,418,067	910,000	2,587,537
2017	R	17,102,260	12,550,863	1,300,000	3,251,397
2018	R	18,100,375	13,649,879	1,545,000	2,905,496

\* D = Democrat Control      R = Republican Control

- 2009: Base Year
- 2010: Budget increased \$588,471. Taxes increase \$468,002.
- 2011: Budget increased \$317,246. Taxes decrease \$64,581. Entire cash surplus (\$995,000) was used for tax reduction.
- 2012: Budget decreased \$226,184. Taxes increase \$840,942. There was no surplus left to use from prior year.
- 2013: Budget increases \$2,018,363. Taxes increase \$19,367. Revenues increase ("Red Light Camera" & Hurricane Sandy relief).
- 2014: Budget increases \$196,580. Taxes increase \$107,394.
- 2015: Budget increased \$615,512. Taxes increase \$1.03 million. \$764,000 revenue loss due to "Red Light Camera" elimination.
- 2016: Budget decreased \$287,000. Taxes decrease \$48,751, but \$295,000 borrowed in December 2016 to pay budget shortfall.
- 2017: Budget increased \$1.2 million. Tax increase nominal due to new revenues and increased use of surplus.
- 2018: Budget increased \$998,115. Taxes increase \$1.1 million. Litigation spending is \$1.8 million, 10% of the total budget