

**WEST AMWELL TOWNSHIP
PLANNING BOARD MEETING
February 16, 2010**

The West Amwell Township Planning Board meeting was called to order at 7:30 PM by Chairman Pfeiffer followed by the salute to the flag.

The following statement of compliance with the Open Public Meetings Act as listed on the meeting agenda was read into the record by Chairman Pfeiffer: This meeting was called pursuant to the provisions of the Open Public Meetings Act. This meeting was included in a list of meetings transmitted to the Hunterdon County Democrat and Trenton Times on January 29, 2009. Notice has been posted on the bulletin board at Town Hall on February 9, 2010, and has remained continuously posted as to required notices under the Statute. A copy of this notice is available to the public and is on file in the Office of the Planning Board and Township Clerk.

The following general policy statement of the Board was read into the record by Chairman Pfeiffer: The Board's general policy is to end the presentation of testimony on applications by 10:30 PM and to conclude all Board business by 11:00 PM. When necessary, the Chair may permit a reasonable extension of those time limits.

The meeting was recorded via digital recording system and a copy of the CD is on file in the Office of the Planning Board.

Attendance – Roll Call

Present: Lonnie Baldino
Stephen Bergenfeld
George Fisher
John Haug
Tom Molnar
Sean Pfeiffer
Hal Shute
Chester Urbanski
Joan Van der Veen
Zach Rich – Alt. #1
Rich Storcella – Alt. #2
Attorney Shurts

Excused: Engineer Clerico
Planner Hintz

Approval of Bill List

A motion by Haug, seconded by Urbanski to approve the vouchers for payment as listed on the 2/16/10 bill list was unanimously approved by roll call vote.

Resolutions of Approval

Resolution PB#2010-10: Machinga Minor Subdivision: Block 23 Lot 10 – Extension

Attorney Shurts explained this resolution was to memorialize the Board's decision made at last month's meeting to grant Mr. Machinga an extension of time to file his subdivision.

A motion by Urbanski, seconded by Van der Veen to approve Resolution PB#2010-10 was approved by roll call vote.

Applications

Discussion – Status update from Attorney Shurts, re: Burgess – Block 19 Lot 7.03 – Conservation Easement Modification

Attorney Shurts commented that this matter had been discussed at the Board's January meeting. He explained that the lot was created by subdivision several years ago and contains a conservation easement. Ms. Burgess purchased the property with the intention of building a home on the parcel but the original Letter of Interpretation (LOI) from the New Jersey Department of Environmental Protection (NJDEP) had expired. Ms. Burgess subsequently applied to the NJDEP for a new LOI based upon the original wetlands delineation but the application was denied because the new LOI revealed that the wetlands area was modified, increasing the total delineated area.

Attorney Shurts commented that modifying the conservation easement is a lengthy and potentially costly proposal involving several layers of bureaucracy. He noted that he had spoken with Kevin Appleget regarding the required approvals from the NJDEP Green Acres Program. Mr. Appleget advised him that the Township would really be the applicant in this case because the Township had received Green Acres funding. Attorney Shurts also explained that the State's current philosophy is that all conservation easements are granted for recreational purposes and become part of the municipality's Recreation and Open Space Inventory (ROSI) and any modification of a conservation easement would be considered a diversion of encumbered municipal land.

Chairman Pfeiffer commented that after the Board's last meeting, he reviewed the current Green Acres regulations and tracked all of their definitions. He remarked that things don't necessarily mean what you think unless you actually read their definition. He said Green Acres terms and phrases are written very broadly. Attorney Shurts added that their regulations are interpreted very broadly as well.

Attorney Shurts remarked that when he spoke to Kevin Appleget he said they are scrambling to try and get all of the municipalities to update their ROSI because most municipalities have not interpreted the regulations as requiring that conservation easements become part of the ROSI. Attorney Shurts commented that he informed Mr. Appleget that in most conservation easements, and specifically the Burgess easement, there was no intention of providing any kind of recreation at all. He noted that NJDEP would be looking to see an environmental benefit to any modification of this conservation easement.

Mr. Shute commented that this conservation easement was obtained long before the Township received any Green Acres funding and suggested more time be spent reviewing this matter. He remarked that this situation has the potential to be never ending. Attorney Shurts explained that the

Planning Board does not have the power to change the easement. The Planning Board can only make a recommendation to the Governing Body.

Mr. Baldino cautioned the Board about setting a precedent if the easement was allowed to be modified. Chairman Pfeiffer commented that there is a statement in the Board's By-Laws indicating that the Planning Board's policy is that easements remain in perpetuity.

Mr. Storcella commented that he would like to see the Board implement something to make all other Township Boards/Committees aware of exactly what the NJDEP rules are regarding easements. He noted that the Burgess parcel may be the model case for demonstrating some flexibility when considering modifying an easement, but did not want to see the Township absorb any costs related to the proposed application.

Chairman Pfeiffer suggested that something could be memorialized in the Planning Board's By-Laws after more information is received on this issue. He noted that Mr. Storcella, Mr. Fisher and Mr. Urbanski are on the By-Laws Subcommittee and they can review the matter and make a recommendation on what changes, if any, are needed to clearly outline the process.

Attorney Shurts suggested he speak with Ms. Burgess and her professionals in an effort to advise all parties of what their proposed application entails and the potential cost involved with such an application.

Unfinished Business

Status of Plan Endorsement

Chairman Pfeiffer noted that he had spoken with Planner Hintz who indicated he has still not received any comments from the Office of Smart Growth (OSG).

Appointment of Master Plan Subcommittees

Chairman Pfeiffer commented that he believes he gave last year's Master Plan Subcommittees too much to cover and therefore has reconfigured this year's subcommittees to include past Planning Board members as well as people from other Township Boards/Committees to assist with the Master Plan Review. The subcommittees consist of the following people:

Land Use Plan Element: Lonnie Baldino, John Haug, Sean Pfeiffer, Joan Smith
(Former Planning Board Member)

Recreation Plan Element: John Dupuis *(Chair of the Parks and Recreation Committee)*, Tom Molnar, Hal Shute

Circulation Plan Element: Steve Bergenfeld, George Fisher, Zach Rich

Conservation Plan Element: John Haug, Joe Kowalski *(From the Open Space Committee)*, Sean Pfeiffer, Cathy Urbanski *(Chair of the Environmental Commission)*

Community Facilities Plan Element: Dave Beaumont *(From the South Hunterdon Regional High School School Board)*, Wayne Boan *(Recently retired Police Officer)*, Joan Van der Veen

Historic Preservation Plan Element: Ruth Hall *(Chair of the Historic Preservation Committee)*,

Martha Shea (*From the Historic Preservation Committee*),
Bill Corboy (*Former Mayor/Planning Board Member*), Alex
Greenwood (*Former Planning Board Member*), Chester Urbanski
Utilities Plan Element: John Marshall, Ron Shapella (*Former Planning Board
Member*), Rich Storcella
Green Buildings & Sustainability Ernie Andreoli, Barbara Rattigan, Joan Van der Veen,
Cathy Urbanski

Chairman Pfeiffer requested that each subcommittee meet between now and the Board's March meeting to review their respective sections and report back to the Board with any significant issues that may impact the subcommittee's ability to revise the text. Specifically, each subcommittee should identify the costs for any items they believe the Board's Professionals must work on such as Geographic Information Systems (GIS) mapping. He further explained that by the Board's April meeting, the subcommittees should have rough drafts worked up of any suggested changes to their respective sections. Chairman Pfeiffer noted this information will be used as the basis for discussion with the full Board ultimately approving everything.

At the recommendation of Planner Hintz the Land Use Plan Element Subcommittee was asked to specifically review the billboard standards because the Township's current sign ordinance does not address billboards which have become an issue along the Route 78 corridor.

The Recreation Plan Element Subcommittee was asked to specifically audit the ROSI.

The Circulation Plan Element Subcommittee was asked to look into the possibility of creating scenic and historic road standards per the Board's Master Plan Reexamination report and make a recommendation. Chairman Pfeiffer suggested the subcommittee speak with Randy Hoagland on the Road Department or Glenn Baran who is on the Road Department and also serves on the Open Space Committee.

Discussion – Master Plan Reexamination: Status of Review by Board Members and Related Discussion on the Cost Breakdown from Planner Hintz

Chairman Pfeiffer commented on the estimated cost breakdown provided by Planner Hintz which totals \$17,500.00 for Planning Board matters for 2010. He stated he believes the costs can be scaled down through volunteer work. Chairman Pfeiffer noted the estimate does not include any costs for review of the zoning ordinances. He said there are some areas of the ordinance that should be looked at specifically the conditional use section which Planner Hintz and previous Planner Mercantante both advised is obsolete because the terms are too broad rendering the ordinance virtually unenforceable in the event an application is denied. Chairman Pfeiffer remarked there may also be older sections of the ordinance that may not be consistent with current State statutes.

Mr. Bergenfeld questioned why the Board's budget in 2008 reflects total spending of \$11,600.00 and two years later the Board is requesting \$31,000.00. He said he doesn't understand how \$20,000.00 can get added in two years time. Chairman Pfeiffer explained the budget is consistent with what happened with the last Master Plan in 2003. He noted the Master Plan is reviewed every 6 years and the Board is

now in that process which will involve more professional's expenses. He noted in 2008 the Board was not doing a Master Plan Reexamination which is why there was only \$900 in the Master Plan/Zoning Ordinance budget line. Mr. Shute commented that in 2003 a complete revision of the Township's zoning was done whereas now the Master Plan only requires minor tweaking. He indicated he thought Mr. Bergenfeld had a valid point and perhaps a lot more work is scheduled to be done than what needs to be.

Chairman Pfeiffer remarked that he doesn't believe this year's requested budget of \$17,500.00 will be needed. He noted that when the amount was requested, the Board did not have a cost breakdown. He believes the Planner's costs can be scaled down further. He added that other budget lines, however, will need to be reviewed. He specifically referenced the legal line saying the \$4500.00 will not cover the Board's contractual obligation to Attorney Shurts. Chairman Pfeiffer also noted that the \$800.00 for engineering services will only cover 5 hours of Engineer Clerico's time for the entire year which will not be sufficient.

Chairman Pfeiffer remarked that costs can be cut by the subcommittees doing some of the work. He did note that the GIS mapping must be updated and Planner Hintz's office must do the work. Mr. Bergenfeld asked if the mapping was a State requirement. Chairman Pfeiffer commented the Board is required to have certain elements in the Master Plan and the maps are part of some of those elements. He noted that in some cases the maps have not been updated in 7 years.

Mr. Rich commented that this is a very tough economic year and the Township Committee has to make big budget cuts. He suggested the Master Plan Reexamination be tabled until next year. Chairman Pfeiffer remarked that if the subcommittees work on the revisions it will limit expenses. He also noted that work is sometimes handed down by State mandates such as the expenses incurred last year related to the Affordable Housing Plan and Farmland Preservation Plan.

The consensus of the Board was that \$17,500.00 will not be needed for the Planner budget line and additional review by the Township Committee will be given to the Legal and Engineering budget lines.

Chairman Pfeiffer noted that under correspondence, a 2010 Smart Growth Planning Assistance Application was provided. He commented the application deadline is 3/31/10 and asked each subcommittee to keep this in mind during their initial review of the Master Plan and note any areas that the Township may be able to apply for grant funding.

Discussion – Master Plan Amendment Update: Farmland Preservation Plan

Chairman Pfeiffer commented that since the Board's last meeting Special Planner Linda Weber reviewed the comments that were received from the State Agriculture Development Committee (SADC) and distributed at the last meeting. Ms. Weber had asked for feedback from the Agricultural Advisory Committee (Ag Advisory) and Planning Board on a number of policy issues. It was noted that Ag Advisory met last week and discussed the matter.

Mr. Urbanski went page by page through the SADC's review checklist received by the Board. The following comments were noted:

1. Ag Advisory recommends discussing an agricultural buffer requirement for major development.
2. Ag Advisory defers to Mayor Corboy's October 2009 letter referencing the Township Committee and Planning Board's position on the reserve septic ordinance for cluster properties.

Mr. Bergenfeld commented that the Township has a clustering ordinance and Mayor Corboy's October 2009 letter references that there is no exemption for the reserve septic ordinance for clustering. Mr. Bergenfeld addressed Attorney Shurts asking if this sets the Township up for potential lawsuits. Mr. Bergenfeld noted there is a clustering provision and an ordinance recommendation that will make it nearly impossible for anyone to get two septic systems on a one acre lot. Mr. Urbanski asked why Mr. Bergenfeld thinks it is nearly impossible to comply with the reserve septic requirement noting other Townships have implemented such requirements. Chairman Pfeiffer commented that Readington Township's ordinance was upheld by the Courts. He stated the Courts found that it was feasible to put in reserve septic areas on ½ acre lots. He also noted that there have been applications before the Planning Board where people had no problem complying with the reserve septic area on very small lots. He also stated the Planning Board's Engineer in 2006 testified that it is the clustered lots which most require reserve septic areas and that no one in the Township should have a problem complying. He added that the Board's Hydrogeologist agreed as well as the County Health Department.

Mr. Shute asked which applicant had complied with the reserve septic on a small lot. Chairman Pfeiffer indicated the Machinga application had no problem complying.

Mr. Bergenfeld commented that anyone can get a professional to say one thing and another person can get a professional to say something else. Mr. Shute remarked that he shared Mr. Bergenfeld's opinion and stated that he didn't believe reserve septic requirements were generally workable in this Township.

3. Ag Advisory needs to obtain agricultural development area maps from Rick Steffey at the County Planning Board.
4. Ag Advisory needs to obtain what the available open space and preservation funding figures are from Rick Steffey.
5. Ag Advisory identified land supply and landowner interest as well as the question of State funding as major factors in determining the Township's ability to preserve land over the next decade.
6. Ag Advisory needs an explanation of economic limitations facing farmers. It was noted that Ag Advisory is committed to working with the County and regional interests to assist in outreach to farmers and landowners.

Chairman Pfeiffer noted he will contact Mr. Steffey for input. It was the consensus of the Board to have Ms. Weber address any necessary revisions and send the Farmland Preservation Plan back to SADC.

New Business

Discussion – Reschedule April 20, 2010 meeting to Wednesday, April 21, 2010

Chairman Pfeiffer noted this meeting is rescheduled every year due to a conflict with school board elections. Ms. Andrews noted that the Professionals indicated they are available for this date and no Board members noted any schedule conflicts.

A motion by Fisher, seconded by Van der Veen to reschedule the Board's April 20, 2010 meeting to April 21, 2010 was unanimously approved by roll call vote.

Approval of Attorney Shurts' 2010 Contract

Attorney Shurts noted his rates have not changed since 2008. Since the resolution was already approved at the Planning Board's reorganization meeting in January no action was taken on the contract. It was noted copies of the contract were provided as a formality for informational purposes.

Discussion – Comments from Planning Board on Senate Bill S1

Chairman Pfeiffer noted this matter was discussed at the Township Committee meeting and the Planning Board can make a recommendation if necessary. He remarked that based on the Township Committee discussion, a "wait and see" approach is being taken. Chairman Pfeiffer stated that he believes anything which empowers the State Planning Commission of which Office of Smart Growth (OSG) is the staff is a bad idea.

Correspondence

Mr. Shute commented that he had reviewed the letter received from Stony Brook Millstone Watershed regarding the final draft of the State Development and Redevelopment Plan and read the plan on the State's website. He said they are recommending that the Sourland Mountain area of the Township be designated as a special resource area. Chairman Pfeiffer encouraged everyone to check out the website. He remarked that his understanding from the County Planning Board is that they are continuing their support for the various municipalities positions that have been expressed through the cross acceptance process over the past several years.

Attorney Shurts commented on the documentation provided on a zoning issue regarding Block 8 Lot 13. He noted the application involves some different uses of properties that are pre-existing non-conforming uses and the applicant wants to change the lots around. He explained the Planning Board does not have jurisdiction over the matter and the application will be referred to the Board of Adjustment.

Ms. Van der Veen passed out CD's containing the Natural Resource Inventory (NRI) to all of the new board members. She noted the CD's were funded by an anonymous donor and the Planning Board did not incur any costs to reproduce the NRI.

Approval of Minutes

Mr. Molnar asked for clarification on why the nomination for Chairman of the Planning Board was approved by voice vote while the other reorganization nominations were approved by roll call vote. Attorney Shurts explained that is the way he has always handled it procedurally when he opens meetings. He said a roll call vote was not necessary because no other nominations were made.

Attorney Shurts was excused from the meeting at this time, 9:37 PM.

A motion by Van der Veen, seconded by Urbanski to approve the Board's 1/19/10 minutes with no revisions noted was unanimously approved by roll call vote.

Adjournment

A motion by Urbanski, seconded by Baldino to adjourn was unanimously approved by voice vote.

The meeting adjourned at 9:39 PM.

Maria Andrews, Planning Board Secretary