

**WEST AMWELL TOWNSHIP  
PLANNING BOARD MEETING  
January 18, 2011**

The West Amwell Township Planning Board meeting was called to order at 7:30 PM by Attorney Shurts 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 Attorney Shurts: 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 28, 2010. Notice has been posted on the bulletin board at Town Hall on January 13, 2011, 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 Attorney Shurts: 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.

**Oaths of Office**

The following Oaths were administered by Attorney Shurts in unison:

Class I – Tom Molnar – 1 yr. term (exp. 12/31/11)

Class II – Lonnie Baldino – 1 yr. term (exp. 12/31/11)

Class III – George Fisher – 1 yr. term (exp. 12/31/11)

Alternate #1 – Unexpired 2 yr. term – Rob Tomenchok (12/31/11)

**Attendance – Roll Call**

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

**Excused:** Nella Hamtil – Alt. #2

### **Nominations/Appointments**

Attorney Shurts asked for nominations for the Board's Chair. A nomination by Baldino, seconded by Van der Veen to nominate Sean Pfeiffer as the Board's Chair was made. Hearing no other nominations, a motion by Haug, seconded by Fisher to close the nominations was unanimously approved. The motion to nominate Sean Pfeiffer as the Board's Chair was approved by roll call vote. Attorney Shurts congratulated Chairman Pfeiffer and he took over the meeting.

Chairman Pfeiffer asked for nominations for the Board's Vice Chair. A nomination was made by Urbanski, seconded by Baldino to nominate Joan Van der Veen as the Board's Vice Chair. Hearing no other nominations, a motion by Urbanski, seconded by Fisher to close the nominations was unanimously approved. The motion to nominate Joan Van der Veen as the Board's Vice Chair was unanimously approved by roll call vote.

A motion by Urbanski, seconded by Van der Veen to appoint Maria Andrews as the Board's Secretary was made and unanimously approved by roll call vote.

A motion by Van der Veen, seconded by Baldino to appoint Donna Griffiths as the Board's Deputy Secretary was unanimously approved by roll call vote.

The following subcommittees were formed:

Subdivision Subcommittee: Lonnie Baldino, John Haug and George Fisher  
By-Laws Committee: Chester Urbanski, Tom Molnar and Joan Van der Veen

It was noted that Rob Tomenchok, Joan Van der Veen and Sean Pfeiffer will be working on the Community Facilities Plan.

It was also noted that Hal Shute, Steve Bergenfeld and Rob Tomenchok will be working with the Finance Committee on the Economic Plan Element.

### **Reorganization Resolutions**

PB#2011-01 – Consent Agenda  
PB#2011-02 – Meeting Schedule  
PB#2011-03 – Designation of Official Newspaper  
PB#2011-04 – Appointment of Board Attorney  
PB#2011-06 – Appointment of Consulting Engineer  
PB#2011-07 – Appointment of Board Planner

A motion by Fisher, seconded by Urbanski to approve Resolutions PB#2011-01, 02, 03, 04, 06 and 07 was unanimously approved by roll call vote.

Mr. Shute requested that Resolution PB#2011-05 (*Appointment of Board Engineer*) be pulled for further discussion. He asked if there were other, perhaps less expensive, Engineers available from Van Cleef Engineering to cover the Planning Board meetings. Chairman Pfeiffer commented that Engineer Clerico had previously offered to have Tom Decker cover the Planning Board's needs. It was noted that Engineer Decker is currently providing services to the Board of Adjustment. Mr. Urbanski commented that Engineer Clerico does a great job but remarked that there have been complaints regarding the cost of services. It was the consensus of the Board to verify whether or not Engineer Decker is available to cover the Planning Board meetings because his rates are less expensive. It was noted that Chairman Pfeiffer will contact Van Cleef Engineering accordingly. He will request that Engineer Decker work on future applications brought forth to the Planning Board, Engineer Clerico will finish out the work on current applications

that he is already working on and continue to cover any special projects as well as any major subdivision applications.

A motion by Shute, seconded by Fisher to approve Resolution PB#2011-05 was unanimously approved by roll call vote. It was noted that the contract for the Board Engineer is with Van Cleef Engineering which would include Engineer Clerico as well as any other professional from that firm.

#### **Approval of Bill List**

A motion by Haug, seconded by Fisher to approve the vouchers for payment as listed on the 1/18/11 bill list was unanimously approved by roll call vote.

#### **Applications**

##### **Discussion: Heritage – Block 5 Lot 15.01 – Request for Extension of Time to File Deeds**

Present for this discussion was Attorney Dan Haggerty on behalf of contract purchaser Erin Development Company, Richard Carroll President of Heritage Building Group, Attorney Gia Raffielli on behalf of Heritage Building Group and Dave DeLuca of Erin Development Company.

For the benefit of any new Board Members, Attorney Shurts explained the role of the Board with regard to the request for an extension of time to file deeds. He stated the Planning Board has the ability to grant subdivision approval which was granted several years ago. He noted there were a number of circumstances that have changed since the original approval was granted, including the New Jersey Department of Environmental Protection (NJDEP) paring the approval down significantly by not allowing any development on the other side of the stream that currently runs through the property. It was noted that the development can now only take place between the existing roadway and the stream—not beyond the stream. Attorney Shurts noted this change required a revised approval, which was granted and since then there has been no activity.

He commented that the terms and conditions in effect at the time approval is granted cannot be changed for a period of two years unless there are some unusual circumstances, which he noted is not the case here. Attorney Shurts indicated that if after the two years the applicant has not moved forward with perfecting the subdivision the statute allows for the Planning Board to grant up to 3 one year extensions. Attorney Shurts noted the applicant is before the Board this evening seeking 2 one year extensions – good through July 15, 2012.

Attorney Dan Haggerty on behalf of Erin Development Company (Erin) came forward and agreed with Attorney Shurts' summary. He added further details explaining Erin intends to purchase the 67.5 acre parcel. He noted the original application came forward in 2000 and minor subdivision approval was granted in 2003 to take 127.5 acres of the Holcombe Farm and divide it into two parcels each with 67.5 acres. One parcel was to be developed residentially and the remaining parcel was to remain in the HC Zone. By 2003 the project morphed into Heritage Building Group only buying the 67.5 acres. In March of 2004 Heritage established a special limited liability corporation, Holcombe LLC to own the property. In October 2004 the first preliminary major subdivision approval was granted for the construction of 19 residential homes on the 67.5 acres which would have been situated on both sides of the existing stream running through the parcel.

Attorney Haggerty noted this property got caught up in a reclassification of the stream by the NJDEP, and became subject to the new stormwater regulations and flood hazard regulations. He indicated the following 4 years became dedicated to re-doing the project. In December 2006 the formerly 19 lot project was cut down to 14. In March 2008 the agreement with the NJDEP was finalized and stormwater review approval was granted. In July 2008 the Planning Board granted a second revised preliminary major subdivision approval and subsequently final major subdivision approval was granted for 14 building lots on the 67.5 acres.

Attorney Haggerty noted that this subdivision approval is not protected by the Permit Extension Act because this parcel is in Planning Area 4B which is designated by the State as environmentally sensitive and therefore not covered by the Permit Extension Act. He explained that if this subdivision was protected by the Permit Extension Act they would have had approval through June 30, 2013. He noted that the NJDEP approval is good through March 2013.

Attorney Haggerty read for the record, three portions of the Permission Extension Act because he believes this application is applicable to the thought process which supports the Permission Extension Act. He said, "There exists a state of National Recession which has drastically effected various segments of the New Jersey economy, but none as severely as the State's banking, real estate and construction sectors...the process of obtaining Planning Board and Zoning Board of Adjustment approvals for subdivisions, site plans and variances can be difficult, time consuming and expensive for both private applicants and government bodies...the current National Recession has severely weakened the building industry and many land owners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants, due to the crisis in real estate financing and the building industry, uncertainty over the state of the economy and increasing levels of unemployment in the construction industry."

Attorney Haggerty respectfully requested that the Planning Board grant the extensions so the project can finally move forward.

Mr. Carroll came forward and was sworn in. He provided additional background information on Heritage Building Group. Mr. Carroll noted that the company has invested approximately \$2.5 million into the project over the past 10 years. He stated they are currently working cooperatively with their lender to sell the property but the sale is contingent upon having all of the required permits and approvals.

Chairman Pfeiffer asked Mr. Carroll if he knew why the Legislature specifically exempted Planning Areas 4B and 5 from protection under the Permit Extension Act. He stated he did not know other than to say those areas are considered environmentally sensitive.

Chairman Pfeiffer asked why the escrow account was left in a deficient state for over two years with no response from anyone at Heritage Building Group. Mr. Carroll apologized and remarked that the past few years have been tremendously difficult for the company and noted that they simply did not have the resources to address the escrow situation.

Chairman Pfeiffer asked Attorney Shurts what factors can and cannot be considered when reviewing applications. Attorney Shurts noted that as a general rule the Board should not be concerned about an applicant's financial situation, however under the economic circumstances that exist today it is hard to ignore. He added the reason the Permit Extension Act was brought back was due to the somewhat unprecedented economic situation. Attorney Shurts commented that the applicant's request is reasonable.

Chairman Pfeiffer asked if the extensions are granted, what the timeline for the project will be. Attorney Haggerty remarked that all of the approvals are in place with the NJDEP approval expiring in March 2013. He noted it is in everyone's best interest to move the project forward. Mr. DeLuca came forward and was sworn in. He confirmed that Erin intends to work diligently on this project and see it through to completion.

Mr. DeLuca provided some personal history for the Board. He noted he has been in real estate development for over 25 years. Nine years with Toll Brothers, 14 years with NVR and about 6 years with private partners. He

indicated Erin is interested in this project because it gives them an opportunity to build attractive homes on large parcels and to develop them in an environmentally sensitive manner.

Mr. Baldino asked if Erin is looking to put in the improvements and sell off the lots or looking to build out. Mr. DeLuca indicated they intend to improve the property and be the developer. He noted they have a relationship with NVR commenting they are one of the largest home builders in the industry. The plan is to take advantage of Erin's local expertise and ability to develop property and incorporate that into NVR's ability to market, sell, build and service homes. Mr. Baldino asked who would oversee the type of homes being built. Mr. DeLuca indicated NVR would determine what type of homes would be built. Chairman Pfeiffer asked if there would still be a homeowners association as was previously required/approved. Attorney Haggerty clarified that everything that has been approved cannot and will not be changed. He stressed they are not deviating from anything that was previously approved.

Chairman Pfeiffer asked if Erin really needed an extension until July 15, 2012. Attorney Haggerty believed they did due to the time it will take to close on the property and complete the project. Attorney Shurts commented that the Board can only grant extensions in one year intervals per the statute.

Mr. Shute asked if Erin has a contract with NVR. Mr. DeLuca said no. Mr. Shute commented the last thing the Township would want to see is Erin put in the improvements and then be unable to sell the lots. Mr. DeLuca remarked that NVR is interested in the project but cannot enter into a contract with Erin until they actually purchase the property. Mr. DeLuca noted that if something were to happen with NVR, Erin has the ability to build the project and can also reach out to other developers. Mr. DeLuca indicated they did not intend on putting in any road improvements until there was a contract with a developer. Attorney Haggerty remarked that the project is also subject to a developers agreement and performance guarantee.

Ms. Van der Veen asked what Mr. DeLuca meant when he said the homes would be built in an environmentally sensitive manner. Attorney Haggerty explained that environmentally sensitive refers to the stormwater regulations and the other State regulations. Ms. Van der Veen expressed that a lot of time was spent on the original approvals and is concerned that all of those guidelines won't be followed. Attorney Haggerty assured the Board that they are not deviating in any way from the original approvals that were granted or with any of the conditions that are associated with the approval.

Chairman Pfeiffer addressed Mr. Molnar (*as the Mayor*) and stated that when the developers agreement is being reviewed, that the Township Attorney may wish to consult with the Planning Board Attorney to ensure that all of the conditions in the Resolution of Approval are followed.

Ms. Van der Veen expressed curiosity over the cost of the lots to NVR, the cost to build the homes and what the sale price will be for potential buyers. Mr. DeLuca indicated the price range of the homes would be in the \$500,000.00 range and the homes would consist of a minimum of 4000 sq. ft.

Mr. Baldino asked where the retention basin will be on the property. Mr. DeLuca noted that the stormwater management regulations allowed for this component to become part of the reforestation, recharge and rain garden plan for each individual lot instead of one large hole in the ground.

Mr. Shute pointed out that although this application was originally approved under the old 2 acre zoning, it now almost complies with the current zoning.

Mr. Shute asked about the conservation easements on the parcel. Chairman Pfeiffer noted the homeowners association would be primarily responsible for the maintenance of the conservation easements. Attorney Haggerty agreed.

A motion by Urbanski, seconded by Bergenfeld to grant the 2 one year extensions was unanimously approved by roll call vote.

#### **Unfinished Business**

##### **Review/Approval – Ordinance 2, 2011: An Ordinance to Amend Chapter 109 of the Code of the Township of West Amwell to Provide Regulations Regarding Renewable Energy Facilities**

Mr. Bergenfeld indicated he had an issue with limiting the height of wind turbines to 50 ft. He noted the average homeowner installs 10 kilowatt turbines which require a 100 ft. turbine and suggested the height should therefore be limited to 100 ft. or 150 ft.

There was some discussion by Board Members regarding the height limitations on wind turbines. It was noted that property owners wishing to install 100 ft. turbines could seek a variance from the Board of Adjustment. Chairman Pfeiffer remarked that the Professionals have reviewed the ordinance and took no issue with the 50 ft. height limitation. He added that the State statute says that you can't use a general height requirement ordinance for limiting the size of wind turbines—it must be specifically addressed in a renewable energy ordinance and he noted that the only reference to structures over 150 ft. within the Township refers to cell towers and the ordinance requires a 500 ft. setback from the nearest residence. He clarified that because of the way the State statute was written, the Township cannot establish a stricter setback standard than 150% of the height of the turbine.

Mr. Tomenchok commented, based on his personal engineering experience, that a 50 ft. wind turbine is meaningless and agreed with Mr. Bergenfeld that the height limit should be increased which would minimize the ground effects from the wind.

Ms. Van der Veen commented that the Planning Board's job is to plan what is appropriate for the community and remarked that if anyone wishes to install a taller turbine they can apply to the Board of Adjustment.

A motion by Van der Veen, seconded by Urbanski to find Ordinance 2, 2011 consistent with the Master Plan and to recommend adoption by the Township Committee was approved by roll call vote.

##### **Discussion – Question Regarding Sign Ordinance Impact on Temporary/Election Signs**

Chairman Pfeiffer suggested this discussion be carried to a meeting where Planner Hintz is in attendance so that he can comment on the matter. Mr. Shute was in agreement.

##### **Discussion – Impact of Proposed S1 Affordable Housing Legislation**

Several Board Members commented that the S1 Legislation is constantly changing. Chairman Pfeiffer remarked that if the Planning Board needs to adopt a revised Housing Element, there will need to be budget considerations.

##### **Discussion – Community Facilities Plan Element Status**

Chairman Pfeiffer noted that the police and rescue squad information has been updated. He also added that the special education numbers will be removed from the Plan.

Ms. Van der Veen remarked that the Sergeantsville Fire Company is possibly looking to disband and she expressed concern over the amount of calls West Amwell Township already answers outside of the community and believes that the burden may be increased if Sergeantsville dissolves. Mr. Molnar clarified that mutual aid is an unwritten law among fire companies and they often respond to calls outside the community.

Mr. Shute asked why the Amwell Valley Rescue Squad is in the West Amwell Township Community Facilities Plan. Chairman Pfeiffer explained they serve the eastern portion of the Township. Mr. Molnar clarified that that is the way it has always been noting the Township Committee donates money for their services.

#### **Discussion – Economic Plan Element Status**

Mr. Shute commented that he is continuing to work on the Economic Plan. Mr. Fisher commented that the two reasons that the Township's bond rating was downgraded was because of the decrease in the surplus/current accounts and also the Township's lack of a taxable base. He remarked that it is important to develop an Economic Plan for the purpose of reviewing ways to increase revenues.

Mr. Tomenchok commented that if a large residential development were to come into the Township it would put a strain on the elementary school because there are currently 2 classrooms per grade. He noted enrollment in the elementary school has not changed significantly in West Amwell, but the enrollment in Lambertville schools has decreased which effects the enrollment at South Hunterdon High School.

It was noted that the Economic Element Plan work group will try to provide a rough draft for review at the Board's March meeting.

#### **Discussion – Revised Fee Ordinance Status**

Mr. Baldino noted that he is currently working on the revised fee ordinance and will try to have a draft for review at the Board's February meeting.

#### **Discussion – 2011 Planning Priorities and Budget Requirements**

Chairman Pfeiffer noted the Open Space Committee discussed updating the Open Space Plan which would be paid for out of open space trust funds. He noted the trail maps should be reviewed for updating which Planner Hintz will provide a quote for.

It was noted that Mr. Haug, Mr. Baldino and Chairman Pfeiffer will review the conditional use standards for updating. Mr. Urbanski will review the riding academies, landscape, contractors and farmers market sections with the Agricultural Advisory Committee to obtain their input and feedback.

#### **Status of Plan Endorsement**

There was no update on Plan Endorsement at this time.

Attorney Shurts was excused from the meeting at this time, 9:45 PM.

#### **Approval of Minutes**

A motion by Urbanski, seconded by Bergenfeld to approve the Board's 12/21/10 minutes as revised was unanimously approved by roll call vote.

#### **Adjournment**

A motion by Haug, seconded by Baldino to adjourn was unanimously approved.

The meeting adjourned at 9:49 PM.

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Maria Andrews, Planning Board Secretary