

**WEST AMWELL TOWNSHIP
PLANNING BOARD MEETING
July 19, 2011**

The West Amwell Township Planning Board meeting was called to order at 7:33 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 27, 2011. Notice has been posted on the bulletin board at Town Hall on July 14, 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 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
John Haug
Tom Molnar
Sean Pfeiffer
Hal Shute
Chester Urbanski
Joan Van der Veen
Rob Tomenchok – Alt. #1
Nella Hamtil – Alt. #2
Engineer Decker
Planner Hintz
Attorney Shurts

Excused: George Fisher

Approval of Bill List

A motion by Van der Veen, seconded by Baldino to approve the vouchers for payment as listed on the agenda was unanimously approved by roll call vote.

Resolutions of Approval

It was noted that there were no resolutions listed on the agenda for approval.

Unfinished Business

Determination of Completeness – Spectra Corporation (Formerly Texas Eastern) – Block 5 Lot 6

Present for the discussion was Attorney John Shari on behalf of the applicant Spectra Corporation, Engineer Deborah D'Amico and Project Manager Gene Muhlherr.

Attorney Shurts explained that he was aware that public notice had been provided but that the applicant was not able to get the notice published in the newspaper within the time frame allowed under the Municipal Land Use Law (MLUL). It was noted that no noticing documentation had been provided by the applicant to date. Attorney Shurts indicated that Zoning Officer Baldino had made a determination that this application will require a public hearing for major site plan approval. He explained the Board can make a completeness determination this evening and then the applicant can provide only published notice for a public hearing in August since the neighbors were already advised. It was noted that no members of the public were present at the meeting this evening.

A motion was made by Haug, seconded by Van der Veen finding that the application is for major site plan approval per Zoning Officer Baldino's determination was unanimously approved by voice vote.

Engineer Decker reviewed his completeness memo and it was noted that the applicants had provided revised sheets 1 and 2 of their site plan to address several of the items outlined in the memo. He recommended the following waiver requests be granted:

1. Environmental Impact Statement – Given the proximity of the proposed improvements within an established facility
2. Wetlands Report – Given that the applicant has submitted for a New Jersey Department of Environmental Protection (NJDEP) general permit for the general maintenance of the transmission line through various counties
3. Soil Erosion and Sediment Control Plan – Given that the applicant has an approved plan from the Hunterdon County Soil Conservation District
4. As-Built Plans – A waiver for completeness purposes given that an as-built plan cannot be supplied until construction is completed

Chairman Pfeiffer remarked that the plans should be revised to reflect that no new lighting is being proposed. Engineer D'Amico agreed to do so.

Mr. Baldino asked about the C-1 stream buffer area. Engineer Decker indicated the applicant has obtained a NJDEP permit and if there was an issue, NJDEP would have raised it. Engineer D'Amico explained that the Environmentalist who secured the NJDEP permit will be at the public hearing to address this matter.

A motion by Haug, seconded by Urbanski to deem the application complete and grant the requested waivers was unanimously approved by voice vote.

Chairman Pfeiffer noted the public hearing for this application will be scheduled for Tuesday, August 16, 2011 at 7:30 PM and the applicant does not have to provide further notice to the surrounding property owners within 200 feet but does have to publish notification in the newspaper.

Engineer Decker was excused from the meeting at this time, 8:00 PM.

Public Hearing – Community Facilities Plan Element

Attorney Shurts noted that he reviewed the public notice and confirmed it was done in accordance with the MLUL requirements. He stated the Board had jurisdiction to proceed with the public hearing.

Ms. Van der Veen and Mr. Haug both noted minor grammatical/language changes.

Chairman Pfeiffer opened the floor to public comment. It was noted that there were no members of the public present at the meeting at this time. A motion by Van der Veen, seconded by Baldino to close to the public was unanimously approved by voice vote.

A motion by Van der Veen, seconded by Baldino to adopt the Community Facilities Plan Element as an amendment to the Master Plan was unanimously approved by roll call vote.

Chairman Pfeiffer thanked Ms. Van der Veen and Mr. Tomenchok for the time they devoted to revising this Element.

Discussion – Economic Plan Element – Status Update

Mr. Shute indicated he did not have any further updates and commented that he is awaiting feedback from the Board. Mr. Tomenchok remarked that they did discuss adding some language regarding the impact of volunteerism within the community. He noted that at a recent meeting in Lambertville with the Boy Scouts, the Scout Council had prepared an economic analysis of the impact scouting brings to the local economy. He stated it is a fair amount of money.

Chairman Pfeiffer referred to the text regarding a basic misunderstanding/misinterpretation of the thorough and efficient clause in the New Jersey Constitution and asked if this was referring to recent Court findings. Mr. Tomenchok explained that much public policy is crafted around the phrase *thorough and efficient education* and he clarified that the actual clause in the Constitution is *thorough and efficient system of public education*. He stated this is where the problem lies. He noted the fundamental misunderstanding is the contextual difference between a *system* of public education and a public education.

Chairman Pfeiffer also commented on age restricted housing options noting he pulled some articles for the Board's information including one from the Trenton Times from 2005 which focuses on the impact to schools, another article from the Star Ledger dated February 2009 which focuses on the economy and how the laws are allowing developers to convert previously approved age restricted housing into regular market rate housing, another article from November 2010 regarding a Town Council who reluctantly approved a developers agreement lifting the age restriction on an approved project, another article from November 2010 regarding a developer suing Washington Township after it refused to lift the age restriction on a project and finally a commentary including quotes from the Mayor of Hamilton talking about the impact age restricted housing has had on their municipality. Chairman Pfeiffer remarked that he mentioned last month that the Board's Planners have indicated age restricted housing can open a can of worms and they recommended it be removed from the Master Plan. He stated given the history of the articles he provided and knowing what has happened in other municipalities, he suggested the Board think long and hard before adding it back into the Master Plan. He noted an applicant can always bring something up for discussion, but once it's mentioned in the Master Plan it can become an issue.

Mr. Haug asked if the referral that equestrian operations are by and large economically favorable to the community means in a tax sense or by people coming into town spending money. Mr. Shute commented that it meant people spending money when they come into the Township. Chairman Pfeiffer noted an equestrian farm in Hopewell that conducts large functions and asked if anyone knew how much money their operation brings

into the town of Hopewell. Mr. Tomenchok indicated he did not know but suggested they likely employ local people through catering, veterinarian and farrier needs.

Mr. Shute noted that they will continue to work on the Economic Element Plan draft for further review next month.

Discussion – Conditional Use Ordinance Review – Status Update

Chairman Pfeiffer reported that he had sent the draft reviewed at last month's meeting to the Board's Professionals for input and he received some comments. He noted a revised draft will likely be prepared for review at next month's meeting.

There was some discussion on the definition of public utility and the co-location of antennas on cell towers. Chairman Pfeiffer suggested the best approach for defining public utility is to use the definition included in the MLUL. With regard to cell tower antenna co-location Attorney Shurts commented that there is an Ordinance requirement that cell tower applicants must submit a letter agreeing to co-locate. He recommended removing this requirement from the ordinance due to potential enforcement issues.

Chairman Pfeiffer read the clause in question: "...a binding irrevocable letter of commitment by the applicant to lease excess space on the tower or other potential uses at prevailing market rates and conditions. The applicant's Council shall simultaneously submit a separate opinion of Council expressing such Council's opinion as to the enforceability of such binding irrevocable letter of commitment by the Township under the laws of the State of New Jersey. The letter of commitment shall be recorded prior to the issuance of a building permit. The letter shall commit and shall be binding upon the tower owner."

Attorney Shurts stated he believes the clause goes too far and indicated he wasn't sure that any applicant would agree to it or that it would be enforceable. It was the consensus of the Board to strike this clause from the Ordinance.

Mr. Urbanski addressed the definition of riding academy, livery or boarding stable – section 109-99. He noted there is no definition or regulations in the code for accessory dwellings and clarified that there is a definition for farm buildings but no regulations.

There was some discussion on the setbacks for run-in sheds and the applicability to riding academies. The consensus of the Board was to leave the setback at 200' as it is currently stated in the Ordinance.

Mr. Urbanski referred to the regulations on waste disposal and manure management and commented that two members of the Ag Advisory Committee have mentioned that the Equine Center in East Amwell Township dumps equine waste on the wetlands which run into the Alexauken Creek which is a concern. He remarked that waste management must be monitored in some way. Mr. Baldino commented that the Board of Health would need to address this. Ms. Van der Veen mentioned there is a State regulated manure management program that is controlled by the number of horses or animal units. Mr. Urbanski commented that he will suggest Ag Advisory draft an Ordinance and provide it to the Board of Health for review regarding the enforcement of waste management.

Mr. Shute remarked about there being something in the Ordinance regarding farm labor housing. Chairman Pfeiffer suggested Mr. Urbanski call Rick Steffey at the County or Stephanie Miller of the State Agriculture Development Committee (SADC) to see if they can recommend a definition for accessory structures or farm labor housing.

Mr. Baldino referred Mr. Urbanski to section 75-4 of the Ordinance – Kennel Licensing regarding waste management and also section 170-6 which focuses on pig and swine waste. Mr. Bergenfeld remarked that he knows of newer kennel facilities which have separate toilets just for animal waste.

Chairman Pfeiffer asked if Ag Advisory will review Section 109-102 and 109-103 as well which addresses landscape contractors with plant nurseries and farmers markets. Mr. Urbanski noted the Ag Advisory did not recommend any changes to farmers markets and noted they will review the section regarding landscape contractors with plant nurseries and get back to the Board with any recommendations.

Discussion – Renewable Energy Ordinance Definitions – Recommendation from Environmental Commission

Chairman Pfeiffer remarked that he understands the Environmental Commission is not recommending any changes. Ms. Van der Veen stated the current definition is based on the State's definition. Chairman Pfeiffer commented that the definitions are not identical regarding minor facilities with co-ops. Ms. Van der Veen indicated she will go back to the Environmental Commission for clarification on this point

Attorney Shurts was excused from the meeting at this time, 8:55 PM.

Mr. Baldino noted that the West Amwell Elementary School will be coming to the Planning Board for review of classroom trailers they are proposing to place on their property.

Approval of Minutes

A motion by Van der Veen, seconded by Urbanski to approve the Board's minutes from 6/21/11 as revised was unanimously approved by voice vote.

Adjournment

A motion by Urbanski, seconded by Haug to adjourn the meeting was unanimously approved.

The meeting adjourned at 9:03 PM.

Maria Andrews, Planning Board Secretary