

**WEST AMWELL TOWNSHIP  
PLANNING BOARD MEETING  
March 15, 2011**

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 27, 2011. Notice has been posted on the bulletin board at Town Hall on March 10, 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  
George Fisher  
John Haug  
Tom Molnar  
Sean Pfeiffer  
Hal Shute  
Joan Van der Veen  
Rob Tomenchok – Alt. #1  
Nella Hamtil – Alt. #2  
Attorney Shurts

**Excused:** Chester Urbanski

**Approval of Bill List**

A motion by Haug, seconded by Van der Veen to approve the vouchers for payment as listed on the 3/15/11 bill list was unanimously approved by roll call vote.

Chairman Pfeiffer noted that he spoke with Assistant Treasurer Sandy Haberle regarding the Board's remaining 2010 budget to confirm that the vouchers are being paid from the correct budget. He explained that the CFO had encumbered money related to Master Plan work and the Renewable Energy Ordinance that began in December of 2010 and the bills need to be paid from that budget and not the 2011 temporary budget.

## **Unfinished Business**

### **Planning Review of Ordinance 3, 2011: An Ordinance to Amend Chapter 109 of the Code of the Township of West Amwell to provide Regulations Regarding Renewable Energy Facilities**

Chairman Pfeiffer noted that in order for the Township Committee to proceed with their public hearing on this Ordinance, the Planning Board must recommend its approval. He commented that the Ordinance is consistent with what was discussed and voted upon at the Board's February meeting.

A motion by Fisher, seconded by Baldino finding Ordinance 3, 2011 consistent with the Master Plan and recommending adoption by the Township Committee was unanimously approved by voice vote.

### **Discussion – Site Plan Review Requirements – Recommendation from Board Attorney**

Mr. Baldino commented that he believes it is imperative to implement site plan review for all commercial uses or changes in commercial uses. He noted this requirement is not currently in the existing ordinance and stated he believes there could be issues in the future.

Chairman Pfeiffer remarked that site plan review for commercial projects is consistent with the Municipal Land Use Law (MLUL) in that site plan approval can be required for everything other than multi-family and single family uses. Attorney Shurts noted there are some other exceptions that most Municipalities allow which he included in the documentation he provided to the Board.

Mr. Shute asked if site plan approval will now be required for agricultural buildings. Mr. Baldino clarified that the site plan approval he is recommending is for commercial/industrial uses.

Attorney Shurts noted that there is a section which addresses a waiver of site plan review requirement that allows for an applicant to be able to request a waiver of site plan review.

It was the consensus of the Board to change the Ordinance to require site plan review for commercial uses or changes in commercial uses. Chairman Pfeiffer noted that he will forward the draft ordinance to Planner McManus for her review and comment.

Chairman Pfeiffer noted he was going to re-order the agenda in an effort to address those matters that require input from Attorney Shurts.

### **Discussion – Deputy Secretary Position**

Chairman Pfeiffer commented that Attorney Shurts has advised that he sees no problem with the Planning Board appointing Ruth Hall, the Board of Adjustment Secretary as the Deputy Secretary for the Planning Board in the event Ms. Andrews is ever unable to make a meeting.

Chairman Pfeiffer remarked that Ms. Andrews has been appointed the Deputy Secretary for the Board of Adjustment to cover for Ms. Hall if she can't make a meeting.

A motion by Molnar, seconded by Van der Veen to appoint Ruth Hall as the Deputy Planning Board Secretary was unanimously approved by voice vote. *(Note for the record: This motion was made later in the evening when this matter came up in the normal course of the agenda.)*

Chairman Pfeiffer addressed a letter received from EBI Consulting which was received after the packets were mailed. The letter is requesting the Planning Board to provide comments relative to proposed projects that may impact historic properties. Chairman Pfeiffer commented that he asked the Historic Preservation Committee to review the documentation and provide comments. The Committee responded with an email and Chairman Pfeiffer suggested Ms. Andrews send a letter back to EBI Consulting indicating that the Planning Board had consulted with the Historic Preservation Committee who has advised that the structures noted in the email are within the radius indicated on the map they provided. The Board agreed with the suggestion and it was noted that a statement will be added indicating the letter is only in response to their request and should not be construed as a comment on the part of the Township's local zoning process.

A motion by Haug, seconded by Baldino requesting Ms. Andrews generate a letter to EBI Consulting reiterating the Board's comments was unanimously approved by voice vote.

Attorney Shurts was excused from the meeting at this time, 7:56 PM.

#### **Discussion – Sign Ordinance Impact on Temporary/Election Signs – Status of Suggested Revisions from Board Member Shute**

Mr. Shute provided the Board with a draft of his suggested revisions to the Sign Ordinance. He commented the existing Ordinance has some references in the "*Whereas's*" to election and political signs being protected as free speech but he noted there is some language in the beginning of the Ordinance that seems to indicate a time frame within which the signs can be posted and when they must be removed. Mr. Shute remarked that he believes the signs should come down within 2 days after an election.

Chairman Pfeiffer expressed that he thought Mr. Shute's original issue was that signs posted on public property can be considered litter. Mr. Shute agreed and clarified that his issue is that a lot of people believe the public right-of-way is public property and he remarked that he thinks the Ordinance should be clear on exactly where signs can be posted and where they cannot. Mr. Shute noted he is proposing that signs cannot be posted on public property but they can be posted in the right-of-way as far as he is concerned. Mr. Haug asked if signs can be posted at the entrance to a development. Mr. Shute commented that anything along the frontage of Mr. Haug's development is public property which would prohibit signs from being posted there.

Ms. Van der Veen asked how posting signs on public property will be regulated. Mr. Shute remarked that he did not know. He added that he doesn't believe there is a problem with signage now and suggested the Board leave the Ordinance alone and review it in the future if need be.

Mr. Tomenchok noted that the Ordinance makes reference to the total size of political signs (*6 sq. ft. maximum*) and asked if that includes election signs on both public and private property. Mr. Shute clarified that political signs are exempt from the Ordinance and explained that a permit is not required to post an election sign.

Mr. Bergenfeld asked if there have been any issues with signage. Chairman Pfeiffer explained that the Board directed Planner Hintz to write an Ordinance that was consistent with the existing Ordinance and to ensure that it was enforceable given some of the recent Court cases regarding signage. Mr. Tomenchok quoted a portion of the Constitution and commented that the Sign Ordinance doesn't seem to be in keeping with the philosophy of West Amwell—*live and let live*—but noted he understands the litter concern associated with some signage. Mr. Bergenfeld remarked that he believes having political signs removed after two days of an election is reasonable.

Chairman Pfeiffer referred to Section C: Prohibited Signs and said it specifically addresses signs in the public right-of-way. He read, "Signs in the public right-of-way other than traffic control device signs and warning signs or safety signs are restricted." He explained that political signs must be posted on private property in a manner that doesn't obstruct the view of traffic. Mr. Baldino asked if the right-of-way is considered Township property and commented that he believes it is and if so, noted that there is a Chapter in the Ordinance pertaining to signs and billboards which prohibits posting them on Township property unless authorized by the Township Committee. Chairman Pfeiffer remarked that he believes the prohibited signs section takes care of the public right-of-way issue.

It was the consensus of the Board to not make any revisions to the Sign Ordinance at this time.

#### **Discussion – Community Facilities Plan Element Update – Final Draft**

Chairman Pfeiffer noted he has not sent this Element to Planner Hintz yet because he is waiting to confirm whether or not the Planning Board has the funding for this in its 2011 budget.

Mr. Tomenchok asked if there is a requirement to have Professional review of the Master Plan elements. Chairman Pfeiffer commented that he is not sure if there is a statutory requirement but remarked that given the fact that the Township can get sued over the Master Plan it makes sense to have them review it. It was noted that Planner Hintz signs off and certifies his review of the Elements/Master Plan. Mr. Tomenchok asked if there is a legal requirement for Planner Hintz to do this. Ms. Van der Veen asked Mr. Tomenchok if he was asking for the purposes of saving money. Mr. Tomenchok commented that his opinion is the Planning Board can handle making revisions to the Master Plan Elements with guidelines from the professionals. He indicated he wasn't discounting the value of the professionals but expressed concern over the delegation of the Board's duties to a professional just because the Board/Township doesn't want to get sued. He remarked that if it is just a matter of updating tables, he doesn't see the need to have the professionals review the documents.

Chairman Pfeiffer commented that upon the Board's review of the entire Master Plan, it was discovered that some items were obsolete or not consistent with State Statute and the Board did the work to make the necessary revisions and then gave the final draft to the Planner for his quick review for consistency with the State Statutes. He noted that in most cases the Planner had limited comments but in the case of the Sign Ordinance, Planner Hintz specifically noted that because of recent litigation the Ordinance needed to include specific policy statements so that it is enforceable.

It was noted that there were some additional minor revisions made to the Community Facilities Plan Element regarding Police staffing, emergency shelters and the schools which Chairman Pfeiffer will address and then the Element will be forwarded to Planner Hintz for his review and comment.

Mr. Fisher remarked that the Swan Creek solar project has to come to the Planning Board for discussion on the proposed solar array to be installed on the Township's property. Mr. Shute suggested that they hold off on presenting anything until they have complete site plans for the Board to review. Chairman Pfeiffer noted that they will need a plan to present at the public hearing and they will need to provide noticing. He noted the only reason to have an informal review would be if anyone thought the Planning Board may have a problem with the project. Mr. Fisher indicated he didn't think there will be any issues. Mr. Shute commented that he doesn't believe the level of input the Planning Board will have on the project has ever been established. Mr. Tomenchok remarked that they have had some informal conversations that Swan Creek indicating they would make an informal presentation to the Planning Board explaining what their project entails.

Chairman Pfeiffer commented that whoever was involved in negotiations with Swan Creek on the project may want to step down when it comes before the Planning Board to avoid the appearance of prejudging the application/project.

Mr. Tomenchok stated they need to touch base with Swan Creek to see how far along their plans are and then to coordinate when they can come before the Board.

#### **Discussion – Economic Plan Element – Status of First Draft**

Mr. Shute explained that his subcommittee met last week and they came to the conclusion that the best way to deal with the Economic Plan Element is to simply present an outline to the Planning Board and obtain feedback. He noted they have reviewed several plans for other municipalities and none of them are applicable to West Amwell because they all focused on business districts and West Amwell doesn't have one.

Mr. Shute said the subcommittee reviewed what the Township has and what it would like to do and then created an outline. They have concluded that they would like to promote what currently exists within the Township. They want to enhance and encourage continued development along the lines of what is already established.

The Board reviewed the outline by sections. It was noted that there were no issues with the overall policy statement ideas, introduction or planning basis sections. With regard to the inventory analysis section the following comments were noted:

*School Costs Driving Tax Rate Due to Excessively Small Student Population* – Chairman Pfeiffer remarked that there is the same number of kids in the High School now as there was when he was in school there and there are more kids in the Elementary School now than there used to be. He asked if the issues are due to unfunded State mandates and special education rather than population. Mr. Tomenchok commented that the schools suffer from a sparse population. He explained that whether you have 12 students or 25 students, there must be a teacher in the classroom and when you have small classes the per capita costs are expensive. He also commented that he believes the special education program needs an overhaul.

Chairman Pfeiffer commented that when you look at what the capacity of the school is, less than 30 people can be added before the school will be over capacity. Mr. Tomenchok remarked that when the school was built there was general classroom instruction without all of the specials incorporated into the curriculum that exists today. He explained that the Township is in a position that if there is a large influx of students, another school would need to be built. He said if there is a small trickle of students they will be incorporated into the classrooms. Mr. Tomenchok stated that the worse scenario is a medium influx of students because the Township does not have the money to build anything and there will be a lot of un-housed students. He noted his comments are coming from the long range facility plan study that was done. Chairman Pfeiffer remarked that Mr. Tomenchok's comments summarize the critical points better than just stating there is an excessively small student population and suggested the inventory and analysis incorporate facts from the long range facility plan study.

Mr. Shute explained that the subcommittee reviewed the state wide municipal services index which is a matrix of each municipality's costs for providing their respective services. He noted this is a good way for West Amwell to gauge how they are doing. He said the matrix is slightly outdated by the time it is completed and for 2007 the Township was in the middle of the listing. Mr. Shute commented this may be an argument for shared services. He added that there are virtually no municipalities the size of West Amwell with their own Police Department.

With regard to policy recommendations, the following comments were noted:

*Encourage Farms of All Types and Sizes* – Mr. Haug asked how encouraging farms of all types and sizes relates to the overall policy statement and asked if the economics will be spelled out. Mr. Shute noted he initially wanted to encourage equestrian farms in the policy recommendations because they generally bring in more tax ratables but then it was changed to include all farms. Mr. Shute remarked he would love to see a vibrant agricultural industry but noted it will always be limited due to the water and soil issues in the Township. Mr. Tomenchok stated he doesn't see how old school industrial agriculture can survive in New Jersey at all. Chairman Pfeiffer indicated that he believes the Agricultural Advisory Committee feels the future of farming is with smaller sustainable farms. He suggested trying to encourage agricultural tourism.

*Build West Amwell's Reputation as a Desirable Location for Affluent, Self-Reliant Families who Value Privacy* – Chairman Pfeiffer suggested the subcommittee consider a more politically correct way to express this. Mr. Shute agreed but noted that this is what is needed for West Amwell to survive. Chairman Pfeiffer indicated he understood the goal, but noted the Master Plan cannot encourage an exclusionary zone.

*Connaught Hill Area Option Study* – Chairman Pfeiffer asked what this is. Mr. Shute commented that when you look at the tax map, this area just doesn't belong here and pondered whether or not there is some way to turn this area into an asset. Mr. Tomenchok commented that this area was looked at in terms of turning it into an opportunity. He noted possible Council on Affordable Housing (COAH) options, or potentially giving it over to Lambertville for something else. It was noted the subcommittee was trying to address how this area impacts Township finances. Chairman Pfeiffer commented how this area has been discussed many times and several years ago there was talk about sewers and a possible receiving area next to it. He remarked that in his mind it is fortunate that this did not pan out and hopes that will remain the case. Chairman Pfeiffer noted that if the subcommittee is suggesting consideration should be given to ceding that area to Lambertville to address any potential public health issues, he said that is a different discussion that he does not have a problem with. Mr. Tomenchok indicated the subcommittee wants to minimize the liabilities of that area and at the same time improve it.

Chairman Pfeiffer suggested that perhaps the Finance Committee and the Economic Plan Element subcommittee can try to quantify what revenue the Township is currently getting from that area and then try to quantify what it is costing the Township in services. Mr. Bergenfeld asked Chairman Pfeiffer what the costs were that he was referring to previously with regard to developments vs. farms. Chairman Pfeiffer noted there were some studies done on the long term costs of residential housing vs. preserved land and he said the studies determined that residential housing typically costs approximately \$1.67 for every dollar it brings in in revenue. He said there was also a study done on towns seeking to bring in more commercial development and the study determined that there was no actual reduction in the tax rates because it's New Jersey and commercial development has so many other obligations associated with it that it wasn't the clean ratable it was expected to be. Mr. Bergenfeld asked if anyone ever looked into what the tax revenue was prior to the Music Mountain development as compared to the cost to the Township for the services provided there. Chairman Pfeiffer remarked that the taxes are certainly higher now than they were 10 years ago. He noted that there have been studies done throughout New Jersey that say residential housing is a general sink on the tax base and encouraged Mr. Bergenfeld to bring in studies to the contrary.

Mr. Tomenchok commented that the developments were the perfect storm for the schools because the demographers predicted that the people moving into these homes would be empty nesters. Mr. Haug remarked that it didn't seem logical that empty nesters would buy a home of these sizes. Mr. Tomenchok explained that

the demographers insisted that mid-level executives would be attracted to these homes for entertaining purposes. Chairman Pfeiffer commented that the school administrations can provide numbers on the amount of students coming from each development and then calculations can be made on the cost to the schools with respect to the cost for municipal services. Mr. Bergenfeld remarked that he understands that development creates cost to the Township and said that he believes the Music Mountain development pays New Jersey well over a million dollars in total property taxes but did not know the percentage that goes to West Amwell. Chairman Pfeiffer said it's about 10%, or \$100,000.00 that comes to West Amwell. Mr. Molnar noted the Township mows grass 2 – 3 times a week in the Music Mountain development. It was noted there are also costs associated with snow removal and road maintenance.

*Further Land Preservation Efforts Should Consider Impact on Future Tax Base* – Chairman Pfeiffer indicated that he agrees and commented that they may wish to add some facts indicating this is already being done.

*Consider Relaxing Home Based Business Ordinance for Larger Lots* – Chairman Pfeiffer suggested Zoning Officer Baldino review this because there may be the ability to generate revenue through licensing. Mr. Shute remarked currently home based businesses in garages are not permitted and thought this is restrictive on large lots. Mr. Tomenchok agreed saying a machinist would not want to have that type of business attached to his home. Chairman Pfeiffer commented that the Board has already identified in the Land Use Element that the home based occupation ordinance was something that needed to be reviewed.

Mr. Bergenfeld commented that Tax Assessor Gill has told him that he does not rate mixed use, home based businesses differently. It was noted that if a separate building was being used on the property then Mr. Gill may view assessments differently. Chairman Pfeiffer commented that Mr. Shute made a good point that currently the Township is discouraging home based businesses and perhaps the Township should be encouraging them.

It was noted that the Economic Plan Element subcommittee will continue working on the Plan and draft some initial text for the Board to review.

Mr. Molnar noted for the record that he believes the thought of giving the Connaught Hill area to Lambertville would not be well received by the residents living in West Amwell.

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

Chairman Pfeiffer noted he still needs to meet with Mr. Baldino to discuss this matter.

#### **Discussion – Status of Plan Endorsement**

Chairman Pfeiffer commented that there is no update on Plan Endorsement at this time.

#### **New Business**

##### **Correspondence**

Chairman Pfeiffer noted there was a handout this evening regarding The Country Fair on 5/14/11 and commented that the Mayor is encouraging everyone to attend.

#### **Approval of the Minutes**

A motion by Van der Veen, seconded by Mr. Baldino to approve the Board's minutes from the 3/15/11 meeting as revised was unanimously approved by voice vote.

Mr. Shute commented on the census and noted that the Mercer County Correctional Facility has somehow gotten misplaced into West Amwell Township according to the census. Mr. Molnar remarked that he had

received an email from the Mayor in East Amwell Township indicated their census numbers are incorrect too. Mr. Shute said there are a whole host of problems with the census. Mr. Molnar noted that the Township has until 6/1/11 to submit a list of errors to be reviewed by the State.

**Adjournment**

A motion by Molnar, seconded by Van der Veen to adjourn was unanimously approved by voice vote.

The meeting adjourned at 9:32 PM.

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Maria Andrews, Planning Board Secretary