

**WEST AMWELL TOWNSHIP  
PLANNING BOARD MEETING  
September 20, 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 September 15, 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  
Sean Pfeiffer  
Chester Urbanski  
Rob Tomenchok – Alt. #1  
Nella Hamtil – Alt. #2  
Attorney Shurts

**Excused:** Tom Molnar  
Hal Shute  
Joan Van der Veen

**Approval of Bill List**

It was noted that there was no bill list on the agenda for approval.

**Resolutions of Approval**

**Resolution PB#2011-11: Spectra Corporation (Formerly Texas Eastern) – Block 5 Lot 6 – Major Site Plan Review**

Attorney Shurts commented that he was not able to get the draft resolution out ahead of time and had only provided it to the applicant's and Board's professionals this afternoon for their review. He explained that he had also received documentation from the applicant's Attorney Edwin Landis regarding the federal exemption status they had referred to during their testimony as it relates to whether or not they are subject

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to local jurisdiction. Attorney Shurts indicated he had shared this information with Zoning Officer Lonnie Baldino who provided additional documentation which now poses some questions and he stated he will review the matter further and report back to the Board. Mr. Baldino remarked that he believes the applicant needs to comply with all State and local Ordinances as well as obtain all required permits regardless of whether or not they are federally regulated.

Chairman Pfeiffer asked about the 45 day requirement under the Municipal Land Use Law (MLUL) to adopt a resolution. Attorney Shurts commented that the applicant has a draft of the resolution which was provided in less than the 45 day period and he stated he didn't believe there will be any issues.

Chairman Pfeiffer commented that if the applicant is required to comply with State and local Ordinances then they cannot proceed with their project because they do not comply with the Category 1 Stream Regulations. He suggested Attorney Shurts follow up with Planner McManus and Engineer Decker regarding whether or not the applicant supplied further documentation on this matter. Chairman Pfeiffer indicated this detail should be clarified prior to the approval of the Resolution.

### **Unfinished Business**

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

Mr. Tomenchok indicated that he and Mr. Shute believe that the Economic Plan Element is ready to move forward. The Board Members reviewed the document noting some grammatical and minor language changes. It was noted that the public hearing to amend the Township's Master Plan to include the Economic Plan Element will be scheduled for the Board's October meeting and Ms. Andrews will provide public notice accordingly.

#### **Discussion – Conditional Use Ordinance Review – Status Update**

Chairman Pfeiffer commented that the packets contained documentation on this matter that has been reviewed previously by the Board. Mr. Fisher remarked that he did not have time to look over the information. Mr. Tomenchok commented that he has an electronic request from Mr. Shute indicating he also needed additional time to review the information as well.

Mr. Fisher asked how the Conditional Use Ordinance review came about. Chairman Pfeiffer explained that all of the sections in the Ordinance currently exist in the Township's Land Use Element but have not been updated in years. He stated that previous Board Planner Mercantante indicated that some sections of the Ordinance were not enforceable because they were outdated and the Board(s) were leaving themselves open to potential lawsuits if an applicant ever challenged the Ordinance. Chairman Pfeiffer added that currently Board Planner Hintz also did some subsequent review and provided comments in 2009 and then the matter was put on hold due to budget constraints.

It was noted that Chairman Pfeiffer will ask Clerk Olsen to list this matter on the next Township Committee agenda. He asked if there were any additional comments on sections 109-94 through 109-98. Mr. Fisher remarked that he was confused by the specific requirements of section 109-96 regarding the required conditions associated with conditional use approval. Chairman Pfeiffer explained that if an applicant comes before the Board with an application for a conditional use and the use is not allowed as such in the zone, the Planning Board cannot approve it—they would need to go to the Board of Adjustment for a variance. Mr. Tomenchok remarked that the language regarding this matter is not clear and suggested that the requirement be written in the affirmative such as, "The Planning Board may only approve applications for listed conditional uses..." Attorney Shurts commented that there are conditional uses and permitted uses and if an applicant doesn't fall under one or the other, they are presumed to be a

use that is not allowed so conditional uses ordinarily go to the Planning Board if the applicant can meet the individual conditions—if not, they go to the Board of Adjustment. Chairman Pfeiffer pointed out that under the purpose section of 109-94 it reads, "...conditional use shall not be approved unless the use is specifically permitted as a conditional use in the zone for which it is proposed." The Board agreed with this language to be used consistently throughout the Ordinance.

A motion by Urbanski, seconded by Baldino to recommend the Township Committee introduce the (un-numbered) Ordinance: *An Ordinance of the Township of West Amwell, County of Hunterdon, State of New Jersey to Amend the Land Use Regulations of the Township of West Amwell, Specifically Chapters 109-94, 109-95 and 109-96 "General Requirements for Conditional Uses," Chapter 109-97 "Public Utilities" and Chapter 109-98 "Wireless Telecommunications Facilities" of the General Ordinances of the Township* was approved by roll call vote.

The remaining sections of the Conditional Use Ordinance were reviewed with the following highlights noted: Section 109-99: Riding Academy, Livery or Boarding Stable – letter G will be removed: All new riding academies must be constructed of wood or stone and possess barn-like qualities such as steeply pitched roofs. Pre-existing farm buildings not constructed of wood or stone can be converted for riding academy use, provided sufficient landscape screening is installed to shield the structure from the view of off-site residences. It was also noted that language will be added indicating there must be proof of a waste management program certified acceptable by the County Health Department or local Board of Health and no storage of manure or other odor producing materials shall be permitted within 100' of a property line.

Section 109-100: Bed-and-Breakfast Guest House – no changes were suggested.

Section 109-101: Veterinary Office or Clinic – there was some discussion on the existing language limiting the amount of dogs on a property not to exceed 5 per acre or a 15 dog maximum. Attorney Shurts remarked that having the Ordinance contain some standard or guideline is better than not having any at all. Chairman Pfeiffer commented that he will ask Planner McManus for input on this item.

Section 109-102: Landscape Contractor with Plant Nursery, with or without Retail Sales – it was suggested that the title be changed to read, "Landscape Contractor with or without Plant Nursery, with or without Retail Sales." Additionally, letter B will be removed: No more than 65% of the retail stock of a nursery shall be plant material raised on properties not owned or leased by the applicant.

Section 109-103: Farmers' Market – no changes were suggested.

Section 109-104: Golf Courses – Chairman Pfeiffer noted that Planner Hintz had drafted an Ordinance in 2009 and recommended that the Light Industrial District be amended to include golf courses as a conditional use but he believes it is a mute point because if the minimum contiguous lot area is 200 acres you will never have that in the Light Industrial District because the parcel would either be preserved or contain constraints such as pipelines. Mr. Fisher remarked that the design of a golf course should be left up to the course's architect/developer and he stated he didn't believe the Township should get involved with designing golf courses. There was some discussion on monitoring the water resources on golf courses. Mr. Tomenchok commented that water usage would naturally be done in accordance with the Best Management Practices (BMP's). It was the consensus of the Board to put this section of the Ordinance on hold at this time.

Section 109-105: Golf Driving Range – no changes were suggested.

Section 109-106: Nursing Homes and Intermediate Care Centers – language will be removed regarding an extra 1500 square feet for each patient beyond a total of 50 patients, language will be removed regarding a maximum of 200 beds, language will be added noting the maximum amount of beds will be determined by the New Jersey Department of Environmental Protection (NJDEP) regulations governing septic systems and language will be removed regarding the views from inside the facility.

Section 109-107: Public and Quasi-Public Schools and Institutions of Higher Learning – language will be added regarding building setbacks to be consistent with the rest of the Township’s Ordinances.

Section 109-108: Gasoline Stations and Gasoline Stations with Convenience Stores – the title will be changed to read, “Gasoline Stations and Gasoline Stations with Convenience Stores and/or Carwashes.” Language will also be added to include guidelines in accordance with NJDEP requirements and Uniform Construction Code (UCC) requirements.

Section 109-109: Child Care Centers or Preschools – language will be added regarding the size of the facility to be determined by the NJDEP regulations governing septic systems and language will be added requiring a 15’ vegetative screen buffer.

Section 109-110: Hotels and Motels – language will be added regarding the size of the facility to be determined by the NJDEP regulations governing septic systems, language will be added indicating no separate kitchen or cooking facilities are permitted in the hotel/motel rooms and the language regarding the freestanding sign limitations will be removed because signs are covered under a separate Ordinance.

Section 109-111: Congregate Care Centers – the title will be changed to read, “Congregate Care Centers and Assisted Living Facilities” and the guidelines will be consistent with those in the nursing home section.

Section 109-112: Fast Food Restaurants – Zoning Officer Baldino is reviewing this section and will get back to the Board with suggestions.

Section 109-113: Hospitals – language will be added lowering the lot size from 20 acres to 5 acres given the fact that what is being considered are smaller facilities than what was envisioned in the original ordinance and language will be added regarding the size of the facility to be determined by the NJDEP regulations governing septic systems.

Section 109-114: Multifamily Residential – language will be added indicating the number of units permitted on each site will be determined by the NJDEP regulations governing septic systems. It was also noted that the existing language regarding the Council on Affordable Housing (COAH) will need to be reviewed by the Board’s Planner since COAH no longer exists.

Section 109-115: Places of Worship – language will be added to clarify setbacks for consistency with the Township’s other Ordinances. It was also noted that the language regarding maximum building heights will be removed so places of worship will be subject to the Township’s general height requirements.

Chairman Pfeiffer indicated he will forward the comments noted above to Planner McManus and Engineer Decker for their review.

#### **Discussion – Renewable Energy Ordinance Definitions – Recommendations from the Environmental Commission – Status Update**

Chairman Pfeiffer noted he had received a memo from Ms. Van der Veen indicating the Environmental Commission still recommends making the definition of a minor solar facility consistent with the State Statute. It was the consensus of the Board to change the definition to be consistent with the State Statute.

#### **Discussion – Section 109-4 Definitions – Status Update**

Mr. Baldino indicated he is still working on the definitions and had no update at this time.

#### **Discussion – Section 109 Schedule 3 – Schedule of Permitted Uses**

Mr. Baldino indicated he is still working on the schedule.

It was noted that Attorney Shurts was excused from the meeting at this time, 9:23 PM.

Mr. Tomenchok suggested the Planning Board consider putting forth some requests for proposals (RFP) for the Board's professional services prior to the upcoming budget season. He suggested possibly staggering the RFP's each year so not all of the professional's positions are being reviewed at the same time. Chairman Pfeiffer commented that this was done last year for all of the Board's professionals. Mr. Fisher remarked that at that time the RFP's were only advertised on the Township's website. Mr. Tomenchok commented that he didn't believe the RFP's were appropriately advertised last year and indicated they should be re-done this year. He noted that he learned from his experience on the school board the importance of getting a new eye on things. Mr. Tomenchok stated he has no issue with any of the Board's professionals but encourages looking into people who may have some new ideas. Chairman Pfeiffer remarked that the Board has changed their Planner within the last two years and the Engineer within the last year. He added that Attorney Shurts has been with the Board for a long time and stated his memory and knowledge of the history of the Township and applicant's is invaluable and noted he only charges a flat monthly fee for his services. Mr. Tomenchok explained he believes it's a good idea to be fiscally responsible and commented that Van Cleef has been associated with the Township for as long as he can remember. Mr. Fisher added that the Board can always hire the same professionals and noted going out for RFP's is part of the Governor's best practices.

It was the consensus of the Board to go out for RFP's for all of the Board's professionals and suggested Ms. Andrews coordinate with Clerk Olsen on this matter. Mr. Baldino also suggested the possibility of the Township considering a joint land use Board.

#### **Approval of Minutes**

A motion by Haug, seconded by Baldino to approve the Board's minutes from 8/16/11 as revised was unanimously approved by voice vote.

#### **Adjournment**

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

The meeting adjourned at 9:34 PM.

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Maria Andrews, Planning Board Secretary