TOWNSHIP OF WEST MILFORD
PLANNING BOARD

MINUTES

APRIL 1, 2010

Workshop Meeting

The Workshop Meeting of the Planning Board was opened at 7:38 pm by Chairman Andrew Gargano with a reading of the Legal Notice, followed by the Pledge of Allegiance.

ROLL CALL

Present: Mayor Bettina Bieri, Steven Castronova, Christopher Garcia, Douglas Ott *(Left Early 9:11)*, Geoffrey Syme, Councilman Philip Weisbecker, Michael Siesta, Chairman Andrew Gargano, Board Planner Charles McGroarty, P.P.

Absent: Linda Connolly, Richard McFadden, Thomas Harraka, Board Attorney Thomas Germinario, Esq., Board Engineer Paul Ferriero, P.E./John Hansen, P.E.

Chairman Gargano requested Michael Siesta to sit on the Board for one of the absent Board members.

PUBLIC PORTION

The Public Portion was opened by Chairman Gargano. The following addressed the Planning Board:

Doris Aaronson – 19 Bearfort Road – Ms. Aaronson addressed the Board about the proposed Wind Turbine Ordinance, the Sign Ordinance, and the Lawn Watering Ordinance. Chuck McGroarty and Chairman Gargano advised that they would take notes and hold their remarks until Ms. Aaronson finished commenting on the following:

Proposed Wind Turbine Ordinance

-The ordinance had no information on the radius required for clearance from trees, adding that she was informed 500-foot radius was required.

-#11 - Noise levels not exceeding 55 DBA beyond ambient noise levels. Ms. Aaronson commented that 55DBA is loud enough to affect the neighboring property owners, that there was no specification about the time of day or the day of the week, and what season of the year the levels would be measured, and noted that ambient noise levels on a snowy weekend night would be fairly quiet, but quite different on a weekday during rush hour.

-#D2 and 12A appeared to be conflicting on the setbacks from the property line with two different specifications in the proposed ordinance.

-#D4 – Ms. Aaronson wondered who would determine visual impacts, adding that this was an aesthetic issue, noting that what is attractive to one may not be attractive to another. She asked that this be more specific.

-#6 Lighting – She wondered if the Board had information with regard to aviation lighting, and would the requirements be different if the turbine system was located near the Greenwood Lake Airport?

- Abandonment – Ms. Aaronson requested one-year instead of six months for abandonment determination. Chuck McGroarty advised that he had prepared a revised ordinance and the one-year time limit was included with regard to the abandonment language.

Proposed Sign Ordinance

- Doris Aaronson questioned whether home office signage was considered or included.

- She wondered if the section regarding flags, such as those for sports teams, should be expanded.

- Requested that the definition for advertising on a billboard be included and clarified in the definition list.

- Ms. Aaronson referred to page 3, definition #12, and requested that the definition should specify incidental signs should be for commercial purposes. The Board discussed the use of Lake Community signs, and Mr. McGroarty noted that residential or lake community signs would be included in the new ordinance as off-site signs.

- Ms. Aaronson inquired why roof signs under #20 were being eliminated.

- Projecting sign – suggesting that minimal vertical clearance should be increased, noting that delivery trucks may exceed that height.

- Page 7, inquired about the technical definition for a *sight triangle*.

- Window signs not exceeding a specified amount of the glass area may make the sign difficult to read from the road when a business has small windows. Ms. Aaronson suggested that this be revised to differentiate between larger and small windows.

- Ms. Aaronson inquired about freestanding sign heights and was advised that these have been changed in the revised ordinance.

Proposed Lawn Watering Ordinance

Ms. Aaronson advised that this proposed lawn watering ordinance was brought up at a recent Board of Health meeting at which time it was approved unanimously, in addition to receiving unanimous approval

from the West Milford Green Team. She distributed to the Board water deficit maps from the Highlands and reviewed the sections of the Township that indicate water deficits, that included all areas with the exception of a small area on Bearfort Mountain. Mr. McGroarty noted that the Highlands Initial Assessment Report and the Master Plan Report that the Planning Board received, and which is also online, included all of the West Milford maps, including the water deficit map. Ms. Aaronson commented that Newfoundland has a major water deficit. Her information from the NJDEP indicates that in West Milford Township, 6% precipitation, on average, goes into the ground, and 94% is surface and subsurface run-off. She stated that water studies completed by various companies and agencies assert that the Township is overdeveloped by 30%. Ms. Aaronson stated that many well outages were reported during the month of August near the former Eagles Ridge site. She also stated that it would not create a serious problem to restrict lawn watering during the heat of the day when the most evaporation takes place, and watering at that time would cause the grass to burn. Her purpose for presenting this water conservation ordinance to the Planning Board, acting as a representative of the Board of Health, was to seek the Board's approval and vote of confidence.

With no one else present wishing to address the Planning Board, Chairman Gargano **closed** the public portion on a **motion** by Councilman Philip Weisbecker and a **second** by Christopher Garcia.

MISCELLANEOUS

Proposed Sign Ordinance

Chuck McGroarty, Board Planner, distributed photos of various billboard signs that he had taken at the HC (highway commercial) zone. He advised that there were billboards along 7 sites on Rt. 23, and on 2 sites there were double billboards, for a total of 9 billboards, with approximately ½ mile distance between them. Mr. McGroarty advised that there was only one location remaining where a billboard might be legally installed without a variance, the subject site on a very small area by the New City property. With that in mind, Mr. McGroarty wondered whether the Board would want to restrict billboards, adding that prohibiting them can be legally risky and possibly subject the Township to a court challenge. He noted that Tom Germinario should be consulted on the legalities involved. Mr. McGroarty advised that billboards are permitted on the highway. Councilman Weisbecker inquired if a property owner can change the zoning, to which Mr. McGroarty advised that yes, an argument can be made by a property owner, but the Township is under no obligation to change the zoning. Councilman Weisbecker expressed his concern with billboards and stated that the Township works hard to maintain its rural character, adding that he did not want anyone to have an opportunity to install more billboards. Mr. McGroarty reiterated that highway commercial zones allow billboards, which means they are limited to Route 23. Councilman Weisbecker inquired about Greenwood Lake Turnpike and Mr. McGroarty advised that it was not in a highway commercial zone. Councilman Weisbecker then inquired whether existing signs are protected from the new ordinance, and Mr. McGroarty replied that the existing signs are protected as pre-existing non-conforming uses, so what currently exists can remain, but, he added, a valid pre-existing non-conforming use means that the sign would have been constructed legally; the structure is what matters. Geoffrey Syme inquired about the status of a pre-existing non-conforming sign that is damaged, and McGroarty replied that it could not be reconstructed. Chairman Gargano inquired about flashing billboard signs that are being utilized in other towns. Mr. McGroarty advised that this would appear to be an expansion of a non-conforming use, and he would have to speak to Tom Germinario, Board Attorney, and Fred Semrau, Township, as they may be restricted.

Mr. McGroarty advised that the president of the Chamber of Commerce, Nancy Hunt, spoke to him about the proposed sign ordinance. He also made a site visit to Belcher's Run strip mall to take photos of the signage. Steve Castronova commented that he thought strip malls are allowed to have sign directories, but acknowledged that the sandwich signs may be an issue. Mr. McGroarty noted that the merchants just wanted more visibility and as many temporary signs as possible. Mr. McGroarty observed that Belcher's Run presented a few problems with signage, but suggested an alternative sign that was parallel to the street. In speaking with Nancy Hunt, the issue was that customers are not sure where the stores are, and this is a similar problem experienced in Bearfort Shopping Park. Mayor Bieri observed that most people would be viewing the signs while driving, so the signs should be eye level if viewing from a car. Mr. McGroarty noted that if a sign was in a sight triangle, as the Belcher's Run sign was, open space beneath the sign was required. Mayor Bieri suggested shingle signs, and Mr. Castronova replied that over the years many businesses had wooden signs, but it was difficult to keep up with them as tenants moved in and out of the units. The Board continued to discuss sign options. During the discussion, it was noted that a telephone pole was located in front of Belcher's Run in the center of the sidewalk. Mr. McGroarty distributed photos of a strip mall sign from Flemington that he superimposed on the Belcher's Run site as a suggestion for appropriate signage, adding that size, color and location are all factors that must be addressed. Chairman Gargano commented that he is against temporary signs, but understands there may be controversy if they are banned. Mr. Castronova agreed that he was not in favor of them, but would be more amenable if they were more uniform in style. Chairman Gargano observed that in Oakland a person is required to wear a sandwich board sign, and that they couldn't be placed on the street or curb. Mr. McGroarty advised that if the Board wanted to permit temporary signs, requiring them to be a good quality signs would encourage a merchant to take them in at night to avoid theft. He noted that in his conversations with Ms. Hunt from the Chamber of Commerce, that if signs were more centrally located and larger, small temporary signs would not be necessary. Mr. Castronova, current owner of the Belcher's Run shopping center, observed that two medium sized signs would be suitable, if they were a sufficient distance from each other. Chairman Gargano suggested proposing elimination of the sandwich board signs, and when the public hearing is held, possible solutions can be explored with

any business owners opposed to the signs being prohibited. Mr. McGroarty surmised that sandwich board signs were just a way for a business to be more visible, but may not be the optimum choice if another choice were available. Councilman Weisbecker inquired how other towns handle the sandwich board sign issue, and Mr. McGroarty replied that most other towns take them in at night, adding that along downtown sidewalk areas pedestrians see the signs as they walk by. The discussion returned to the Belcher's Run site and it was suggested that the pylon be removed and two smaller scaled signs be installed. The Board discussed the Walgreen's sign and the proposed Shop Rite sign, and Mr. McGroarty advised that the Board could require monument signs (i.e. Walgreen's) that incorporated a rock or brick wall. Mr. McGroarty also advised that the ordinance could include linear frontage of a building to determine the distance from the building and the number of signs. Michael Siesta observed that although Mr. Castronova, as a shopping center owner, is willing to install new signage to his site, others may not be so inclined. Mr. McGroarty noted that a new sign installed along the street, as the one being discussed, would create better visibility for a business. Chris Garcia inquired about the telephone pole in the sidewalk in front of Belcher's Run, and noted that it could not be ADA compliant, and wondered whether there were guidelines for utilities. Mayor Bieri commented that, in the future, underground utilities would most likely be installed.

Chuck McGroarty advised that he would revise the ordinance based on the discussion of the Board and revise the photos for the Board to review. Mr. McGroarty explained the requirements of the new ordinance versus the old ordinance. Mr. Siesta inquired if the number of businesses should be considered when determining the size of the sign. Mr. Weisbecker inquired about Lake Commercial zones and what signs would be permitted. Mayor Bieri wondered if samples of signs could be included in the ordinance, and Mr. McGroarty replied that they could be included, but conformance would be an issue. Mr. Weisbecker inquired how other towns get businesses to conform to uniform signage, and gave examples of towns such as Princeton, Ridgewood, and Mr. McGroarty noted that many of the areas referred to are in historic districts. The Board concurred that the ordinance should be simplified and that signage should be more conforming. Chairman Gargano inquired whether sandwich board signs would be banned, and Mr. McGroarty replied that if a permanent sign were installed on a site, sandwich board signs would not fit in the locations being discussed. Mr. McGroarty suggested that the Township work with the Chamber in trying to get the signs phased out and suggested temporary signs with a sign permit. The Board inquired what constituted temporary signs and Mr. McGroarty noted that temporary signs are those that are used temporarily and are not permanent. Portable signs are those that are not permanently affixed. He advised that these are allowed in the VC, NC, CC, and LC zones with a permit, with a maximum of 4 signs, with no maximum sign area, no clearance from sidewalk, and no time limit. The temporary signs are permitted for a 30-day period, 3 times in a calendar year. The Board concurred that the sign ordinance should be discussed further at the next Planning Board meeting.

Proposed Wind Turbine Ordinance

The Planning Board began discussion on the proposed wind turbine ordinance. Steve Castronova inquired about the optimum location for the wind turbines, and Mr. McGroarty replied that the strongest winds for New Jersey are on the shoreline, adding that he spoke to a representative from a wind turbine company and it is doubtful whether there was enough wind in this area for the turbines. As for wind farms, the only one he is aware of in New Jersey is in Atlantic County. Chairman Gargano advised that the Planning Board was requested to prepare guidelines on wind turbine use in the Township after an applicant went to the Environmental Commission and Board of Adjustment for approval to install a unit. Mr. McGroarty distributed material on small versus large wind farms. He commented that he did not believe there would be much activity on wind turbines in the Township due to the expense involved in purchase and installation of the units. He advised that he had based our draft ordinance on the ordinance from Wayne Township, with changes made based on the State of New Jersey standards. He further advised that, referring to Doris Aaronson's earlier comments, the noise standards set by the State could not be changed, and they do not distinguish between night and day, summer or winter. He did note that many towns limit the wind turbines to non-residential zones. Mr. McGroarty also included an exemption for wind turbines on boats based on a suggestion from an Environmental Commission member. He referred to the Zoning Officer and Building Official's suggestion that the 80-foot height restriction was not sufficient based on the average for surrounding tree lines. He stated that small systems can run up to 85 feet and large commercial systems can be 200 – 300 feet in height. Mr. McGroarty inquired whether the Board really wanted to regulate the wind turbines with an ordinance due to the State allowing them as an inherently beneficial use, permitting an applicant to use this as an argument for approval. Chairman Gargano commented that he was in favor of limiting the turbines to commercial sites, and he referred to the Wayne ordinance that was developed as a result of a commercial business (car wash) wanting to install a wind turbine. It was noted that the Department of Community Affairs had 10 months to revise the standards on the wind turbine, and an ordinance by the Township may have to be revised to adjust to any changes by the State. The Secretary of the Environmental Commission explained the Commission's concern about not having local regulations in place in the event there are additional applications for wind turbines (two local property owners expressed interest in wind turbine installations, to date), and it was also the Commission's responsibility to support alternative energy sources within the Township. With the suggestion that Newark Watershed was exploring a wind farm on their property, Mr. McGroarty noted that the amount of time and effort in getting a project like that completed would be a large undertaking, as Highland's Preservation approval would be required for Newark Watershed. He stressed that it was a good idea for the Township to create opportunities, but it was not necessary to develop regulations. Councilman Weisbecker commented that it was better that regulations were in place, but with regard to wind generation facilities, he agreed that if the State is

redoing their legislation, we may have to re-do our ordinance within the next year. Mr. McGroarty noted that our draft ordinance complies with the State, and we could simply modify our ordinance if the State changes the statutes. He advised that the Board was under no obligation to do an ordinance for wind turbines. The Board debated limiting the wind turbines to commercial sites. A Board member inquired about a potential applicant with a residential site that has large open fields to install wind turbines. Several Board members requested additional time to review the draft ordinance. Chairman Gargano announced that discussion on this matter would be tabled until the next Planning Board meeting.

Proposed Lawn Watering Ordinance

The Planning Board discussed the proposed draft lawn watering ordinance and Michael Siesta commented that night time was not recommended for lawn watering, and that mornings were better in order to avoid lawn fungus. Resident Doris Aaronson, 19 Bearfort Road, was granted permission to speak to the Board about the draft ordinance. Ms. Aaronson replied that rain events happen mainly at night and the majority of people do not have lawn fungus as a result of the night rain. She stressed the importance of the Board making a recommendation on this draft document due to the limited number of meetings scheduled for the Township Council in the coming months. The Board discussed the time limit for lawn watering, and they concurred that there should be no lawn watering between the hours of 9:00 and 6:00 pm. Councilman Weisbecker expressed concern about imposing more laws on the residents of the Township, adding that the Board is, in reality, discussing fining people for watering their lawns. Chairman Gargano noted that the Township relied on a sole source aquifer, and Mr. Weisbecker replied that he could not confirm that it was dependent on one source, adding that there has been information to the contrary. Chairman Gargano commented about neighbors who continually water their lawns, and although they use a community water system, he wondered what harmful effect it would have on surrounding property owners if they all used well water. Councilman Weisbecker questioned whether the Township has a right to impose restrictions on residents' well use, adding that he felt the average person could think for themselves and make responsible decisions about their personal water use. He also noted that septic regulations recently enacted were different due to the amount of pollutants that result from inadequate or improperly maintained systems. A reference was made by the Chairman about the numerous Township wells that were running dry in 2001, and Councilman Weisbecker responded that this was addressed by the Mayor's emergency order restricting water use. Steven Castronova expressed concern about commercial property owners' landscaping, like Walgreen's, and the proposed streetscape improvements, and suggested they be excluded from the restriction. Mayor Bieri concurred that newly planted grass and shrubs should be excluded. Doris Aaronson agreed that excluding new plantings and restricting lawn and plant watering between 9 am and 6 pm was agreeable to her. A Board member inquired about drip irrigation, and Ms. Aaronson noted that the language could include "all above surface water use." Following discussion, the majority of the Board concurred that a recommendation on this draft water conservation ordinance be made to the Township Council.

Motion by Chris Garcia with a **second** by Geoffrey Syme to recommend to the Township Council the proposed draft lawn watering ordinance with the noted changes to restrict watering during the hours of 9 am and **6 pm** during the months of June, July and August, and that all newly planted grass and shrubs are to be excluded from this restriction.

Roll Call: **Yes** – Mayor Bettina Bieri, Steven Castronova, Christopher Garcia, Geoffrey Syme, Michael Siesta, Chairman Andrew Gargano.
No - Councilman Philip Weisbecker.

Approval Of Invoices – Board Professionals

The invoices submitted by the Planning Board professionals depicted on the January/February report that was provided to the Planning Board were **unanimously approved** by the Board on a **motion** by Mayor Bieri with a **second** by Councilman Weisbecker.

MINUTES

Motion by Councilman Philip Weisbecker with a **second** by Chris Garcia to approve the minutes of the March 4, 2010 Regular Meeting. The minutes were **unanimously approved** with an abstention by Mayor Bieri and Michael Siesta, who were absent from the subject meeting.

The following were reviewed by the Planning Board and filed:

COMMUNICATIONS

1. Copy of a submission to ANJEC for a 2010 Smart Growth Planning Grant – Trails Master Plan by the West Milford Environmental Commission received March 25, 2010.

2. Request received March 25, 2010 from Dennis Cummings, Jr., Esq. for information on the status of Random Woods.

3. Notice from the NJ DEP – No Further Action-Covenant Not To Sue, dated March 23, 2010 regarding Nils Wigertz, Block 13101; Lot 14, 310 High Crest Drive, relating to a remedial action on the site and conditional on the owner decommissioning the monitoring wells.

4. Correspondence from the NJDEP dated March 1, 2010 regarding the Echo Lake Intake Dam and Spillway Dam and the 2008 regular inspection reports prepared by Civil Dynamics, noting that existing

conditions were accurately described, including the improvements and modifications needed. In addition, a request for a compliance schedule is to be submitted by April 15, 2010.

5. No Further Action Letter dated March 2, 2010 received from the NJDEP for 599 Macopin Road, Block 13402; Lot 101.2 regarding remediation of a 550 underground storage tank.

6. Copy of an application to the NJDEP for a General Permit #8 received on March 15, 2010 from Wander Ecological Consultants for Richard Wirth, 1812 Clinton Road, Block 207; Lot 11 regarding an addition for a single family home.

7. Copy of an application to the NJDEP for a G.P. #25 regarding proposed installation of a subsurface sanitary disposal system for Block 2004; Lot 13, 27 Lakewood Road, Scott Leonescu.

8. Copy of notification of a pending application for a GP #25 to the NJDEP from Jeff Nachowitz and Theresa LaCava, 47 Dogwood Lane, Block 3005; Lot 1 for repair of an existing septic system.

9. Flood Hazard Area Applicability Determination from the NJDEP dated March 10, 2010 received for Dr. Greg Rubenstein, for 49 Lake Park Terrace, Block 4201; Lot 12, advising that an individual flood hazard area permit must be obtained.

10. Flood Hazard Area Applicability Determination from the NJDEP dated March 16, 2010 received for Doug McKittrick, P.E., regarding The Philadelphia Church, Block 1590; Lot 16, advising that a flood hazard area verification and an individual flood hazard area permit must be obtained prior to the commercial redevelopment of the site.

11. Flood Hazard Area Applicability Determination from the NJDEP dated March 15, 2010 received for Arthur McQuaid, 31 Morsetown Road, Block 5009; Lot 8, noting that the Department is unable to determine whether the Flood Hazard Area Control Act rules apply to the proposed replacement of an existing septic system until additional information is received.

12. Resolution of the Township of West Milford authorizing the award of a professional services contract without competitive bidding to the Land conservancy of New Jersey to develop and open space and recreation plan update in an amount not to exceed $14,000.

13. Resolution of the Township of West Milford authorizing the submittal and acceptance of a grant application for an ANJEC 2010 Planning Grant for an Update to the Open Space and Recreation Plan in the amount of $20,000.

14. Notice from Borough of Wanaque advising of the Master Plan Re-Examination 2010 Report Hearing on March 18, 2010 and transmitting a copy of the Master Plan Re-Examination 2010 Report.

15. Potable Well Analysis for various properties within the vicinity of SBP Petroleum, Bl 703; Lt 3, 555 Warwick Tpk., including the following: Bl 706; Lt 3 – 12 Smithville Road; Bl 704; L 7.04 – 550 Warwick Tpk.; Bl 703; L 4 – 563 Warwick Tpk; Bl 703; Lt 2 – 552 Warwick Tpk.; Bl 705; Lt 4 – 11 Smithville Road; Bl 705; Lt 2 – 574 Warwick Tpk; Bl 705; Lt 3 – 5 Smithville Road; Bl 705; Lt 1 – 7 Marlboro Road; Bl 705; Lt 7 – 9 Smithville Road.

HIGHLANDS WATER PROTECTION AND PLANNING ACT

1. Consistency Determination, Final Recommendation Report, and Highlands Council Resolution 2010-3 received from the Highlands Council, dated March 9, 2010, regarding Block 7903; Lots 13, 14, 15, & 16, West Milford Municipal Complex and New Public Library - Proposed Highlands Redevelopment Area Designation.

2. Notice of Technical Incompleteness, dated March 22, 2010, received from NJDEP regarding a Highlands Applicability and Water Quality Management Plan Consistency Application for property at 38 Setting Sun Trail, Block 12307; Lot 32, owner Frank Schultz, requiring additional items for review including a revised site plan and various other documents.

3. Highlands Act – Exempt #5 and Water Quality Management Plan - Consistent – with regard to 52 Krattiger Court, Michael DelVecchio, Block 10301, Lot 16, dated March 8, 2010 regarding a residential addition and septic system.

ADJOURNMENT

With no further business to come before the Board, the Planning Board Workshop Meeting of April 1, 2010 **adjourned** at **10:26 pm** on a **motion** by Michael Siesta with a **second** by Councilman Philip Weisbecker.

Approved: April 22, 2010

Respectfully submitted by,

Tonya E. Cubby, Secretary