

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD**

**MINUTES**

**May 4, 2017**

**Regular Meeting**

Chairman Christopher Garcia opened the May 4, 2017 Meeting of the West Milford Planning Board at **7:33 p.m.** with a reading of the Legal Notice, followed by the Pledge of Allegiance.

**ROLL CALL**

**Present:** Steven Castronova, Andrew Gargano, Warren Gross, Douglas Ott (7:43), Michael Siesta, Councilman Lou Signorino, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia, Board Attorney Thomas Germinario.

**Absent:** Mayor Bettina Bieri, Linda Connolly, Board Planner Chuck McGroarty, Board Engineer Paul Ferriero.

Chairman Garcia requested Alternate #1 Steven Castronova and Alternate #2 Michael Siesta to sit in for Mayor Bettina Bieri and Linda Connolly. He advised that a quorum was present to hold this regular meeting. Board professionals Chuck McGroarty and Paul Ferriero were excused from attending this regular meeting.

**PUBLIC PORTION**

Chairman Garcia opened the meeting for public comment. With no one present wishing to address the Board, the public portion of the meeting was **closed** on a **motion** by Andrew Gargano with a **second** by Councilman Lou Signorino.

**APPLICATIONS** – None.

**MEMORIALIZATIONS** – None.

**NEW OR ONGOING BUSINESS**

**West Milford Historic Preservation Commission Design Guidelines** – The Planning Board reviewed the Historic Preservation Design Guidelines provided for review and comment. The Board Secretary advised that an ordinance is being drafted by the HPC but was not submitted with the design guidelines. Board Attorney Tom Germinario advised that the document appeared to be a general guide for historic sites, outlining the standards that exist, but it is not typically included in the Master Plan or Land Use Ordinance. Board Member Steven Castronova inquired whether this applied to historic sites or zones, and it was noted that the only historic districts were New City, which has been torn down, and Long Pond Ironworks. Mr. Germinario referred to Vreeland Store on page 17, and noted that the document does not add or subtract from the site, but refers to the site as it exists, and as a standard that should be maintained with any future or proposed changes. Councilman Signorino inquired if the design standards and historic preservation status provide more authority to the site owner, and Mr. Germinario advised that without the benefit of seeing the ordinance that is being drafted, we do not know what the ordinance language will be, or how it will pertain to each site. He suggested that the ordinance could make the standards mandatory. Councilman Signorino commented that defining the standards could be good for historic sites, and Mr. Germinario noted that it was a good idea to formalize design standards so they are more uniform and predictable for the public, and said that he would reserve judgement until we receive the proposed ordinance. Warren Gross inquired about page 3, numbers 3, 5, 9 which referenced the Department of Interior's Standards for Rehabilitation, and wondered if it would impede renovations to a historic structure since the standards encompass the exterior as well as the interior. Mr. Germinario advised that we would need to see the ordinance to determine how restrictive it will be, and noted that sometimes they can incorporate federal standards, but without seeing the framework and structure of the ordinance, there was nothing that the Board could weigh in on at this time. Chairman Garcia observed that the document included definitions and maintenance guidelines, and noted that the cover sheet indicates that the document was approved as a final guideline. He suggested that the Chairman of the Historic Preservation Commission should be invited to attend the Planning Board meeting to review the draft ordinance with the Board once it has been completed. Mr. Germinario advised that if the ordinance is a land use ordinance, then the Board is mandated to review it. He further advised that the draft ordinance will be referred to Chuck when it is available.

## **ORDINANCES FOR INTRODUCTION**

### **Draft Aquifer Ordinance Amendments for Review and Discussion**

#### **Ordinance of the Township of West Milford Amending and Supplementing Chapter 470, Subdivision of Land and Site Plan Review” Section 470-15.1, “Water Supply and Water Quality Requirements,” Part B, Definitions,” Part D “Aquifer Test and Hydrogeologic Evaluation,” and Part E, “Water Quality Evaluation”**

Tom Germinario advised the Board that the most recent amendments for the Water Supply and Water Quality Requirements were the result of several meetings and discussions with the Ordinance Committee and the Board’s hydrogeologist, Matthew Mulhall. He noted that there were originally about 20 items that were proposed as amendments, and these were the result of issues that arose during the Braemar subdivision application and hearings. He advised that there became apparent various loopholes that needed to be closed to remove any ambiguity with the ordinance.

Referring to the definition amendments, Mr. Germinario stated that one of the largest issues that surfaced was the ordinance’s prior definition of recovery. The revised definition bases recovery on a pump test for 24 hours, which includes drawing the well down to the lowest level and waiting for recovery, and the length that it takes to re-fill would be a good indicator of the rate of recovery. The original definition included the rate the water raises after the pump is shut off. With the Braemar application, Mr. Germinario noted that the applicant’s professional maintained that the well recovered at the same rate that it went down. The new definition of recovery states, *“The percentage rise of the water table of an unconfined aquifer or the potentiometric surface of a semiconfined or confined aquifer, as compared to the drawdown, measured at the end of a recovery phase duration from the cessation of pumping, wherein the recovery phase duration is equal to the pumping phase duration. Recovery is determined by subtracting the depth to water at the end of the recovery phase from the static water level determined prior to the start of pumping, then subtracting that difference from the total drawdown as measured at the end of the pumping phase and dividing the result by the total drawdown as measured at the end of the pumping phase and then multiplying by 100 to determine percent.”* This definition is based on a mathematical calculation that was formulated with Mr. Mulhall. Mr. Germinario explained that when the 24 hours of pumping commences, the water is measured at the rate that it goes down, and after the pumping ceases and the well recovers, it is the percentage over the drawdown that indicates the recovery of 90%. Councilman Lou Signorino inquired whether 90% recharge within 24 hours is acceptable, and Mr. Germinario responded that the 90% figure was always maintained in the ordinance.

With the regard to the Braemar application, Mr. Germinario noted that there were two test wells for the proposed 17 lot housing subdivision, with the test wells attempting to simulate what the conditions would be for all the lots. This requirement is based on the NJDEP regulations. Mr. Germinario further explained to the Board that when the testing begins, there is usually one pumping well, and this would be regulated by the NJDEP standards, with the rate that must be pumped determined by the number and size of the homes proposed. With regard to the Braemar subdivision, there were two test wells due to the two aquifers that were present on the subdivision site, which was an exceptional condition. Normally there would just be one test well and the DEP regulations are based on the number of bedrooms and predicted amount of use which sets the rate for pumping during the 24 hour test, with a 90% recovery rate during that period. He noted that if the aquifer is determined to be “good” it shows that mining of the water is not being performed, adding that mining water is when water is continuously removed from a well, progressively depleting the water supply. Board Member Warren Gross inquired if a 24 hour full bore pump is realistic, and Mr. Germinario noted that full bore is pumping at the rate that the DEP sets, but this rate does not mean the maximum that can be taken from a well. Board Member Steven Castronova inquired whether the Braemar subdivision would have received final approval if this proposed language was in the original ordinance, and Mr. Germinario responded that they most likely would not have been able to pass the test and meet the requirements, so there would have been a lower amount of houses approved based on the testing results. He observed that the Board had litigation pending which may have hindered their position, but they were compelled to approve the subdivision, and the final approval was appropriate with the deed restrictions that were set in place. Mr. Gross inquired if the aquifer ordinance applied to single homes or subdivisions, and Mr. Germinario responded that it applied to proposed, not existing subdivisions, as well as site plans and, possibly, motels.

The Board reviewed the draft definition of Recovery, and Chairman Garcia requested clarification on the definition of recovery, specifically *“Recovery is determined by subtracting the*

*depth to water at the end of the recovery phase from the static water level determined prior to the start of pumping, then subtracting that difference from the total drawdown as measured at the end of the pumping phase and dividing the result by the total drawdown as measured at the end of the pumping phase and then multiplying by 100 to determine percent*". Mr. Germinario advised that this was the formula that the hydrogeologist used, with the higher number representing the ground level, and he gave examples for the Board. Councilman Signorino wondered if the subtraction of the smaller number from the larger number should be expressed in the language of the ordinance, and questioned how a person would interpret this if they weren't an engineer. Mr. Germinario noted that we could not avoid the hydrogeologist's terminology, and Chairman Garcia suggested that the language should note the "difference" so it doesn't imply a negative number. The Board discussed the matter and Mr. Germinario concurred that a negative number would result based on the language in the ordinance. Mr. Germinario commented that there would only be one test well per the entire site, not individual houses being tested, and advised that he would refer this to Matt to correct the language. He then suggested that the definition of residual drawdown might be able to be incorporated into the definition of recovery.

Referring to Section 5-D(5)(a)[5], "Aquifer Test and Hydrogeologic Evaluations" Mr. Germinario advised that it is amended to require a detailed evaluation of the water supply demand for an average peak day including anticipated population, unit density, size, number of bedrooms, and anticipated water requirements for lawn, garden, and pools, or a deed restriction for the lots for certain well uses. He noted that if the applicant is developing over a strong aquifer, they won't have any issues. Councilman Signorino suggested that it be a provision, not a requirement, that the property be restricted, especially with a site that has sufficient water supplies, and wondered if the applicant could run further tests. Chairman Garcia inquired about a prospective homeowner who wants to install irrigation or fill their pool, and how would it be addressed. The Board discussed the matter, and Mr. Germinario advised that the testing would come after a protocol is drafted, and it may trigger a bell for the hydrogeological consultant if pool filling and irrigation is not included in the protocol, adding that it would be the developer's choice in this instance. Councilman Signorino inquired whether a property that is deed restricted would have to remain restricted, or whether there is a mechanism to lift the deed restriction. Mr. Germinario advised that the homeowner would have to go to the Township Council to get the deed restriction removed from the property deed.

Mr. Germinario referred to Section 6-D(5)(b)[3][a] as it applies to pumping requirements: *"If during the pumping phase, the pumping rate cannot be maintained at a rate equal to 120 percent of the rate calculated by dividing the average daily demand in gallons by 1440 minutes, or the peak-day demand cannot be withdrawn from the aquifer within a single 24-hour period, the aquifer beneath the lot in question is deemed insufficient to meet the anticipated demands, and the Applicant shall review and adjust the proposed demand and/or extent of the development proposed. The following alternatives shall be evaluated in the following priority:*

- [i] Decreasing the number of proposed lots/dwelling units or amount of non-residential development to reduce amount of groundwater that must be withdrawn to meet demands.*
- [ii] Rearranging the development layout to better utilize available groundwater resources.*
- [iii] Conduct two or more aquifer tests at discrete locations within the lot in question. The total volume of water withdrawn from the aquifer during the two or more aquifer tests must equal or exceed the peak-day demand. This last alternative may be used, with the approval of the municipality's consulting hydrogeologist, where large withdrawals are proposed for areas underlain by low-yielding aquifer systems. Each test must be conducted individually and at no time should two wells be pumped simultaneously."*

Mr. Germinario advised that the way the ordinance is currently written, if a developer is not able to maintain the pumping rate of 120% of that average daily demand, then certain requirements must be met. The existing ordinance provides an option for conducting multiple tests, and does not limit the amount of tests that can be conducted, and if the criteria cannot be met, the number of units must be decreased. Mr. Mulhall proposed a change in that priority and made the first alternative, after evaluation, of decreasing the number of lots, the second, re-arranging the lots, and only if those provisions are not adequate, requires the approval of the hydrogeologist in instances where large withdrawals are proposed in areas with low yielding aquifers. Referring to the Braemar subdivision, Mr. Germinario noted that they were permitted to conduct two tests due to the fact that they had two aquifers under the subdivision property, but because they did two tests, they did not have to consider decreasing the number of units since the original ordinance permitted this as the first option. He stated that these alternatives have been re-prioritized with the revised ordinance, so the decrease in the number of units and re-arranging the units to better utilize the groundwater supplies are the first two alternative options. If an applicant cannot meet the 120% over 24 hours, then

the first two alternatives are utilized to pare down the subdivision for a number of units that are compatible with the aquifer.

Mr. Gross made an inquiry about the average use per person, noting that when it was discussed during the Braemar hearing, the average daily use was 315 gallons, and they calculated 4 people for each unit, resulting in approximately 1260 gallons per day. If this is divided by 1440, it equals to .875, and he requested clarification, noting that under #7, it refers to 90% or .90. Mr. Germinario noted that Section 7 pertains to the percentage of recovery, while Section 6 refers to the pumping rate, and explained that the pumping rate must be sustained, (giving an example of 20 gallons per minute, with 120% equaling approximately 24 gallons per minute) over a 24 hour period. If the well goes dry, the applicant would have to consider reducing the number of units. Section 7-D(5)(b)[4][b] *“If recovery is less than 90% at the end of the recovery phase, the Applicant must adjust the proposed demand and/or extent of development as provided in Subsection D(5)(b)[3][a][i] and/or [ii] above.”* refers to the period after the applicant has pumped for 24 hours and was able to sustain the 120% of the average hourly use, but the level that the water rises over a 24 hour waiting period is the recovery rate. If it rises 90% of the amount that it dropped down, the applicant would pass the test, but if not, the first or second alternative outlined in Section 6 would be required in order to meet the standard. The problem with the existing ordinance, Mr. Germinario explained, is that it states that if water level is less than 90% of full recovery at the end of full recovery phase, the applicant must show through standard recognized aquifer tests analytical methods and calculations, that the well or wells are capable of full recovery. With the Braemar application, their consultant used graphs as an analytical technique to depict full recovery given a sufficient period of time to meet that requirement. This revised ordinance removed this provision and requires a reduction in the number of units or a re-arrangement of the development. Geoffrey Syme inquired about the 120% requirement calculation and why it needed to be divided by 1440, and Mr. Germinario explained that this was a calculation used by the hydrogeologists to translate it into gallons per minutes (60 minutes X 24 hours=1440), or the pumping rate defined as gallons per minutes. Upon further review, Mr. Germinario observed that the pumping rate should refer to a measurement of gallons per minute, so he would review it with Mr. Mulhall to add a definition for pumping rate.

Referring to Section 8-E, e[3], Mr. Germinario stated that it would be amended as follows: *“(3)A water quality analyses report shall be completed and included in the hydrogeologic report submitted with the development application. The water quality laboratory report shall be submitted to the Board’s consulting hydrogeologist, with one copy to the Board.”* He advised that the hydrogeologist requested that this be included with the development application. Mr. Gross inquired if the water quality report in this instance would be used to satisfy or replace the local Board of Health requirement, but Mr. Germinario thought that it could be used for the purpose of a water quality analysis, although that was not the initial intent.

Mr. Germinario advised that he would confer with Mr. Mulhall about the revisions discussed at this meeting and would return to the Board at the next meeting with the final draft. He thanked the Board for their comments and beneficial input regarding this matter.

**ORDINANCES REFERRED FROM COUNCIL** – None.

**BOARD PLANNER’S REPORT** – None.

**BOARD ATTORNEY’S REPORT** – None.

**BOARD ENGINEER’S REPORT** – None.

## **MISCELLANEOUS**

### **Invoices**

The Board **unanimously approved** the invoices submitted for the Planning Board professionals for March and April 2017 on a **motion** made by Warren Gross, with a **second** by Councilman Lou Signorino.

### **MINUTES**

The Board **unanimously approved** the Minutes from the April 6, 2017 Regular Planning Board meeting on a **motion** by Andrew Gargano and a **second** by Geoffrey Syme.

***The following correspondence items were reviewed and filed:***

**Highlands Water Protection and Planning Act Correspondence** – None.

**NJ Department of Environmental Protection Correspondence**

1. NJDEP No Further Action correspondence dated April 3, 2017 regarding the removal of a 2,000 gal #2 H.O. UGST at 174 Lakeside Road, Block 3406; Lot 26.
2. NJDEP No Further Action correspondence dated April 7, 2017, regarding the removal of a 550 gal #2 H.O. UGST at 290 High Crest Drive, Block 13103; Lot 1.
3. Suspected Hazardous Substance Discharge Notice – NJDEP Case # 17-04-09-1318-03, dated April 10, 2017, received for 35 Broadway, Block 11301; Lot 2, regarding the odor of heating oil in the area of the property.
4. Suspected Hazardous Substance Discharge Notice – NJDEP Case #17-04-17-1129-22, dated April 18, 2017, received for 21 Greendale Drive, Block 16802; Lot 5, regarding parked landscape equipment leaking fluids.
5. Amendment and Supplement to correct administrative errors on the 11-23-16 Response Action Outcome received from Lan Associates regarding Otterhole Weaver Corporation - Village Garage, 101 Otterhole Rd., Block 12403; Lot 1, with respect to remediation from two 6,000 gal. gasoline UST's, noting that "Ground Water Contamination Not Yet Investigated."
6. NJDEP No Further Action correspondence received, dated April 21, 2017, regarding the removal of one 275 g #2 H.O. AST at 707 Warwick Tpk., Block 1001; Lot 40.
7. NJDEP No Further Action correspondence received, dated April 21, 2017, regarding the removal of one 550 g #2 H.O. UST at 32 Upper High Crest Drive, Block 13103; Lot 12.

#### **Miscellaneous Correspondence Received/Sent**

1. Hudson Essex Passaic Soil Conservation District certification of a soil erosion and sediment control plan, dated March 9, 2017, for a single family dwelling for William Stanton, 5 Chimney Ridge Road, Block 13002; Lot 13.
2. Passaic County Div. of Economic Development & West Milford Economic Development Commission – Ensuring Environmental Compliance Seminar – Monday, June 12, 2017, 9 – 11 am, West Milford Twp. Municipal Building, RSVP to [ecodev@passaiccountynj.org](mailto:ecodev@passaiccountynj.org) or 973-569-4720.
3. Passaic County Master Plan – Draft Highlands Rail Trail Feasibility Plan public hearing on May 9, 2017 at 5:30 pm in the office of the Board of Chosen Freeholders, Paterson, NJ. Proposal for a contiguous pedestrian and bicycle friendly recreational trail utilizing the former New York & Greenwood Lake Railway ROW in Highlands communities of Pompton Lakes, Wanaque, Ringwood, and West Milford. Copy of draft on file in the Planning Office. Comments requested by Jason Simmons, Passaic County Planning Department prior to the public hearing.
4. Passaic County and North Jersey Transportation Planning Authority Green Infrastructure Plan to outline specific strategies to implement green infrastructure and low impact design improvements through all County processes and provide resource guide to municipalities - Meeting on 04-24-17 – Passaic County Dept. of Planning, 6:30 – 8:30 pm.
5. ANJEC Lunch & Learn Webinar – Green Infrastructure and Stream Daylighting – April 27, 2017, 12:30 – 1:30 pm.

#### **ADJOURNMENT**

Prior to adjourning, Chairman Garcia inquired about the status of the municipal budget and the proposed \$22,500 cut from the Planning Board's budget. Councilman Signorino advised that the final budget had not yet been adopted, but they took the Chairman's comments into consideration, and it may be adjusted accordingly. Mr. Gross commented that it was the Township Council's responsibility to maintain a sufficient budget for the Board to operate per the M.L.U.L. Councilman Signorino noted that the original proposed cuts to the Planning budget were much higher.

Chairman Christopher Garcia confirmed with the Board that the May 25, 2017 Planning Board meeting would be cancelled. The next regular Planning Board meeting is tentatively scheduled for June 1, 2017.

With no other matters to be brought before the Planning Board, Chairman Christopher Garcia **adjourned** the regular meeting of May 4, 2017 at **9:06 p.m.** on a **motion** made by Glenn Wenzel and a **second** by Warren Gross.

Approved: June 22, 2017

Respectfully submitted by,

Tonya E. Cubby, Secretary