

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

August 4, 2011

Workshop Meeting

The Workshop Meeting of the Planning Board was opened at 7:37 pm by Chairman Andrew Gargano with a reading of the Legal Notice followed by the Pledge of Allegiance.

ROLL CALL

Present: Mayor Bettina Bieri, Linda Connolly (7:41), Christopher Garcia, Douglas Ott, Geoffrey Syme, Councilman Philip Weisbecker, Alternate Steven Castronova, Chairman Andrew Gargano, John Hansen, P.E., Charles McGroarty, P.P.

Absent: Robert Nolan, Alternate Michael Siesta, Thomas Germinario, Esq.

Chairman Gargano requested Steven Castronova to sit on the Board in the vacant position.

PUBLIC PORTION

Chairman Gargano opened the Public Portion of the meeting. With no one present wishing to address the Planning Board, the Public Portion was **closed** on a **motion** by Councilman Philip Weisbecker and a **second** by Steven Castronova.

MISCELLANEOUS

Review of Well Ordinance

Chairman Andrew Gargano advised the Board that resident Richard Randazzo of Wooley Road had provided some recommendations for amendments to the current well ordinance at the Township Council meeting and the Chairman requested that they be placed on the Board agenda for review. John Hansen, Board Engineer, commented that he and Paul Ferreiro had reviewed Mr. Randazzo's comments and concurred that there were several good suggestions, notably the establishment of an escrow fee. Mr. Hansen suggested that Mr. Randazzo's comments be forwarded to Matt Mulhall for review and comment. Councilman Weisbecker advised that he had not received the referenced comments and the Secretary was instructed to re-send them to Mr. Weisbecker. He inquired whether Township Attorney Fred Semrau, Chuck McGroarty and Tom Germinario had reviewed Mr. Randazzo's comments in relation to the well ordinance, and Mr. McGroarty replied that he had received a copy of the suggestions but that the well ordinance was more of an engineering matter. Mr. Hansen noted that the ordinance is very technical in nature with regard to steps that are taken for the monitoring, drawdown, and restoration periods and that might be what Mr. Randazzo has had some trouble with as his well has been involved with the monitoring, and there may be some nuances that have to be reviewed and adjusted. There was Board consensus, on the recommendation of the Board professionals, to send the comments to Mr. Mulhall, the Township's hydrogeologist, for review and recommendation, with such recommendations to be reviewed by the Board at a subsequent meeting. The Mayor noted that the recommendations would then be provided to the Board Attorney to incorporate the language as an amendment to the well ordinance before sending it to the Township Council. The Board acknowledged that the charges from the hydrogeologist for review of Mr. Randazzo's suggestions would be paid by the Township, and not the developer, as this ordinance was not site specific. Chairman Gargano suggested that the Council and Planning Board share the cost.

Review of Nuisance / Noise Ordinance

During a prior hearing for a minor site plan for a local bar in the Upper Greenwood Lake section of the Township, residents' complaints of excessive noise from the site prompted the Board to request the Board Planner to research the Township's noise ordinance and regulations. Chuck McGroarty proceeded with his review of the local noise legislation for the Board, noting that the local code references the Township's adoption of the state's public health nuisance code. He advised that the Health Department, not the Zoning Officer, has jurisdiction in a public health nuisance matter, which usually is a property maintenance matter, but which also includes noise as a nuisance. Mr. McGroarty also advised that there are established state decibel standards for noise and these are included in the Township code. He suggested that the Township review its policy as to who the designated enforcing officer is during off hours, if not the Health Officer, in addition to reviewing the procedures for reporting incidents. The Board discussed how the decibel levels are monitored with a noise complaint, and Mr. McGroarty advised that with a nuisance, decibel levels do not have to be established and proved because a nuisance is usually apparent. Councilman Weisbecker inquired who would be responsible for looking into and regulating this and Mr. McGroarty responded that the Township and Health Department are responsible. Mr. McGroarty noted that when he was employed with another township, noise incidents that occurred during evenings and weekends were documented and attested to through an affidavit for follow-up by the Health Officer. Mayor Bieri requested that a copy of the noise ordinance be sent to the Township Administrator for review to determine who is assigned during the hours that the Health Officer is not available. Chuck McGroarty read from the existing nuisance and noise ordinances, and noted that if the noise ordinance was not in place, the noise complaints could be addressed under the nuisance ordinance. The Board discussed the complaints by the residents at a recent meeting and noted that their concerns should be addressed. The Secretary was directed to send a memo to the Administrator and Township Council, with a copy to the Police Department, to review the local policy and procedures to determine an effective way to document repeated noise/nuisance incidences and establish measures to address the offenses to protect the residents of the Township.

S-2950 and A-4128

The Board reviewed proposed legislation that the NJ League of Municipalities opposes, S-2950 and A-4128, which allows for modifications to land use approvals because of changed economics, without the normal review of development applications. S-2950/A-4128 also provides a two-year window in which any development approval granted before 2006 **or** now in foreclosure **or** subject to a deed in lieu can apply for, and receive approval for, a use that is not permitted by ordinance. Mayor Bieri commented that this matter should be placed on the Township council agenda and a draft resolution should be reviewed. Chuck McGroarty commented on his opposition to the legislation and would support a resolution opposing these bills if the Township concurs. Board Engineer John Hansen noted that it provides a means for a developer to proceed in certain circumstances without adhering to the land use laws. Mr. McGroarty added that the proposed laws would allow an applicant to circumvent their requirement of providing proof for a use. When Councilman Weisbecker inquired how this could affect West Milford, Mr. McGroarty replied that an applicant who has approval could return to a Board and change the use and density of a project. With regard to several developments that had approvals prior to the Highlands Act but had not completed their projects, they could return to the Board and get changes under this proposed legislation. The Board concurred that a memo should be sent to the Township Council to oppose S-2950 and A-4128 and support a resolution to that effect.

Highlands Master Plan Update

Chuck McGroarty reported that we are currently on hold with the Highlands Master Plan, and that he was advised not to proceed any further until the mapping was completed by the Highlands Council. Maps are beginning to be released to some of the towns, but ours have not been released as of this date. With regard to the budget, Mr. McGroarty noted that he came under budget for the first phase, which allocated at \$50,000., and the second phase work will be applied to further grant funding that is available. He also noted that we have officially received notification that our deadline has been extended for plan conformance due to the delays on the part of the Highlands.

Jack Levkovitz Time Extension

It was reported that Jack Levkovitz has been in contact with Board Attorney Tom Germinario regarding the Village on Ridge II subdivision and the need for a time extension. He recently appeared before the Township Council and is diligently pursuing the conditions of his prior extension with regard to establishing a private water system, but he will be coming before the Board on August 25, 2011 to seek additional time for completing his conditions of approval.

APPROVAL OF INVOICES – BOARD PROFESSIONALS

The invoices submitted by the Planning Board professionals for services performed during the months of May and June 2011 were **unanimously approved** on a **motion** by Councilman Philip Weisbecker and a **second** by Douglas Ott.

MINUTES

Approval of the Minutes from the June 23, 2011 Regular Meeting was held until the next regular meeting.

The following items were reviewed by the Planning Board and filed:

COMMUNICATIONS

1. Memo with attachments, dated July 21, 2011, from the Township Administrator regarding the Highlands Council June 21, 2011 Stakeholders Meeting concerning Water Use and Conservation Management.
2. Copy of a letter to the NJDEP from the Township Administrator, dated July 7, 2011 requesting a No-Cost Time Extension on the SFY07 NPS Grant (RP07-052) – 319(h) grant to “Initiate Stormwater Implementation Projects to Reduce the Phosphorous Load Entering Greenwood Lake, Passaic County, New Jersey - Orange County, New York.”
3. Copy of a letter to Braemar at West Milford, dated July 12, 2011, from several residents of Wooley Road requesting that well monitoring equipment be removed from their properties and aquifer monitoring cease until such time that a new testing phase begins.
4. Notice received July 13, 2011 from PSE&G advising of impending tree removal as part of a vegetation management program in the Township, with work commencing on or about September 1, 2011 and continuing throughout 2011 and 2012. PSE&G will remove all trees within the easement and side trim all branches originating from inside the easement that hang over or cross onto the electric transmission right of way.
5. Report dated July 2011 from the NJDEP entitled “Report on Proposed Conveyance of Lands to Tennessee Gas Pipeline Company by the Department of Environmental Protection.”
6. Copy of Deed between the Diocese of Paterson and the Township of West Milford regarding the acquisition of the Nosenzo Pond Property, Block 9301, Lot 12 and Block 9302, Lots 1 and 16.
7. Notice received July 29, 2011 from ANJEC (Association of New Jersey Environmental Commissions) requesting donations, advising of the 38th Annual Environmental Congress on Saturday, October 15, 2011 at the Brookdale Community College in Lincroft, NJ featuring “Water Worries, Strategies and Solutions”, and recommending ANJEC members read about the New Jersey Fertilizer Law enacted on January 5, 2011.

HIGHLANDS WATER PROTECTION & PLANNING ACT / NJ DEP CORRESPONDENCE

1. Copy of Application package from AECOM of Piscataway, NJ, received July 26, 2011, regarding a Amendment to the Existing Highlands Exemption for Tennessee Gas Pipeline 300 Line Project – Loop 325 and the Addition of the northeast Upgrade Project – Loop 325.
2. Notice from Tennessee Gas Pipeline, dated July 28, 2011, advising of their application for a Letter of Interpretation from the NJDEP to establish where regulated wetlands, if any, are found on Tennessee's property/easement. Copies of these application documents are on file with the Township.
2. Copy of letter to Thomas Germinario, West Milford Township Planning Board Attorney, dated June 27, 2011, regarding the Braemar at West Milford subdivision application for Block 10001; Lots 14, 19, 20, 23, advising that the Highlands Applicability Determination and WQMP Consistency Determination had expired due to the expiration of the Freshwater Wetlands General Permit.
3. Correspondence received July 21, 2011 from Diane Marichal, Director of the Helping People Help Themselves organization, advising of a resubmission to the NJDEP for a Highlands Determination due to insufficient documentation on the prior submissions.
4. Notice of Administrative Incompleteness for a Treatment Works Approval application No. 11-0154/P.I. ID#558368 received July 14, 2011 from the NJDEP regarding the Lanza Residence, Block 12110; Lot 5.01, requiring the following: a USDA Soil Survey Map with site location delineated, Appendix B, the \$850.00 review fee, construction cost estimate with breakdown, and proof of public notification to the local planning board and environmental commission.
5. Treatment Works Approval No. 11-0086 received from the NJDEP, dated June 30, 2011, regarding the Marion Plaza Wastewater Treatment/Disposal System at Marshall Hill Road, Block 5701; Lot 6. Approval is granted for a period of two years.
6. Notice from GES, Groundwater & Environmental Services, dated July 18, 2011, regarding Petro Two, 4 Marshall Hill Road, Block 5701; Lot 3 and the Biennial Certification Monitoring Report for a Groundwater Classification Exception Area submitted to the NJDEP – Site Remediation Program.
7. Public Notification received on July 19, 2011 from Lukoil of North America regarding remediation at the Lukoil Station #57360, 1910 Union Valley road, Block 6701; Lot 8.
8. Authorization for a Freshwater Wetlands G.P. 25 and Waiver of Transition Area for Access received from the NJDEP, dated July 12, 2011, for John Valent, 6 Ferndale Road, Block 12304; Lot 11, with regard to repair or alteration to a malfunctioning individual subsurface sewage disposal system.
9. Authorization for a Freshwater Wetlands G.P. 25 and Waiver of Transition Area for Access received from the NJDEP, dated July 15, 2011, for James Geocos, 36 Shadyside Road, Block 806; Lot 8, with regard to repair or alteration to a malfunctioning individual subsurface sewage disposal system.
10. Potable Well Water Analysis received on July 22, 2011 from Sovereign Consulting regarding results of water samples by Accutest for Waseem Choudhary, 2731 Rt. 23, Newfoundland, Block 14604; Lot 1 with reference to the Shell Service Station, advising that no regulated compounds were detected at concentrations above the standards, with attached report, based on sampling taken on June 1, 2011.
11. Potable Well Water Analysis received on July 22, 2011 from Sovereign Consulting regarding results of water samples by Accutest for S. Sisti & John McDavitt, 2750 Rt. 23, Newfoundland, Block 14601; Lot 12 with reference to the Shell Service Station, advising that no regulated compounds were detected at concentrations above the standards, with attached report, based on sampling taken on June 1, 2011.
12. Potable Well Water Analysis received on July 22, 2011 from Sovereign Consulting regarding results of water samples by Accutest for Marco Silvestri, 2713 Rt. 23, Newfoundland, Block 14605; Lot 4.01 with reference to the Shell Service Station, advising that no regulated compounds were detected at concentrations above the standards, with attached report, based on sampling taken on June 1, 2011.
13. Request from Thomas Scala, Jr. to the NJDEP requesting reconsideration of extension of the Freshwater Wetlands Letter of Interpretation/Line Verification under the Permit Extension Act for File # 1615-06-0014.1, for Block 5010; Lots 10, 6 and 4.
14. Copy of application for a Freshwater Wetlands GP 25 and Flood Hazard Area Applicability received from Houser Engineering regarding replacement/upgrade of 40+ year old septic system with new aerobic treatment unit and pressure dosed disposal system for 14 Beaver Avenue, Block 6717; Lot 2.
15. Copy of application for a Freshwater Wetlands GP 25 received from Houser Engineering regarding replacement of a septic system with a new pressure dosed disposal system for 47 Northwood Drive, Block 13203; Lot 39.

ADJOURNMENT

With no further business to come before the Board, the Planning Board Workshop Meeting of August 4, 2011 **adjourned** at **8:30 p.m.** on a **motion** by Mayor Bettina Bieri with a **second** by Councilman Philip Weisbecker.

Approved: October 27, 2011

Respectfully submitted by,

Tonya E. Cubby, Secretary