

Township of West Milford
ENVIRONMENTAL COMMISSION

MINUTES

DECEMBER 14, 2009

The regular meeting of the Environmental Commission of the Township of West Milford, was called to order at 7:31 p.m. by Chairman Stephen Sangle followed by a reading of the Legal Notice.

ROLL CALL: Present: Andrew Abdul (7:50), Gillian Hemstead, David Watson Hallowell, Timothy Metcalf, Douglas Ott, Bernie Stapleton, Alternates Gary Oppenheimer, Maryellen Gabay (7:49), Chairman Stephen Sangle.
Absent: None.

Gary Oppenheimer sat in for Andrew Abdul until his arrival.

APPLICATIONS

ERIC HASTINGS

Major Soil Fill Permit #0760-0306

Block 3906; Lot 4

1541 Greenwood Lake Tpk.; LMI Zone

Seeking: Waiver of Environmental Impact Statement

Gerald Gardner, P.E., the applicant's engineer, and applicant Eric Hastings, were present to review the application and the request for a waiver of an Environmental Impact Statement from the Environmental Commission. Mr. Gardner opined that the application was made to the Planning Board "by accident" and that the applicant was merely seeking to get approval of a septic system in a wetlands buffer. Mr. Gardner advised that a Letter of Interpretation from the NJDEP was received by the applicant, identifying the proposed septic as outside any wetlands, and subsequent to this, a septic permit was received from the Health Dept. Mr. Gardner recounted that Mr. Hastings had been observed moving rocks and adding soil to his property by the NJDEP and the Township in preparation for a new septic system. He received a stop work order from the Township. An application for a soil fill/removal permit was required and submitted by the applicant to the Planning Board, with an E.I.S. as one of the requirements for permit approval. Mr. Gardner contended that an E.I.S. is not applicable in this situation, and he was present at this meeting to request a waiver from the Environmental Commission. The Commission made several inquiries from Mr. Gardner including whether the septic was to be installed in virgin soil or fill, to which Mr. Gardner replied that it would include both sand and virgin soil. Mr. Gardner reviewed the state guidelines and septic codes that required 48" between the high seasonal ground water, 18" of stone and 9 - 18" of cover, and with septic systems adjacent to a wetlands, the maximum is 7', adding that the septic code is not practical. Chairman Sangle advised that the Commission was very stringent about environmental issues, and if wetlands are involved, waivers are not granted. Chairman Sangle then suggested that the applicant go back before the Planning Board for their determination in this matter, adding that he was inclined to deny the request for a waiver as the site was environmentally sensitive. Mr. Gardner stated that the applicant wished to install a septic and come back before the Commission at a later date for the soil fill issues. The Commission was not receptive this suggestion by the engineer.

The Commission made additional inquiries about the site, including the current location of the septic. The applicant and his engineer reviewed a site survey for the Commission. The applicant advised that he might establish office space on the site when the approvals are received, and stated there would be no truck storage on the site, other than his power wash equipment facility.

The Commission's Secretary advised that a Soil Fill/Removal Application for this site was still Incomplete with the Planning Board, and had been for several years. A reference was made to a letter from former Planner, William Drew. Mr. Gardner stressed his opinion that a soil fill permit was not necessary for a septic installation and Mr. Hastings read from the "town ordinance," "exceptions and exemptions." Chairman Sangle thought that an E.I.S. would be needed due to the sensitive nature of the site and the amount of work that was done at the site without approvals, but added that he was not an attorney or on the Planning Board. He stated that he understood the applicant's dilemma, but advised that the Commission cannot make decisions for other governing bodies. He concluded that

the applicant should go back to the Planning Board as this was not within the Environmental Commission's jurisdiction, and this matter [requirement of an E.I.S.] is based on their [Planning Board] interpretation of the law.

TELECOMMUNICATION APPLICATIONS - None.

GRANT MANAGEMENT AND STATUS REVIEW

2004 Greenwood Lake 319H Grant and 2007 Stormwater Implementation 319H Grant:

Gillian Hemstead had no report at this time. She requested the Secretary to inquire whether bid specs for this project had gone out from the Clerk's office. Chairman Sangle noted that he had provided Fred Lubnow's office with a list of potential bidders for the project.

604b OWTS: Gillian reported that the project was basically completed, although there was some areas regarding mapping that needed to be determined. Fred Lubnow did not do the Lake Hopatcong mapping, so clarification is needed. Pat Rector left the DEP and has been replaced by three staff members, who are assuming the responsibilities of the numerous grants that Pat administered. Chairman Sangle noted that Fred Lubnow should be attending the February meeting to give the Commission an update.

Streetscape Grant: Nothing to report at this time.

Urban Forestry Grants: No report or update.

ON GOING BUSINESS

Community Forestry Plan: No report or update.

Lakes Committee: Andy Abdul reported that he attended the recent Lakes Committee meeting, and the Lakes Committee stressed that they want more representation. There would be no meeting in December

Wetland Mitigation Project: A notice from the Hudson Essex Passaic Soil conservation district has approved the NJDEP soil and sediment control plan for the West Milford Lake dam breaching project.

Open Space Subcommittee: Chairman Sangle had nothing new to report at this time other than what he previously reported about the Township purchasing smaller parcels of land to prevent overdevelopment that add further stress to the lakes in the lake communities.

Renewable Energy Subcommittee: Chairman Sangle inquired about the draft wind turbine ordinance. The Secretary noted that the Planning Board had been advised that the Commission is anxious for them to proceed in formulating the ordinance.

Sustainable Jersey: Davis Watson Hallowell advised that January 11, 2010 is the date for a meeting of various people and organizations interested in participating in the Green Team. He suggested that about 15 people would be adequate for the Green Team, and that part of the objective will be to certify the points that are necessary for certification as a Sustainable Community. Mr. Hallowell also noted that he wants to resubmit the application for the greenhouse gas program when it becomes available.

NEW BUSINESS

Beaver Dams at Environmental Boardwalk: Doug Ott reported that Bob Jonas may have won the battle with the beavers as the beaver activity appears to have abated and the water level is below the boardwalk. The NJDEP was scheduled to visit the site.

Trails Master Plan: Chairman Sangle reported that Bob Jonas has offered to attend an EC meeting to help us move forward on the trails signage project. Doug Ott reported that the Trails Conference want to install a kiosk and bench at a main site, a much larger project than what the Commission envisioned. Chairman Sangle suggested he be invited to the next EC meeting.

Model Highlands Element for Municipal Master Plans: Gary Oppenheimer reported that he reviewed the comments sent by Doris Aaronson regarding the Draft Highlands Element and he agreed

with all of it, but he renumbered them for more clarity. Gillian Hemstead suggested that a letter be sent to Doris Aaronson for her work in compiling these comments.

Autumn Lights: Gillian Hemstead reported that for Autumn Lights she was preparing a power point presentation and would have laminated displays for the public educational outreach.

OLD BUSINESS

Chairman Sangle suggested that a memo be sent to the Township Administrator requesting that the Commission be advised of any application to ANJEC for a Smart Growth Planning Grant by the Township so that duplication of grant requests will not be made. It was noted that the Commission could adjust their funding requests for new grants to better the chances of award.

MINUTES

The minutes of the October 5, 2009 and November 9, 2009 Regular Meetings of the West Milford Environmental Commission were approved on a **motion** by David Watson Hallowell and a **second** by Douglas Ott.

The following correspondence was reviewed by the Environmental Commission and filed:

HIGHLANDS WATER PROTECTION AND PLANNING ACT

1. Notification dated November 7, 2009 from New Cingular Wireless PPCS, LLC that an application was made for a Highlands Applicability Determination.
2. Notification dated November 9, 2009 from Roman Catholic Diocese of Paterson that an application has been made for a Highland's Applicability Determination and an open water fill permit for constructing improvements to the Nosenzo Pond Dam as required by the NJ DEP Bureau of Dam Safety and Flood Control, Block 9302, Lot 16.
3. Copy of an application for a Highland's Applicability Determination received on November 23, 2009 for Joseph Lobosco, Block 5603; Lot 2.01 and 2.02, Vine Avenue and Ridge Road, for the construction of a single family home, new septic and well.
4. Notification dated November 18, 2009 from the NJ DEP that the application for a Highlands Determination was withdrawn for William Hart, 14 Gleason Road, Block 3508; Lot 6.
5. Copy of an application dated November 19, 2009 from PK Environmental for Steven Olsen, Apple Valley Estates, for a General Permit #4 for Block 9901; Lots 10, 11, 12 for the remediation of contaminated soil on approximately 8.93 acres, including 21,625 sq ft of wetlands transition area.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

1. Two Year Treatment Works Approval dated 11/04/09 for Shiloh Bible Camp, Block 6002; Lot 47, 753 Burnt Meadow Road, for the replacement of a septic system.
2. Potable Well Water Analysis – “acceptable for drinking water purposes” dated November 5, 2009 received for 23 Electric Supply, Block 576; Lot 1, in the vicinity of Shell Service Station #138443, Rt. 23.
3. Potable Well Water Analysis – “acceptable for drinking water purposes” dated November 5, 2009 received for Shell Service Co, Route 23 and Union Valley Rd., Block 14604; Lot 1.
4. Potable Well Water Analysis – “acceptable for drinking water purposes” dated November 5, 2009 received for Lakeland Plaza #1, 2713 Rt. 23 S., Block 14605; Lots 1-4.
5. Potable Well Water Analysis – “acceptable for drinking water purposes” dated November 5, 2009 received for Lakeland Plaza #2, 2713 Rt. 23 S., Block 14605; Lots 1-4.
6. Private Potable Well Water Analysis notification to residents in the vicinity of Lukoil 57215 – 1367 Union Valley Road, Case # 89-08-01-0906, PI ID 009903, noting that the results of sampling taken 04-28-09 showed no compounds/elements exceeding standards (Maximum Contaminant Levels).

7. Authorization for a Freshwater Wetlands General Permit #25 and Transition Area Waiver dated November 9, 2009 for Kerry Greene, Block 10204; Lot 4 for the alteration of a septic system.

CORRESPONDENCE

1. Letter from Passaic County Planning Board dated December 8, 2009 regarding the Jack Jaust Site Plan review, Block 16005; Lot 12, 96 Oak Ridge Road, requiring approval from Newark Watershed for the discharge of stormwater across Newark's property, and right of way access for relocation of the driveway before Passaic County will consider the plan for unconditional approval.

2. Notification from ANJEC dated November 24, 2009 of the 2010 Smart Growth Planning Grants program, and advising that packets will be provided to municipalities in January.

3. Additional escrow request to Marshall Hill, LLC - Anthony Patire, for professional service reviews with regard to the West Milford Lake Dam and Site.

4. Pipeline Awareness Newsletter – Fall 2009 - from the Pipeline Association for Public Awareness received November 16, 2009.

5. Hudson-Essex-Passaic Soil Conservation District certification of soil erosion and sediment control plan for the Clinton Road Bridge #1600-177 Replacement, dated October 1, 2009.

6. The Pequannock Post – Volume 14 – Issue 6.

7. NJ League of Municipalities notice dated November 25, 2009 regarding amendments to Inherently Beneficial Uses Legislation (S-1303/A-3062) – PL.2009, c. 146, adding to its definitions *inherently beneficial uses* – one that ‘fundamentally serves the public good and promotes the general welfare,’ giving examples of hospitals, schools, group homes, and wind, solar and photovoltaic energy facilities or structures. The bill also defines ‘*wind, solar and photovoltaic energy, facility or structure*’ as a facility whose purpose is to supply electric energy generated from wind, solar or photovoltaic technologies, regardless of whether it is a principal use, part of a principal use, or accessory use or structure.

8. Passaic County Planning report dated November 18, 2009 regarding Mr. Wonton, LLC, Block 6303; Lot 18, 1546 Union Valley Road, requesting a copy of an easement for the proposed sidewalk and a site plan review renewal fee.

9. Introduction of Ordinance #2009-033 on December 2, 2009 Establishing a Lakes Committee, to include a member of the Environmental Commission.

10. Letter from Cabana & King, LLC, regarding E-JIF (Environmental Joint Insurance Fund) and claims for Upper Greenwood Lake Beaver Dam, noting that the claim is not covered under E-JIF as no discharge of hazardous substances were made to the lake.

11. NJ League of Municipalities notice dated December 2, 2009 advising that the FCC Adopted a Wireless Tower Siting Petition, setting municipal deadlines of 90 days for action on a wireless co-location application and 150 days for all other wireless applications.

PUBLIC COMMENTS - No one was present to address the Commission on any matter of concern.

ADJOURNMENT

With no further business to come before the Commission the meeting was adjourned at 8:46 pm on a **motion** by Maryellen Gabay and Gillian Hemstead.

Approved: February 8, 2010

Respectfully Submitted,

Tonya E. Cubby, Secretary