

**TOWNSHIP OF WEST MILFORD  
PLANNING BOARD**

**MINUTES**

**October 28, 2021**

**Regular Meeting**

Chairman Christopher Garcia opened the October 28, 2021 regular meeting of the West Milford Planning Board, held in the Township Court Room, at 7:10 p.m. with a reading of the Legal Notice, followed by the Pledge of Allegiance.

**ROLL CALL**

**Present:** Steven Castronova, Linda Connolly, Councilwoman Ada Erik, Councilman Warren Gross, James Rogers, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia, Alt. #1 Michael DeJohn, Board Attorney Thomas J. Germinario, Alison Kopsco for Board Planner Jessica Caldwell.

**Absent:** Robert Nolan, Alt. #2 JoAnn Blom, Board Engineer Paul W. Ferriero.

The Chairman requested Michael DeJohn to sit in for Robert Nolan and advised that a quorum was present to hold this regular meeting.

**PUBLIC PORTION**

The public portion was opened by Chairman Garcia. With no members of the public wishing to address the Board, the public portion was **closed** on a **motion** by Ada Erik, with a **second** by Steven Castronova.

**PUBLIC HEARING**

**Sustainable Economic Development Plan**

Alison Kopsco of J. Caldwell and Associates was present to review the SEDP document that had been prepared by her firm. Chairman Garcia advised that the document resulted from a two year drafting period. Ms. Kopsco noted that plan had been reviewed during several phases of preparation and the final document had been examined by several entities, including the Highlands Council, who provided information and comments. Chairman Garcia remarked that there was good demographic information included in the plan and it is a great tool to encourage recreation and business investments, in addition to being a mechanism for future funding opportunities. Ms. Kopsco advised that the businesses' response to the surveys was good, with 53 business responses, or about 5%. The response from the residents was also very good, with 978 responding, or 3.7% of the population.

Board member Steven Castronova inquired if there was anything unusual that came up during the study, and Ms. Kopsco replied that there were recurring comments including requests for more outdoor activities, i.e. movie nights, and more events in general. The responses included suggestions for more restaurants other than pizza parlors, and respondents did not want more liquor stores or bars. Ms. Kopsco noted that, in essence, respondents indicated a desire for more diversity in the business offerings for dining and shopping.

Chairman Garcia reviewed some of the plan contents and observed that the stakeholders included meetings with various groups including the Chamber of Commerce, the WM Rotary, the Economic Development Committee, the Heritage Committee, among others. Several of the sites that are recommended to be utilized include Belchers Creek corridor, Brown's Point, Jungle Habitat, Camp Hope, and the properties around the Green Belt. He noted that more than 700 people responded that they wanted more recreational activities. Board member Jim Rogers requested that a link to the document be emailed to the 53 business and the stakeholders.

Board Attorney Tom Germinario advised the Board that the document will be forwarded to the Governing Body as a guide for implementation of the recommendations and for adoption of local legislation to accomplish the goals of the plan. He further advised that the Master Plan process is intended to be one step ahead of any development, and this SEDP is particularly important since it is one of the components required by the M.L.U.L. Chairman Garcia referred to page 7

regarding the goals and objectives, and he observed that they are not just for the Planning Board and Governing Body, but as a helpful guide for different groups with their individual goals. Board member Warren Gross commented that hotels and motels should be promoted, but Board member Ada Erik noted that there are no sewer systems that are available in the Township. Several Board members commented that pocket sewer systems are possible, and Ms. Erik suggested that maybe contacting Suez may provide an opportunity for possible connection for proposed development.

The Board reviewed several other areas of the SEDP including connecting access from the Shop Rite shopping center to the former A & P shopping center. Chairman Garcia remarked that he has been working on a possible plan for a connection to various areas in the Township and he will be making the information public in the near future.

With no members of the public wishing to address the Board on this matter, the public hearing was **closed** on a **motion** by Ada Erik, with a **second** by Steven Castronova. Subsequent to the discussion at this public hearing, the following resolution was considered by the Board.

**RESOLUTION NO. 2021-17**

**Resolution Recommending the Adoption of The Sustainable Economic Development Plan As An Element To The Township Of West Milford Master Plan.**

**Motion** by Steven Castronova, with a **second** by Geoffrey Syme, to **approve** the adoption of the Sustainable Economic Development Plan as an amendment to the Township Master Plan.

**Roll Call**

**Yes:** Steven Castronova, Linda Connolly, Michael DeJohn, Ada Erik, Warren Gross, James Rogers, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia.

**No:** None.

**Motion approved.**

**APPLICATIONS** – None.

**NEW OR ONGOING BUSINESS**

**Model Statewide Electric Vehicle Draft Ordinance** – Chairman Christopher Garcia advised that the State of NJ provided a draft model ordinance for the municipalities to review and use as a template for our own ordinance, but there was certain compulsory language that must be included if we draft a separate ordinance. Steve Castronova suggested that this be part of the checklists for board applications. The Board Attorney advised that this would be a new ordinance and any new applicants will have to abide by the ordinance and the state requirements. He inquired of Ms. Erik and Mr. Gross if the Council had discussed this matter, and Mr. Gross responded that the matter was raised at the last Council meeting. Mr. Castronova suggested that the businesses should be contacted to encourage installation of electric vehicle charging stations. Chairman Garcia requested that the Environmental Commission review the model ordinance at their next meeting and provide their comments for the Planning Board to consider. The Ordinance Committee will review the document and the comments and then bring it to the Planning Board for review at their meeting in December.

**Non-Condensation Redevelopment Area Study - 960 Burnt Meadow Road, Block 4601; Lot 17** – Alison Kopsco reported on the process regarding the Non Condensation Redevelopment Area Study that the Planning Board was tasked with completing for the Governing Body. She advised that the first steps were to make a determination as to the criteria for this designation. If the site meets the criteria, the Planning Board would hold a public hearing. Mr. Germinario noted that the advantages for the designation would be a tax advantage for the developer in the form of a possible tax abatement. He advised that the Planning Board has a narrow task in this matter and that is to decide if the statutory standards will be met for the Council to make a decision on the redevelopment area. The Board Planner will

prepare the report for the Planning Board to review at one of the meetings in December.

## **ORDINANCES FOR INTRODUCTION**

### **ORDINANCES/RESOLUTIONS REFERRED FROM COUNCIL**

#### **Ordinance No. 2021-036 – Ordinance Of The Township Of West Milford, County Of Passaic, State Of New Jersey To Create A New Section Within Chapter 500 “Zoning” Entitled “Medical And Recreational Cannabis Activity” Amended.**

This matter was before the Board for discussion and recommendation with regard to a Master Plan Consistency determination. Ms. Erik reported on this matter to the Board, noting that the Township had been “under the gun” from the State to adopt an ordinance on cannabis if they wanted to permit these businesses to operate. She noted that the Township Attorney advised the Governing Body that they can make amendments to the ordinance after it was adopted, hence this new Ordinance #2021-036 amending the original ordinance. Mr. Castronova inquired how the Township intends to obtain revenue from the licenses, and commented that 10 licenses for each type of license was excessive. Mr. Gross stated that the Township would receive a percentage from the taxes collected and they could see significant revenue. With regard to the number of licenses, Ms. Erik noted that the State issues the licenses, but the number may not exceed the maximum. Mr. Castronova commented on the large number of liquor licenses in the Township and observed that it is not profitable for many of the [alcohol related] businesses. With regard to the site plan approval, he questioned the need for Board approval, and Mr. Germinario advised that the cannabis is still a controlled substance, so the site plan is necessary. Board member Glenn Wenzel referred to page 3, 3<sup>rd</sup> paragraph, the term hemp products and it was noted that hemp farming is not included in this legislation.

Mr. Germinario advised the Board that their responsibility is to determine whether the ordinance is consistent with the Master Plan, and it is their prerogative to accept the recommendation of the Board Planner in her report, or not. Board member Linda Connolly inquired how licenses are issued by the State, and Ms. Erik replied that we do not know their process yet, but the Township also has the right of refusal, adding that the cannabis licenses cannot be sold or transferred. Chairman Garcia commented that the cultivation/processing has to be in an indoor facility and there are many regulations, but questioned where a facility would be acceptable with the Highlands restrictions. It was noted that the State is encouraging minorities and businesses in low-income areas to obtain licenses. Subsequent to the discussion on this matter, the Board considered the following resolution:

#### **RESOLUTION NO. 2021-18**

#### **Resolution Regarding Master Plan Consistency Determination for Ordinance No. 2021-036 Of The Township Of West Milford, County Of Passaic, State Of New Jersey To Create A New Section Within Chapter 500 “Zoning” Entitled “Medical And Recreational Cannabis Activity” Amended.**

A **motion** was made by Steven Castronova, with a **second** by Warren Gross, to **approve** Resolution No. 2021-18 regarding Master Plan Consistency for Ordinance No. 2021-026.

#### **Roll Call**

**Yes:** Steven Castronova, Michael DeJohn, Ada Erik, Warren Gross, James Rogers, Geoffrey Syme, Chairman Christopher Garcia.

**No:** Glenn Wenzel.

**Abstain:** Linda Connolly.

**Motion approved.**

## **MEMORIALIZATIONS**

### **Resolution No. 2021-19**

**Resolution Authorizing An Increase To The Professional Services Contract For A Total Amount Not To Exceed \$16,500. For J. Caldwell & Associates**

A discussion was held on this matter at a previous meeting and the Board determined that, due to the numerous ordinances and resolutions that required Master Plan Consistency reviews, as well as the additional meetings that took place on the subcommittee level, this increase in the Planner's contract was justified.

A **motion** was made by Steven Castronova with a **second** by Warren Gross to **approve** Planning Board Resolution No. 2021-19 for the increase in the Board Planners 2021 contract.

**Roll Call**

**Yes:** Steven Castronova, Linda Connolly, Michael DeJohn, Ada Erik, Warren Gross, James Rogers, Geoffrey Syme, Glenn Wenzel, Chairman Christopher Garcia.

**No:** None.

**Motion approved.**

**BOARD PLANNER'S REPORT** – None.

**BOARD ATTORNEY'S REPORT** – None.

**BOARD ENGINEER'S REPORT** – None.

**MISCELLANEOUS**

**Council Liaisons on the Planning Board** – Chairman Garcia addressed the question of the roles of the Mayor's designee and Councilmember positions on the Planning Board. Ms. Erik advised that she spoke to the Township Administrator/Clerk and the Township Attorney who informed her that any matters that the Planning Board needed addressed, they (Ms. Erik and Mr. Gross) would take the matters back to the Governing Body, but matters for the Council were not to be taken back to the Planning Board. She advised them that the Board was upset that they hadn't received several ordinances prior to adoption. With regard to land use or zoning ordinances that the Planning Board did not received either before introduction for review and comment, or before adoption, as they relate to Master Plan Consistency, Mr. Germinario stressed that the process must be adhered to or the ordinances are defective. Land use ordinances must be referred to the Planning Board for a determination on Master Plan Consistency, and adopting before this determination is made is not correct. He advised the Board that he will speak to the Township Attorney, Ed Pasternak, regarding this matter. Ms. Erik maintained that the Administrator has a legal background, but Mr Germinario advised that the authority lies with the Township Attorney to advise the Governing Body on legal matters and procedures as they relate to ordinances and resolutions. With regard to the position of "liaison", Mr. Germinario advised that the very definition implies a relationship that is a "two-way street", and there is communication between the two parties or entities. Their roles help to keep the autonomous Planning Board, interconnected with the Governing Body and the Township. If the Board needs information, we expect that the members of the Board representing the Council will provide that, as long as the matters are discussed in public and not closed session. Ms. Erik commented that the Council meetings are online and on the cable TV for the Board to view, so they can keep abreast of the Council actions. Mr. Germinario noted that this may not always be possible for them to attend or watch the meetings, and that is why open communication between the Board/Council members is essential. He commended both Ms. Erik and Mr. Gross for bringing several matters to the Board and providing information that was useful for the Board in reaching decisions. As for the assumption that the Planning Board review of land use and zoning ordinances is a courtesy, Mr. Germinario stated that it is incorrect. The Board's review of master plan related ordinances is statutory and the matter could end up in court if it is ever challenged.

Chairman Garcia received feedback from some sources who indicated that the Planning Board was too slow and we impede the process of legislation. He maintained that the Board does not purposely act to slow down any process, but that the Board has procedures to follow and there is nothing wrong in doing our due diligence. We have Board professionals that need to advise the Board on land use and zoning matters, and an example of the amount of work that has been accomplished is the increase in the budget for the Board Planner due to the number of last minutes reviews and reports that were required for the numerous ordinances

acted upon by the Council. The cost to the Township increases with all the reviews and research, but we are creating a legal risk if we don't complete the process. As for not holding a Planning Board meeting for every date that is scheduled, he advised that the Board does not conduct a meeting if there are no matters on the agenda. The meeting dates are scheduled to reserve the room and to allow more flexibility. This permits the Board to operate in an efficient and cost effective manner, since it costs the Township money to bring the professionals to the meetings. Chairman Garcia further advised that with regard to the perception that the Planning Board does not approve applications, that is not correct, since the Board almost always approves applications and resolutions, and acts on matters referred from the Governing Body. The Board always does their due diligence and fulfills their responsibilities, but is conscious of costs and tries to be efficient in holding meetings. Ms. Erik commented that the recent comments on Board related matters from the Board of Adjustment Chairman and the Planning Board Chairman were taken into consideration by the Governing Body. Board Member Geoffrey Syme inquired about the timeline for adoption of an ordinance, and noted that if an ordinance is introduced, the second reading does not have to occur in less than 20 days, so there is time for the Planning Board to complete their review. Mr. Germinario suggested that if the Council was seeking input before the 1<sup>st</sup> reading, they could request an informal review, but that is optional since the review would not be related to a Master Plan Consistency determination.

5G Technology – Ada Erik inquired if the Planning Board would be reviewing the 5G technology that is proposed for installation in West Milford. Board Attorney Tom Germinario advised that this would not be a Planning Board matter, and they will be exempt from land use approval. 5G can be installed on existing poles if they meet the criteria. Mr. Germinario is somewhat familiar with the technology and noted that it operates on a higher frequency. Ms. Erik stated that they are being installed in boxes in the Township.

Farming Definition in Zoning Ordinance - Chairman Garcia noted that the “farming” definition in the zoning ordinance needs to be clarified. Mr. Erik commented that the County and State laws prevail over local laws with regard to farming.

Climate Change Assessment - Jim Rogers inquired about the timeline on the required climate change assessment, and Alison Kopsco advised that she will discuss this with the Board Planner, Jessica Caldwell.

## **INVOICES**

The Planning Board professionals' recent invoices were **approved** on **motion** by Warren Gross with a **second** by Geoffrey Syme.

## **MINUTES**

The Minutes from the September 23, 2021 Regular Meeting were unavailable for approval at this meeting.

## **CORRESPONDENCE RECEIVED:**

*The following correspondence items were reviewed by the Board:*

### **Highlands Water Protection and Planning Act Correspondence**

1. None.

### **NJ Department of Environmental Protection Correspondence**

1. NJDEP Suspected Hazardous Discharge notice, dated October 2, 2021, regarding 15 Sophie Avenue, Block 6607; Lot 4, advising of a spill from a pole mounted transformer due to equipment failure, with remediation pending.
2. NJDEP Freshwater Wetlands General Permit #18 received for Farm Crest Acres Association, c/o Thomas McNair, 31 Crest Lake Drive, for Block 16701; Lots 4, 5, 6, 10, 11, 12.
3. Remedial Action Protectiveness/Biennial Certification Form for Groundwater, dated September 1, 2021, received from Kleinfelder regarding 1 Lakeside Road (former Exxon Facility), PI# 016861.

4. NJDEP Suspected Hazardous Discharge notice, dated October 2, 2021, regarding 111 – 115 Point Breeze Drive, Reference # 21-06-22-1006-02. Caller reported that testing confirmed contractor (Battinelli Landscaping) put contaminated soil (mercury, metallic) onto properties, with remediation pending.

### **Miscellaneous**

1. HEPSCD certified soil erosion and sediment control plan, dated August 17, 2021, regarding Galletta Macopin SFD, 1288 Macopin Road, Block 10202; Lot 5.02.

2. HEPSCD certified soil erosion and sediment control plan, dated August 6, 2021, regarding Farm Crest Acres Rehab of Upper and Lower Dams, Doremus Road, Block 16701; Lots 4, 5, 6, 10, 11, 12.

3. HEPSCD re-certified soil erosion and sediment control plan, dated August 31, 2021, regarding B & B Organic Waste Recycling Stabilization Measures, Block 6002; Lots 29, 18.02 & 28.03, Lycosky Drive.

4. Harper Turner Farms notification of a Passaic County Agriculture Development Board meeting on Monday, October 18, 2021 at 6:30pm, virtually via Cisco Webex, regarding site specific agricultural management practices, importing fill to create logging roads and level areas for gardening and stockpile tree plantings and gardens at Block 2202; Lot 1.01, 38 Castle Rock Road.

5. HEPSCD recertified plan, dated September 9, 2021, regarding Safargar Burnt Meadow Driveway & Grading Plan – Revised limit of disturbance, for Block 4601; Lot 15, 890 Burnt Meadow Road, Hojjat Safagar, c/o 46 Truck Repair, Ridgefield, NJ.

6. Notice from FERC, regarding Tennessee Gas Pipeline, 300 East Upgrade Project, advising that the final Environmental Impact Statement for the upgrades and compressor stations, including the proposed new 19,000 horsepower electric driven compressor unit and associated auxiliary facilities in Passaic County (West Milford). Access for the document: [www.ferc.gov](http://www.ferc.gov), or <https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents>.

### **ADJOURNMENT**

Prior to adjourning, the Board was advised that the next scheduled meetings were on December 2 and 16, 2021. Members will be notified by email regarding the meetings that will be held.

With no other matters to come before the Planning Board, Chairman Christopher Garcia **adjourned** the meeting of October 28, 2021 at 8:45 p.m. on a **motion** by Jim Rogers, with a **second** by Warren Gross.

Approved: December 2, 2021

Respectfully submitted by

Tonya E. Cubby, Secretary