

**TOWNSHIP OF WEST MILFORD
PLANNING BOARD**

MINUTES

June 5, 2014

Regular Meeting

Acting Chairman Christopher Garcia opened the June 5, 2014 Regular Meeting of the West Milford Planning Board at **7:35 p.m.** with a reading of the Legal Notice, followed by the Pledge of Allegiance and Roll Call.

ROLL CALL

Present: Mayor Bettina Bieri, Linda Connolly, Christopher Garcia, Andrew Gargano, Douglas Ott, Councilman Lou Signorino, Chairman Geoffrey Syme (8:01), Board Planner Charles McGroarty.

Absent: Steven Castronova, Robert Nolan, Glenn Wenzel, Michael Siesta, Board Attorney Thomas Germinario, Board Engineer Paul Ferriero.

Acting Chairman Garcia advised that a quorum was present to hold this meeting.

PUBLIC PORTION

Acting Chairman Garcia opened the Public Portion of the meeting. With no one wishing to address the Board, the Public Portion was **closed** following a **motion** by Andrew Gargano and a **second** by Linda Connolly.

PRESENTATIONS

Update on COAH Regulations – Chuck McGroarty, P.P. advised the Board that the new COAH regulations have been published and are open for public comment, with possible adoption in November 2014. He distributed a handout for the Board and explained that this was the fourth version of the Third Round Rules; the Third Round was initiated over 10 years ago. After he reviewed the new regulations, Mr. McGroarty determined that West Milford was in a good position with the new round based on the proposed regulations. He explained that from 1987 to the current year, the cumulative impact of affordable housing was used to ascertain the housing obligation. He also noted that the growth share had been invalidated. He referred to the synopsis of the estimates based on the new COAH regulations that he prepared. Mr. McGroarty advised that the new regulations translate to 0 (zero) affordable housing required for the period from 1987 to 2014, and going forward, West Milford's affordable housing obligation from this year to 2024 will be 19 units, adding that this would be a fairly simple number to accomplish. He also made note of the fact that, under the Highland's regulations, the maximum build out analysis came up with a total of 19 units that could be built in West Milford. He is looking into this to make sure that all the information in the process was accurate, since 19 affordable units seems too high if the total amount of units that can actually be built in the Township is 19. Mayor Bieri inquired about the growth share, and Mr. McGroarty explained that, in the beginning, the statewide obligation figures were divided into housing regions, and then filtered down into the municipalities. He advised that the vacant land adjustment is also being examined to help determine the correct number for our COAH obligation. Referring to his summary, Mr. McGroarty made note of the number of units that have been determined to require rehabilitation, a number that was assigned by COAH based on our housing stock following reports received from Passaic County. This number, 107, also seems high, and he is looking into this figure also. He advised that any affordable units that are newly built can be applied to the rehab number. With regard to the current obligation, Mr. McGroarty advised that if we were permitted to apply the existing inventory of over 100 units to the current obligation numbers, the vacant land adjustment would not be necessary. He reported that the COAH report was published on June 2, 2014, and a lot of changes have been made to the rules, making them more streamlined and providing more flexibility for municipalities. Mr. McGroarty is hoping to get the answers he needs before the November deadline, and in the interim, he will submit comments during the designated comment period. The most important update, he stressed, is that our obligation went from the estimated 98 units under the old rules, to 0 (zero) under the new rules, with the existing affordable housing applied to the obligation numbers. The Board Secretary inquired whether the "Advoserv" units count towards our obligation, and Mr. McGroarty replied in the affirmative, adding that he will coordinate the numbers with the Construction Official for his reports.

Master Plan Update - Mr. McGroarty referred to the Trails Master Plan document that had been provided by the Environmental Commission for review, advising that it could be incorporated into the Master Plan Element, which would ultimately require an ordinance to implement. He stated that the Master Plan Committee had been working on updating the current Land Use Map from the original Master Plan that was created in 1987. He provided a map for the Board's reference and advised that the Land Use map, which is the foundation by which all the zoning is created, essentially has not been changed since 1987, with the exception of a few modifications. Mr. McGroarty stated that although the Township is in the Highlands and is 100% in the Preservation Area, and the Township has approved the Highlands Regional Master Plan for West Milford, it could be assumed that the Township had completed all their land use planning requirements since we have achieved Highland's conformance. But, he noted, there were still properties that would be otherwise exempt from the

Highlands regulations, and these are governed by the underlying zoning. During discussions at their meetings, the Master Plan Committee felt that because it had been almost 30 years since the last Master Plan, it was time to review and update the Land Use Plan Map. Mr. McGroarty advised that there were seven general categories that include the changes that have been recommended by the MP Committee. He reviewed the process for the Board, and explained that the Committee took all the lands within the Township boundaries that were owned by public entities (with the exception of Newark Watershed), including State land, State forests, County parks, and Township owned lands, and identified them as "Public Conservation" Zones, recognizing that much of the public land identified on the zoning map and designated as R-4 (Residential-4 Acres), was basically irrelevant since the parcels could not be developed. Mr. McGroarty noted that it makes sense to make the changes, but also advised that if a land adjustment analysis has to be done for COAH, a map that indicates multiple parcels that are designated as being in the residential zone will require additional explanations about the NJDEP, or County, or Township ownership. Mr. McGroarty continued, commenting that in the document, there will be a listing of all the public land ownership with block and lot, etc. Referring to the Land Use map, he noted that the Office Research Zone, as well as Redevelopment Zone (which was purchased by Green Acres) required an amendment to the land use ordinance. The Land Use map showed a portion of the land converting over to public ownership, and one portion is owned by Newark Watershed; Mr. McGroarty assumed that this was a drafting error. He advised that the intent is to change the colors on the map to indicate low density residential since the intensity of development that was envisioned at the time the 1987 Master Plan created the zone is no longer permitted in the Highlands Preservation Area. He noted that the adjacent tract that is owned by Newark Watershed would become low density residential, along with a private residential property on the same street. With regard to the Special Economic District by the GWL Airport, Mr. McGroarty advised that the land is virtually all owned by the State, and with the Highlands' Preservation Area restrictions, it would not receive approval to support the development originally envisioned. As for the Special Housing Overlay District, it was predicated on the approval of public water and sewer service, and since this is not permissible under the Highlands, it appears that this district is an obsolete option at this time.

Chairman Geoffrey Syme arrived and presided over the remainder of the meeting.

Continuing with the zoning changes recommended by the Master Plan Committee, Mr. McGroarty referred to the Lake Residential Zone, and he noted that from 2003 to the present, the Zoning Board of Adjustment often cited issues with this zone in their Annual Report to the Governing Body, suggesting that the minimum lot size be reduced from 20,000 square feet per lot (1/2 acre) to 10,000 square feet per lot (1/4 acre). However, Mr. McGroarty noted, it would not pass muster under the Highlands, and it would be also inconsistent with the 1987 Master Plan, which outlined reasons why the LR Zone should be a minimum 1/2 acre or higher lot size. Because the ZBOA has repeated the recommendation in their Annual Reports to the Governing Body, it deserved the respect of a reply, and he suggested that it could be explained as being problematic, giving the current septic regulations and various other environmental concerns to be considered, adding that the last thing the Township would want to do is create smaller lots in lake communities that are on septic systems. As for Community Commercial Zone, which includes the existing Shop Rite shopping center, A&P shopping center, and a section along Route 23, Mr. McGroarty reported that the MP Committee is recommending changes to three areas which include a section on Warwick Tpk., as well as two areas on Marshall Hill Road and by Greenwood Lake Tpk., which are zoned for intensive development. They recommended that the zones to be changed to either Neighborhood Commercial or Village Commercial to better serve the residents and property owners, rather than create a new zone district for these properties, commenting that there would always be some properties in the Township that may not conform. Mr. McGroarty stated that the intention was to return to the Planning Board with a draft that would address some of the components of recommended changes from the 1987 Master Plan Land Use Plan. He then referred to the Historic District Zone for New City, property owned by Newark Watershed, and observed that with all the prior structures razed several years ago due to fire and vandalism, and due to the fact that the property will not be developed, there was no reason to keep the Historic District Zone designation. He re-iterated that the MP Committee is not intending to change Newark Watershed to a publicly designated land zone, but will remain R-4, low density residential, and anything that will be designated "Public" lands would be parcels that are restricted by the ROSI, or State land. Mr. McGroarty advised that following a review of the Land Use Plan document and maps that will include the recommended zoning changes, the Planning Board can adopt them, or refer them, as a courtesy, to the ZBOA and the Environmental Commission prior to adoption, but ultimately, it would be the Planning Board that decides to adopt the Master Plan. He further advised that Zoning Map changes will be necessary as a result of the new plan adoption, as well as ordinance changes, and these will be the responsibility of the Township Council.

Mayor Bieri requested that the drafts that are to be reviewed by the Planning Board contain maps that are printed in color. Mr. McGroarty commented that the Land Use Plan map from 1987 Master Plan was basically illegible, and he noted that the new map will contain "bullets" to indicate certain zones that are encompassed by much larger zones. He advised that he could have a clean draft prepared for the Board for the July 24, 2014 Planning Board meeting. The Board can hold discussions on the document at a regular meeting, and a legal notice will not be necessary, but an official public hearing will require noticing. Chairman Syme suggested that the Board should review the draft document first at the July meeting, to work out any "kinks" or issues that come to light before it is presented at a

public hearing. Mr. McGroarty noted to the Board that even with the zoning changes, any major development would be subject to the Highlands, and any other development would be subject to local zoning regulations, adding that the Township survived over 30 years with the 1987 Master Plan, so another month or two won't be a problem. The Board requested that the Draft Master Plan be placed on the agenda for the July 24, 2014 agenda and Mr. McGroarty will provide clean draft copies prior to the meeting.

APPLICATIONS - None.

MEMORIALIZATIONS – None.

NEW OR ONGOING BUSINESS –

Review Draft Trails Master Plan – Doug Ott, the Planning Board member of the Environmental Commission, advised that the Final Draft Trails Master Plan document, provided to the Planning Board for review, was received by the Environmental Commission on the Monday prior to this meeting. He explained that the Commission received a grant from ANJEC to create a document of the existing and proposed trails and paths in the Township to be used as a planning tool and reference for future trail and/or recreation projects. Mr. McGroarty advised that the document, if approved, could be included in the Master Plan, which is the responsibility of the Planning Board, or it could be kept as a separate document as an appendix. Mr. Ott noted that the Trails MP was completed in conjunction with the NY/NJ Trail Conference and Banisch Associates, as well as other local groups and organizations that provided suggestions and/or data for the project. Chairman Syme inquired if bike trails were included, and Mr. Ott responded that it consisted mainly of hiking trails, but biking trails were included. The Board requested that this document be placed on the July 24, 2014 agenda for review.

Mr. McGroarty left the meeting following the discussion.

Review Draft Community Forestry Management Plan – Mr. Ott advised the Board that the CFMP was the result of a grant project for preparation of a document that was required by the NJ DEP as a condition for receiving a larger re-forestation grant in the amount of \$620,000. The Board requested additional time to review the document and asked that the matter be placed on the June 26, 2014 agenda for discussion.

ORDINANCES FOR INTRODUCTION – None.

ORDINANCES REFERRED FROM COUNCIL - None.

BOARD PLANNER'S REPORT – See above update on COAH and Master Plan Committee.

BOARD ATTORNEY'S REPORT – None.

BOARD ENGINEER'S REPORT – None.

MISCELLANEOUS

Approval Of Invoices – Board Professionals

Motion was made by Andrew Gargano with a **second** by Douglas Ott to **approve** the invoices submitted by the Planning Board professionals for services performed during the months of March and April 2014. The Planning Board **unanimously approved** the invoices for payment.

MINUTES

Motion was made by Andrew Gargano with a **second** by Christopher Garcia to **approve** the Planning Board minutes for May 1, 2014. The minutes were **unanimously approved** by those who were present at the May 1, 2014 meeting.

CORRESPONDENCE RECEIVED

The following correspondence was reviewed and filed:

Highlands Water Protection And Planning Act Correspondence

1. Notice of a Highlands Preservation Area Exemption Determination #1 for the Pequannock Water Treatment Plant Improvements, Project ID #1615-14-0003.1, dated April 30, 2014, advising that the proposed project is consistent with the goals of the Highlands Act.
2. Copy of an application from the Township of West Milford, dated May 29, 2014, for a Highlands Applicability Determination regarding the West Milford Salt Storage Project on Lycosky Drive, Block 6002; Lot 28.01 for the demolition and reconstruction of pavement areas, and demolition and reconstruction of vehicle storage and salt storage structures utilized by both the Township of West Milford and Passaic County.

NJ Department of Environmental Protection Correspondence

1. Correspondence dated May 5, 2014 from the NJDEP regarding the Stipulation of Settlement in the Matter of John Aiello, NJDEP File #NEA 120001-1615-09-0034.1, Block 4402; Lot 1, 828 East Shore Road, advising that, following a review of the Planning Board approved major soil movement site plans "A Plan" and "Alternate B Plan," they recommend that "A Plan" be executed as the restoration plan in connection with satisfying the conditions of the Settlement Agreement in response to violations issued to the owner of the subject site. This agreement referred to the approval of a restoration plan that included the removal of unauthorized fill material, and re-grading and re-vegetation in NJDEP Land Use regulated areas, specifically areas subject to Freshwater Wetlands Protection Act NJSA 13:9b-1 ET seq.
2. Denial without Prejudice of a Treatment Works Approval Application received from the NJDEP, dated April 29, 2014, for Bald Eagle Commons – Proposed Modification, due to the application being administratively deficient which was noted in the Notice of Administrative Incompleteness letter of July 7, 2013. The following are required for consideration: Section A1 Consent Form to be executed by the Township of West Milford; Construction specifications signed and sealed by a NJ P.E.; Final Construction plans noted and signed and sealed by a NJ P.E.; Modification of the NJDES-DGW Permit # NJ0081914 required for reduction in disposal area.
3. Supplement Notice to Response Action Outcome dated January 6, 2014, received from Kleinfelder, dated May 5, 2014, regarding the Former Exxon Facility #35139, 4 Marshall Hill Road, Block 5701; Lot 3. Scope of Remediation includes 1,1,2-Trichloroethane in Offsite Groundwater (AOC-18) and no other areas.
4. Ground Water Renewal Permit Action – NJDES NJ0051098/P.I. ID 46105, dated April 30, 2014, received from the NJDEP for the West Milford MUA, regarding Bald Eagle Village – T- Underground Injection (UIC) Sanitary, effective 05-01-14 to 04-30-19.
5. Treatment Works Approval, dated May 15, 2014, received from the NJDEP regarding Storms Island, Block 4404; Lots 4.02, 10, 14, 15, 16, to construct and operate a 1060 gallon septic tank, a 1060 gallon dosing pump tank, and a 2" PVC force main for each lot on Storms Island, said permit effective until May 12, 2016.
6. Correspondence from the NJDEP Bureau of Dam Safety & Flood Control, dated May 22, 2014, regarding the Nosenzo Pond Dam, NJDEP File #22-241, granting the Township of West Milford's request for a time extension until Dec. 31, 2014 to submit a full updated text portion of the Emergency Action Plan, but advising that an updated Emergency Notification Flowchart with current personnel must be submitted by June 30, 2014.
7. Correspondence from the NJDEP Bureau of Dam Safety & Flood Control, dated May 22, 2014, regarding Upper Crest lake Dam (NJDEP File #22-333) and Lower Crest Lake Dam (NJDEP File #22-334) advising that the compliance scheduled submitted by Civil Dynamics was acceptable, with general maintenance and repairs to be completed by Dec. 1, 2014. In addition, an E.A.P. is required by Dec. 2014, and a conceptual design for each dam rehabilitation is required by the NJDEP by Dec. 2015.
8. Notice received May 28, 2014 from the NJDEP-Div of Water Supply and Geoscience regarding Van Orden Sand and Gravel of Ringwood, advising of an application for the diversion of 104.1 million gallons of water per month and 492.54 million gallons per year, at a maximum rate of 3666 gallons per minute from two existing wells, 195 to 400 feet deep completed in the Precambrian Igneous and Metamorphic Rock Formation; the existing quarry sump pump, and two existing storage ponds. This represents a new permit for an existing, but previously unpermitted diversion, located off of Westbrook Road. This diversion is to be used for Dewatering-Mining. Comments must be received by Kenneth Komar of the NJDEP Div of Water Supply and Geoscience by June 27, 2014.

Miscellaneous Correspondence Received/Sent

1. HEPSCD notice, dated April 28, 2014, regarding the Aikey Project, 58 Leslie Dr. and 145 Wesley Dr., Block 9501; Lots 19.03 and 19.06, extending the certification of the soil erosion and sediment control plan under the Permit Extension Act of 2012 until October 21, 2017.
2. HEPSCD notice, dated April 17, 2014, regarding Bubbling Springs Park Subsurface Disposal System, 1468 Macopin Road, Block 9001; Lot 13, certifying the soil erosion and sediment control plan for 3.5 years.
3. Notice from the NY-NJ Trails Conference – 4th Edition of 50 Hikes in New Jersey, \$21.95.

ADJOURNMENT

With no further business to come before the Planning Board, Chairman Syme **adjourned** the Regular Meeting of May 1, 2014 at **8:25 p.m.** on a **motion** made by Mayor Bettina Bieri with a **second** by Councilman Lou Signorino.

Approved: July 24, 2014

Respectfully submitted by,

Tonya E. Cubby, Secretary