

TOWNSHIP OF LOPATCONG  
PLANNING BOARD REORGANIZATION AND  
REGULAR MEETING

January 28, 2015

The meeting of the Planning Board of the Township of Lopatcong was called to order by Chairman VanVliet at 7:00 pm. A silent prayer was offered followed by the Oath of Allegiance.

Chairman VanVliet stated “adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Gazette and The Express Times and by posting a copy on the bulletin board in the Municipal Building.”

Present: Members Belcaro, Degan, Fischbach, France, Gural, Hall, Liptak, Mayor McKay, Pryor, Chairman VanVliet. Also present was Engineer Paul Sterbenz.

**Reorganization:**

The following members were appointed, reappointed and sworn in by Secretary Dilts:

Class I Member – Mayor McKay  
Class II Member - Wayne Degan  
Class III Member - Lou Belcaro  
Class IV Member – Mark Gural  
Alternate Member – Douglas Liptak

**Election of Officers and Secretary:**

Chairman – Nomination for Gary VanVliet as Chairman by Member Hall, seconded by Member France. No further nominations made.

Vice Chairman – Nomination for Joe Pryor as Vice Chairman by Member Hall, seconded by Chairman VanVliet. No further nominations made.

Roll Call:

AYES: Members Belcaro, Degan, Fischbach, France, Gural, Hall, Liptak, Mayor McKay, Pryor, Chairman VanVliet.

NAYS: None

**Appointment of Professionals:**

**Resolution No. 15-02** - Appoint Anthony Sposaro as Attorney for the Board.

R 15-02

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND  
STATE OF NEW JERSEY APPOINTING ANTHONY J. SPOSARO AS PLANNING  
BOARD ATTORNEY

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Lopatcong, County of Warren and State of New Jersey follows:

Anthony J. Sposaro is hereby retained as Planning Board Attorney for the year 2015 at a rate established in a Professional Service Agreement.

This award is in accordance with N.J.S.A. 19:44A-20.5 et seq.

This Resolution shall take effect immediately.

CERTIFICATION

I, Margaret B. Dilts, Planning Board Secretary of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Planning Board at the Reorganization Meeting held on Wednesday, January 28, 2015.

Margaret B. Dilts  
Planning Board Secretary

Motion by Chairman VanVliet, seconded by Member Degan. Roll call vote:  
Member Hall – Discussion? Members of the Board discussed the appointment. Chairman VanVliet asked for a roll call vote:

AYES: Members Belcaro, Degan, France, Hall, Pryor, Chairman VanVliet.

NAYS: None

ABSTAIN: Fischbach, Gural, Liptak, Mayor McKay

Mr. Sposaro took his seat at the dais.

**Resolution No. 15-03** – Appoint George Ritter, Planner.

R 15-03

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND  
STATE OF NEW JERSEY APPOINTING GEORGE RITTER AS PLANNER OF RUGGIERO  
PLANTE LAND DESIGN, LLC

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Lopatcong, County of Warren and State of New Jersey follows:

George Ritter of Ritter of Ruggiero P LLC is hereby retained as Township Planner for the year 2014 at a rate established in a Professional Service Agreement.

This award is in accordance with N.J.S.A. 19:44A-20.5 et seq.

This Resolution shall take effect immediately.

#### CERTIFICATION

I, Margaret B. Dilts, Planning Board Secretary of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Planning Board at the Reorganization Meeting held on Wednesday, January 28, 2015.

Margaret B. Dilts  
Planning Board Secretary

Chairman VanVliet asked for a motion to appoint George Ritter s Planner. Member Pryor made a motion to approve this appointment, seconded by Member Hall. No further discussion. Roll call vote:

AYES: Members Belcaro, Degan, Fischbach, France, Gural, Hall, Liptak, Mayor McKay, Pryor and Chairman VanVliet.

NAYS: None

**Resolution No. 15-04** – Appoint Paul Sterbenz, Engineer.

R 15-04

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY APPOINTING PAUL STERBENZ OF MASER CONSULTING P.A.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Lopatcong, County of Warren and State of New Jersey follows:

Paul Sterbenz of Maser Consulting P.A. is hereby retained as Planning Board Engineer for the year 2014 at a rate established in a Professional Service Agreement.

This award is in accordance with N.J.S.A. 19:44A-20.5 et seq.

This Resolution shall take effect immediately.

#### CERTIFICATION

I, Margaret B. Dilts, Planning Board Secretary of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a

Resolution adopted by Council at the Reorganization Meeting held on Wednesday, January 28, 2015.

Margaret B. Dilts  
Planning Board Secretary

Chairman VanVliet asked for a motion to approve appointment of Engineer Sterbenz. Motion by Member Hall, seconded by Member Degan. No further discussion. Roll call vote:  
AYES: Members Belcaro, Degan, Fischbach, France, Gural, Hall, Liptak, Mayor McKay, Pryor and Chairman VanVliet.  
NAYS: None

**Contracts for 2015** – Secretary Dilts asked to hold this until next meeting as all contracts are not in yet. Chairman VanVliet noted that this will be held till next meeting.

**Resolution No. 15-01** – Approving Annual Meeting Calendar and Official Newspapers – The Star Gazette and The Express-Times.

R 15-01

#### PLANNING BOARD MEETING CALENDAR

NOTICE IS HEREBY GIVEN that the regular meetings of the Lopatcong Township Planning Board will be held the Fourth Wednesday of each month at 7:00 pm, except where otherwise noted below, at the Municipal Building located at 232 S. Third Street, Lopatcong, New Jersey. The dates of the meetings are as follows:

January 28, 2015 (Reorganization Meeting)

February 25, 2015	August 26, 2015
March 25, 2015	September 23, 2015
April 22, 2015	October 28, 2015
May 27, 2015	November 25, 2015
June 24, 2015	December 23, 2015
July 22, 2015	

January 27, 2016 (Reorganization Meeting)

The Township Clerk through 2015 will prominently post a copy of this Resolution in the Municipal Building located at 232 S. Third Street, Phillipsburg, New Jersey on the bulletin board and a copy shall be mailed to The Express-Times and The Star-Gazette, which are designated as the official newspapers for publication of legal notices for the Lopatcong Township Planning Board pursuant to Section 3 (d) of the Open Public Meetings Act Chapter 231 P.L. 1975.

## CERTIFICATION

I, Margaret B. Dilts, Planning Board Secretary, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, January 28, 2015.

Margaret B. Dilts  
Planning Board Secretary

Chairman VanVliet asked for a motion to approve this Calendar. Member Liptak asked if the Board was changing newspaper as this was a consideration by Council. It was noted that Council did not change newspaper. Motion by Member Degan, seconded by Member Belcaro. No further discussion Roll call vote:

AYES: Members Belcaro, Degan, Fischbach, France, Gural, Hall, Liptak, Mayor McKay, Pryor, Chairman VanVliet.

NAYS: None

**Resolution No. 15-05** – Robert’s Rules of Order.

R 15-05

### RESOLUTION OF THE TOWNSHIP PLANNING BOARD, COUNTY OF WARREN AND STATE OF NEW JERSEY ADOPTING ROBERT’S RULES OF ORDER AS A BASIC GUIDE FOR FAIR AND ORDERLY PROCEDURE IN MEETINGS

NOW, THEREFORE, BE IT RESOLVED by the Lopatcong Township Planning Board, County of Warren and State of New Jersey that Robert’s Rules of Order Newly Revised 11<sup>th</sup> Edition is hereby adopted as a parliamentary authority for the procedure in meetings.

## CERTIFICATION

I, Margaret B. Dilts, Planning Board Secretary, in the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Planning Board at the Reorganization Meeting held on Wednesday, January 28, 2015.

Margaret B. Dilts  
Planning Board Secretary

Chairman VanVliet asked for a motion to adopt this Resolution. Motion by Member Belcaro, seconded by Member Hall. No further discussion. Roll call vote:

AYES: Members Belcaro, Degan, Fischbach, France, Gural, Hall, Liptak, Mayor McKay, Pryor, Chairman VanVliet.

NAYS: None

**Old Business:**

**Minutes** – Chairman VanVliet approved the minutes of July 23, 2014 as there was no corrections.

AYES: Members Belcaro, Fischbach, France, Hall, Pryor and Chairman VanVliet.

NAYS: None

ABSTAIN: Degan

**189 Strykers Road** – Engineer Sterbenz noted to the Board that 189 Strykers Road, proposed site of the asphalt plant, as part of the conditions of the resolution have not been addressed by this applicant and as a result of that, it is technically still a Planning Board matter. The applicant has a responsibility of addressing those conditions before they are able to go to construction. On behalf of the Board, I'm looking at the resolution making sure the applicant is addressing those conditions in the resolution. The applicant recently contacted me to discuss the resolution and where we stand on the resolution. In fact, I had a meeting with the representative of 189 Strykers Road to discuss the resolution. There are conditions that have not been addressed but would need to address to be able to perfect the approval and move to construction. There is quite a bit of work that has to do with the site plan as well as a number of administrative conditions including some that would involve the Township Council, specifically, the Developer's Agreement. So I had this meeting, I indicated based on some review that I had done before the meeting, what needed to be done, where they go at this point with all that information. I don't know, but I just want to advise the Board that this particular meeting occurred and I did provide that information to them and if they do decide to file plans at a later meeting, I'll let you know that plans came in and there is an effort going to try and perfect the approval. So, I didn't hear an indication of that, that they were looking to do that but will try and get a status where they stand with the resolutions and what items are outstanding at this point. I will keep the Board posted if this thing were to move any further forward at this point.

Mayor McKay – Are there any time deadlines that they are in jeopardy of going past which would stop there application?

Engineer Sterbenz – Um, the, whenever approval is granted, you get a certain period of time depending on the application where you have protections against zoning changes and changes in regulations. In this particular case, the applicant requested preliminary and final major site plan approval. The final major site plan approval grants a two year period on protection against changes in ordinances and regulations so that would theoretically putting aside the litigation, theoretically that would have taken final site plan approval protections until somewhere I think it was May of 2014. The resolution I think was adopted in May of 2012, if I'm not mistaken. The applicant always has the ability with the final site plan approval to request extensions. Under the law, they're allowed three one-year extensions that theoretically could take it out another three years. The one thing that clouds it, right now is, we have litigation, I'm going to turn it over to Anthony Sposaro, at this point, cause I believe under the law, if you have utility moratorium litigation, that that may freeze that period of time and it does not start up again, that clock doesn't start ticking until that is all resolved and I've seen that particularly with utility moratoriums. Anthony, maybe you could take over and discuss this with the Board now.

Attorney Sposaro – I've not seen the paperwork on the litigation or this resolution so I rather withhold any comment rather than just shooting from the hip, but I think Paul is generally correct. There is a moratorium on certain actions under the land use act; there is a period of protection that is extended as a result of that so. But before next meeting, I will ask Beth and I'm sure she will provide me with a copy of the resolution together with copies of the paperwork and litigation so I can get up to speed and advise the Board.

Mayor McKay – Um, we're not talking about a moratorium for sewer here.

Engineer Sterbenz – I just threw that out as an example.

Mayor McKay – Oh, as an example.

Engineer Sterbenz – As one possible factor that would freeze the clock. I know in this instance, it is litigation, specifically.

Mayor McKay - Certain types of litigation and certain utilities.

Engineer Sterbenz – Correct.

Mayor McKay – Okay. The protection, you say, probably ended around May of 2014 notwithstanding any litigation. Did they put in to extend that one year?

Engineer Sterbenz – No.

Mayor McKay – No, so they're technically past that unless the litigation protects them (inaudible) correct?

Engineer Sterbenz – Correct. Yeah, they did not request a one-year extension and I guess under normal circumstances, if you didn't have this litigation that could be a problem and would have lost their protection if the municipality were to have promulgated changes in the ordinance. Tony is going to look at the litigation and see if the clock stopped.

Attorney Sposaro- I'd also be surprised if they don't raise that issue in the context of the litigation rather than come back here and if they're not granted an extension, have to go back to the court. I think they'll, sight unseen, my strong suspicion is that they'll raise that issue with the court in the event they're successful with the litigation and ask the court to address that issue then and there.

Bruce Hall – (Inaudible)

Mayor McKay – Yes (inaudible).

Bruce Hall – Well, the resolution that we are talking about, this is the one that has all the conditions that if this plant gets built, all these conditions have to be met (inaudible).

Engineer Sterbenz – Correct.

Bruce Hall – It is in our best interest to make sure we stay on top of that.

Engineer Sterbenz – Absolutely. I'm going to do that so.

Mayor McKay – One other question. If this Board were to make it certain that no other asphalt type companies who are businesses operate in this Township, what would it have to do?

Chairman VanVliet – Our Attorney would have to advise us on that.

Mayor McKay – Well, we were told some time ago, before I was Mayor, that indeed was what was going to happen and

Bruce Hall – (inaudible) that's what people said but we weren't allowed to comment because we were in (inaudible). We never were under the assumption that that was what the planning Board. The Planning Board is to bring this issue and the Board would review the legal binding status of it. We haven't been able to do that

Mayor McKay – Because of the litigation which is now over.

Bruce Hall – Correct. No it's in, they filed an appeal and we got to wait. The longer this thing drags on

Mayor McKay – That (inaudible) or is it in appeal or is it when trial litigation stops.

Attorney Sposaro – Again, I haven't seen the litigation but I don't think the litigation prevents this Board from making a recommendation to the Governing Body nor do I think it prevents the Governing Body, if it chooses to, consider on its own and amending its zoning ordinance to either tighten controls over this type of use or to prohibit it outright. I don't think there is anything in the litigation that prevents that.

Mayor McKay – All right thank you.

Engineer Sterbenz – Thank you Mr. Chairman.

Chairman VanVliet – Okay, under new business you said you had new business Tom.

Mayor McKay – Mr. Liptak was just appointed as an alternate and I think I heard alternate 2 but I believe he is alternate one.

Chairman VanVliet – I believe this

(Inaudible)

Bruce Hall – No, it happened when Lisa Nash left. Lisa Nash left last year that's when it was done.

Mayor McKay – I find no evidence of it in the

Bruce Hall – It's in the meeting minutes.

Mayor McKay – No here and it has to be in the Council's Meeting minutes.

Bruce Hall – No it doesn't. Look I just (inaudible) there's nothing in there about my appointments but yet (inaudible) because the Mayor has that right, as you know, to appoint at his discretion.

Mayor McKay – Right.

Bruce Hall – and that's what happened here.

Mayor McKay - But I have documents, many documents that show that Mr. Fischbach is number one, number two, he's a number one and I don't know what is and it's no offense it's nothing, I'm just trying to do the right thing.

Member Fischbach – All I can tell you is I remember last year my name being read at a council meeting and the Council voting and one Council person actually just objecting. I know that.

Mayor McKay – Okay, but what I see is all different things (inaudible).

Member Fischbach – That's all I (inaudible).

Mayor McKay – With the Council, you know, on this issue but I think

Member Fischbach – One, two, I don't know.

Mayor McKay – You are considered Alternate No. 2.

Bruce Hall – It was moved up from talking to Lisa Nash. I was moved to Class IV, Lisa Nash was moved to Alternate 1 and then Tom was appointed as Alternate 2 uh, at that point Lisa left and Tom was moved up to Alternate No. 1.

Mayor McKay – By the Mayor?

Chairman VanVliet – By the Mayor.

Mayor McKay – By the Mayor?

Bruce Hall – Yes absolutely. He is the only one that can do it. He's the one that tells Beth to get it on the agenda.

Mayor McKay – Well, I have so many conflicting documents, I don't know how to deal with it but I'm still working with um, Council and the Township to see what there (inaudible).

Bruce Hall – Well, if you want, just reappoint Mr. Fischbach.

Mayor McKay – Well, I might want to do that or I might want to appoint someone else.

Bruce Hall – Someone else well.

Chairman VanVliet – Well now we have a conflict we're going to be coming into. You determine that he didn't do it or wasn't sworn in and we vote on something and his vote counts and passes it, where do you want to go now.

Mayor McKay – That's what I'm worried about. I have documents that tell me one thing and I hear other things, I don't know where to go but I'll just leave it there for now. I'm awaiting final word from Mr. Lavery as to whether he thinks it's appropriate (inaudible).

Chairman VanVliet – So noted. All right, further business we have the Phillipsburg Mall – Block 102, Lot 9.01 requesting an extension of time to perfect minor subdivision. Paul do you have any information on that?

Engineer Sterbenz – This was an approval that was granted by the Board on January 22, 2014. Was that the date of the approval or was that the date of the resolution?

Secretary Dilts – I would have to check that.

Engineer Sterbenz – I think what's, let's take that as the date of the resolution. They have a 190 day period of protection before it is to expire on July 31<sup>st</sup>. So they are in, right now they perfected the approval of the plans that have been approved, the deeds have been approved, but we can't sign them until there's an extension of time that would be retroactive to August 1<sup>st</sup>. So, that's what the Board needs to do, they need to grant another 190 days extension which would, I guess, take the period of protection up to February 6<sup>th</sup> which will allow the applicant to record the deeds next week and just so the Board's aware, this is a minor subdivision that created a lot, a lot line around the Friendly's restaurant. There is no construction associated with this application at all, so it is just a matter of creating an out parcel on the highway around the Friendly's. Actually, I already thought there was a lot-line but there was some research done that the deed apparently was not recorded about 20 years ago that actually created the lot so this subdivision created a lot that supposedly had been created about 20 years ago and again, it is around the Friendly's. I'm recommending that you grant the 190 day extension so that this applicant can record the deeds next week.

Member Hall – So moved.

Chairman VanVliet – Do I hear a second?

Member Degan – Second.

Chairman VanVliet – Discussion. Roll call:

AYES: Members Belcaro, Degan, Fischbach, France, Gural, Hall, Liptak, Mayor McKay, Pryor, Chairman VanVliet.

NAYS: None

Chairman VanVliet – Okay, that’s the completion of the new business. Uh, any public comment.

David Lance – Welcomed back Attorney Sposaro, Engineer Sterbenz and Planner Ritter – noting the Board has a good team.

Orchefski – Highlands Way – Commented on the Board appointments being accurate.

Chairman VanVliet – Asked for further comments from the public. Seeing none, he asked for a motion to adjourn the meeting. Motion by Member Hall, seconded by Member Belcaro. All in favor.

Respectfully,

Margaret B. Dilts  
Secretary Planning Board