

TOWNSHIP OF LOPATCONG  
PLANNING BOARD MEETING

August 26, 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, Clymer, Fischbach, France, Gural, Mayor McKay, Vice-Chairman Pryor, Chairman VanVliet. Also present were Attorney Sposaro, Planner Ritter and Engineer Sterbenz.

Chairman VanVliet – Before we go to Old Business I’d like to state that we received a resignation from Mr. Liptak, I think it was as an Alternate member, and also, Bruce Hall who was a Class IV member from the Planning Board so they will be open positions I don’t know if the Mayor is planning on making an appointment for them or.

Mayor McKay – That would be done of course at the town council meeting.

Chairman VanVliet – Okay. That being stated we’ll move onto old business.

**Old Business:**

**Minutes June 24, 2015** – Chairman VanVliet asked if everyone received a copy of the June 24, 2015 meeting and asked if there were any additions, corrections, comments. Hearing none, those minutes will stand as published.

Marla Endick – Excuse me is there a public comment before the meeting?

Chairman VanVliet – No ma’am. Just by way of an explanation, I know we do a public comment on agenda items before council meetings. Most of the time those are known entities that you are commenting on. We are, the Board, don’t even know what we are going to be facing because most of these are hearing items coming in. So, in order to give the public a more informed information when we hear what is going on, we reserve it for public comment at the end of the session. I hope that explains the reason why we don’t do it that way, so. Okay first item on the agenda is informal discussion on Block 94, Lot 1, Liberty Road, Lopatcong Township. Is that Applicant here?

Pastor Randy Nelson – Yes.

August 26, 2015

Chairman VanVliet – Approach the podium please.

Pastor Randy Nelson – I have four sets of plans, I don't know if you want them. It's like four of them.

Attorney Sposaro – Why don't you start by telling us what's this is about.

Pastor Randy Nelson – Absolutely. Some of you I know, some of you I don't know. It's nice to meet those of you I don't know for the first time. I'm Randy Nelson; I'm the Pastor of the Phillipsburg Christian Missionary Alliance Church. I've been there 27 years in the same building and we, in 19, or 2003 came to this Board to ask permission to build on Strykers Road; we were unanimously demised and I'm so glad that you did that. We found another property and the Board said if you find a residential property we'd be more than likely to allow you to build there. So the end of that year we found a property that is in question and the Board said you may proceed unanimously to the next step which involved the DEP, etc. Well, within a few months we purchased it, in February of 2004 and then in July we heard that the Highlands was signed or in June the Highlands, was signed by the House but it wasn't signed by the Governor till two months later in August. At that point, our property, being the southwest border or the southwest line of the Highlands was not developable. We immediately went into appeal and called a state congressman, I'd been friends with for years and hired a firm that didn't do anything for us, then another firm talked to us about filing in federal court which we did. One day before the statute of limitations was up and it went through mitigation, the judge said basically, to the DEP, what are you going to do to make this right. We filed under (inaudible) claim, Religious Land Use Institutionalized Person Act Claim. Well, ten years and five months and many gray hairs after they took the property from us, they granted us permission after a 37 page Site Plan and hundreds of thousands of dollars later. So the DEP has given us approval on every page of that 37 page Site Plan, still paying that down a little bit but we're basically coming before you because we know, that obviously, you are part of this, at least in the wings, waiting for us as well as the county, we need to go through the county. For the next step for us, so that's why we've asked for this informal under the advisement actually, the engineer asked for the informal one rather than spending a lot of money and not having our ducks in a row. So basically, that's where we are.

Engineer Sterbenz – Mr. Chairman I happened to have met with Pastor Nelson several months ago and I had advised him to come to the Board. This is a very unusual situation we have here. Typically applicants go to the municipal boards first to get their municipal approvals; municipal approvals have conditions in them to go out to do a bunch of things including getting outside agency reviews. You know, typically they're handled in the later stages of the development project. In this particular case, Pastor Nelson actually has a DEP Permit, very difficult permit to get, and he doesn't have any local approvals. So I thought it would be wise of him to come just to tell the Board, you know, a little bit about his project and show the plans and make sure there are no objections to what he is doing with his development proposal. So he knows that and then he can start working with his professionals to put together a Site Plan application to the Board. That's really the background.

August 26, 2015

Chairman VanVliet – Okay.

Pastor Randy Nelson – We really couldn't do anything until the DEP said it's okay and it was a long, long process if you've never dealt with them. It's been, it's been, you know, a long hard road because they give us list of 30, we'd get all thirty done (inaudible) and it was years, so much engineering so that's where we are.

Chairman VanVliet – So you have your approvals from the DEP and Highlands Council also?

Pastor Randy Nelson – The Highland's Council had to approve it before DEP.

Chairman VanVliet – DEP okay so

Pastor Randy Nelson – They were really advisory but they still need to be approved.

Chairman VanVliet – Yeah, because we would probably have to get their permission before we, we could even review a Site Plan so.

Pastor Randy Nelson – I can give you all, if I can give them to you, I can give you all of the approvals from the DEP and all the statutes.

Vice-Chairman Pryor – I assume what you got was a Consistency Determination from the Highlands?

Engineer Sterbenz – He has a Highlands Preservation Area approval waiver to avoid taking the property (inaudible) a major Highlands approval.

Vice-Chairman Pryor – Okay.

Engineer Sterbenz – This site is in the R3-2 District. Churches are permitted principle use in the district. There are no maximum coverages in the ordinance. So the church actually could have, theoretically, 100% coverage on this site. There is no maximum. The DEP, however, has capped the coverage at 13.8% and they are only allowed to have 4.12 acres of coverage. The DEP has pretty much spelled out various thresholds in their permit as far as, you know, how much in the way of impervious coverage, how much disturbance, how much in the way of building, how much parking so on and so forth. There is various deed restrictions that they have to implement to protect wooded and forested areas on the site. There is new Forestation Plan that is subject to monitoring after a three-year period. It is a very, it is very, very strict permit, so, you know, very, very narrow thresholds. Again the site is 30 acres. The property, disturbing probably 1/3, maybe that might be

Pastor Randy Nelson – That would be impervious

Engineer Sterbenz – Impervious is only 4.12 that's about 13.8%. I don't know what the overall

August 26, 2015

disturbance is.

Pastor Randy Nelson – A lot of it is going to be a 2 or 3 to 1 tree removal to replacement. They want, they called that an upland forest, that tree line. For those farmers in the room. I was a forestry major at Rutgers. I got my degree and I never saw a forest where you were in and out of it in two steps. So, but anyway, that's the DEP.

Engineer Sterbenz – 16.2 acres of the site would be deed restricted so these are, this is an area of the site that has so called Highlands resources on them. So it's more than 50% of sites that are deed restricted. So it is a very, very strict permit.

Chairman VanVliet – The Board members have any questions or are you all familiar with where this is located at

Vice Chairman Pryor - I'm not really. We'll see a plan eventually.

Pastor Randy Nelson – It is north of where Morrie's Acres used to be on 519. If you were to go 1/10<sup>th</sup> of a mile there is a tree line that goes across the corn fields from Liberty Road or I'm sorry, Uniontown Road and Liberty Road all the way across. That's one leg of our triangular parcel. So if you go to that juncture backwards you have our parcel.

Engineer Sterbenz – The only thing I would recommend to you, because I think there's very strict thresholds as to what you can build on the site. Both of the abutting roads are county roads. The county is very strict as far as driveway placement goes and you may want to have your engineer pay a visit to the county engineer's office before you file the Site Plan here to make sure they are satisfied with the driveway placement. You may have done that already.

Pastor Randy Nelson – They haven't given us the approvals yet, so, but they haven't stopped anything. I'm going to assume its fine but I'll have it checked.

Engineer Sterbenz – The county has some very strict standards as far as driveway placement goes.

Chairman VanVliet – Any comments or questions from the Board. I think the next step will probably be to file a Site Plan to release the questionnaire that goes along with the filing of the Site Plan and we'll take it from there. At the time that you file that questionnaire, then it's deemed completed, that's when our time schedules start kicking off that we have review time and stuff like that, so, I don't think there's any major objections that I see here

Attorney Sposaro – It wouldn't take ten years.

Chairman VanVliet – from, you know, continuing this, building until the hearing on the Site Plan and then that's open to the public and your professionals will be questioned and we'll take it from there and then we'll vote on approval.

August 26, 2015

Pastor Randy Nelson – Where do I get those applications?

Chairman VanVliet – To our Planning Board Secretary, Beth Dilts, who is also the Municipal Clerk so you can contact her at any time.

Pastor Randy Nelson – You guys are blessed.

Chairman VanVliet – Any other questions we can answer for you.

Engineer Sterbenz – You can call me at any time if you have any questions on the submission process.

Pastor Randy Nelson – Gentlemen, I appreciate your time.

Chairman VanVliet – You're quite welcome.

Pastor Randy Nelson – I have four copies. I can leave three copies with you but I can make as many copies. My engineer will do them all for no charge.

Attorney Sposaro – I think that might be premature until you submit the application but certainly feel free to leave them for our engineer and planner.

Chairman VanVliet – Okay, next order of old business is Ordinance 15-10 reviewed by the Planning Board as required under N.J.S.A. 40:55D. Proposed amendment to Chapter 243 “Zoning and Land Use,” Article X, “Sign Regulation of the Code of Lopatcong”. Does everybody have a copy of that ordinance? I'll open it to discussion. I should ask has everybody received a copy of it. We had a preliminary copy that I think was emailed to us. Did you get a chance to review it all and read through it?

Vice-Chairman Pryor – Absent anybody else, I have a couple of comments. At the last Council Meeting, the Township Attorney discussed this and, her opinion, it was not enforceable because it was not content neutral and what that means is that rule that applies to signs in the district has to apply also to all signs regardless of content. I'm not an attorney, Mr. Sposaro is, so if I say something wrong jump up. So she's drafted a second ordinance and it's proposing an area not greater than 6 square feet. Anything over that would require a permit. I think the way it is drafted; it has a couple of errors in it. It talks about 4 sq. ft. for real estate signs and being 10 foot inside the property line. And the very definition content neutral means real estate signs, and political signs (inaudible) and I think that might apply to the next one. So that's my comment on the language and if it's going to be 6 ft., it's gonna be 6 ft. for everybody with no 10 ft. set back. The other thing, and I don't want to delay this ordinance, but I'm wondering if in the future we don't consider a ban on all signs within the right-of-way except for your normal traffic control signs. I think it would eliminate concerns about clutter, blocking site lines for traffic, that sort of thing. Now remember your sign ordinance just doesn't apply to political signs, if somebody wanted to put up a sign that says I love rabbits, they're permitted to do that as long as they

August 26, 2015

comply with the ordinance. I think this about the right-of-way that the DOT doesn't allow signs in the right-of-way other than their own signs. I believe the county doesn't allow them either and again, I'm not an attorney. I was a planner for twenty years although I didn't practice (inaudible) but I read a lot of planning material on signs, they're all written by attorneys and it would appear the case law permits you to do that so if not with this ordinance, perhaps we might ask the Council to look at that in the future.

Chairman VanVliet – I also had the question about real estate signs being limited to 4 sq. ft. was it

Vice Chairman Pryor – Yeah and I think that is a typo, I'm sure it is.

Chairman VanVliet – But it is spelled out in here as 4 sq. ft. and if we are going, I guess we are also looking at not requiring a permit for any sign under 10 sq. ft. Is that 6 sq. ft. – the original I think said 10 sq. ft. but so if that's been corrected to 6 sq. ft. I have no objection to it and I think we should allow the real estate signs to be up to 6 sq. ft. also.

Vice Chairman Pryor – It would be any sign actually. You couldn't limit to political and real estate and allow somebody make it (inaudible) and if you look at Katrina's email, the second half of this you are allowed to regulate not the content but the display but those regulations have to be responsible and 4 sq. ft. if you hadn't gone (inaudible) running against somebody from the (inaudible) to long names you couldn't read it and the intent is to have it read from traffic and Katrina said she looked at a number of case law and 6 was amongst the numbers so that's how she came up with it. I can't speak for her, but that's what was in the email.

Mayor McKay – Didn't Katrina say she found the signs that we've been using for dozens of dozens of years are unconstitutional, I think she said.

Vice Chairman Pryor – Well no. The signs themselves aren't, the ordinance is.

Mayor McKay – Cause every other town seems to use similar size signs and I didn't understand why we are going through this large expense to change the ordinance, if it, you know

Vice Chairman Pryor – But the ordinance was no good anyway because it had different size limits for different types of signs. Churches could be 10 sq. ft., a birth announcement there was no limit on a birth announcement and other signs were limited to 4 sq. ft.

Mayor McKay – You know, I just wonder how the population gonna take that, I mean a lot of people don't like the signs to begin with and then you kind of increase their size by 50%.

Vice Chairman Pryor – That's why the Board, you know, I have my comment and you have your comment.

Mayor McKay – Yeah, I mean when you put

August 26, 2015

Vice Chairman Pryor – Council is gonna get the comments and do what they will them.

Member Gural – I got Katrina’s email and I started doing a little bit of research because she didn’t site any case law at all so I started trying to do my own research and I can’t find anything or anything that was struck down for the size of the sign. Content yes.

Interruption from the audience.

Chairman VanVliet – Called the meeting back to order and asked Member Gural to continue

Member Gural - Like I said, I didn’t find anything on the size, so I wanted to ask Tony, do you have any case law to support this? Any of the cases that we can review or take a look at and read?

Attorney Sposaro – I’ve reviewed Katrina’s memo and also had the opportunity to review the cases that she reviewed and I think it is beyond the scope of what we do here at the Planning Board. I think our determination has to be whether we propose ordinance amendments are consistent with the Master Plan. I think that is the limit of our involvement in this but for what it is worth, I share the same opinion as she does. As I understand it, the issue that’s a determining factor is that the size limits must be large enough viewing from the road both by persons and vehicles and on foot and adequate sign dimensions that would strongly impair the free flow of protected speech and I think this is especially true of vehicle activity. It is my understanding that, and I don’t wish to speak for Paul because he can and will speak for himself, but our Township attorney did confer with Mr. Sterbenz and he was of the opinion and I share the opinion that 6 sq. ft. was appropriate in order to meet that constitutional standards. I hope that answers your question.

Member Gural – Did she actually cite cases?

Attorney Sposaro – There was a case attached to her memo and it is a New Jersey Supreme Court Decision dating back to 1980, the matter of Steven, State of New Jersey by the Borough of Milltown vs. Donald Miller and just for a little comic relief, the sign question in that case said “Welcome prospective residents of Lawrence Brook Glen this resident and others of Reva Avenue want welcome you to this flood hazard area - good luck - information available”. So that I guess, was enough to get under the skin of someone but it went to the New Jersey Supreme Court and I believe that is the (inaudible) case in this area. The case that was relied upon by Katrina Campbell.

Member Gural – Was that, was that case, the summary of that case based on size or was it based on the content allowing the free speech or the content.

Attorney Sposaro – I’m sorry I didn’t hear you.

Member Gural – The case, the summary, the judgment was it based on the size of the sign or the content of the sign? All the research that I’ve done it is always content. People, towns are

August 26, 2015

always being slapped for limiting people's content. Even when the signs were over the size that they were allowed, the court always came back and said you can't not allow them to have a sign because of free speech; it is the content of the sign. I don't see anything with the size.

Attorney Sposaro – Miller does address both limitations on size maybe imposed if the allowable square footage is not determined to be an arbitrary manner. The size limits, however, must be large enough to permit viewing from the road both by person, vehicles and on foot and regulations that allow only inadequate sign dimensions may be found to be an unconstitutional impairment of the free flow of constitutional speech and that is a citation to the Miller Case and I think it was based upon that language that again I'm going to defer to Paul at this point that Katrina concurred with Paul and based upon that standard, it was the collective opinion and belief that 6 sq. ft. would satisfy the constitutional requirement of being large enough that you can view it both by vehicle and on foot and I think that is especially true for one to prohibit signs; although that is not technically before us, if we are going to prohibit signs in the municipal right-of-way. Paul do you want to jump in here?

Engineer Sterbenz – Katrina asked me one of the major changes to the sign regulation section of the ordinance had to do with the threshold, as to when you needed a zoning permit, so Katrina asked me about the 4 sq. ft.; that's been my experience that that's a very small threshold. Some of the other towns I am working with actually have 6 sq. ft. as a threshold. So that's really why the 6 sq. ft. was added into the ordinance amendment it was really based on those conversations I had with her. It sounds like we looked at the constitutionality of it; I was just telling her my experience in the industry and some of the other towns that I'm working in. In fact we looked very extensively at the Hackettstown one which is an ordinance I'm very familiar with. So that's how that threshold got put into the ordinance.

Chairman VanVliet – Some of my own questions on the liability of two ft. by three ft. vs. 4 by 4, I contacted the Board of Elections Director of Warren County, he put me in touch with an assistant attorney general in the Attorney General's office, and concerning political signs or sizes; basically up to the Township of what size they want to regulate. However, she did indicate that 6 sq. ft. seems to be, she didn't cite me any case law or anything like that, but it was her opinion that the 6 sq. ft. was the minimum amount that you could match the constitutional requirements of the temporary signs, the political signs especially, that's what their opinions are going on. Most of the townships in New Jersey have this the 6 sq. ft. limit and that's why it was left there. I don't think there is any definitive case law on it, but that's basically what they're putting the 6 sq. ft. on is the readability of the sign itself and that's the answer I got back from the Board of Elections. For what it is worth.

Engineer Sterbenz – I think there is two different things going on in the ordinance. First of all we have a threshold for when you need a permit and then you actually have criteria as far as what the maximum size of the a particular sign you know in the zone is to be, so I think people need to differentiate that.

Vice Chairman Pryor – As I read this here, there's no permit for 6 ft. and under.

August 26, 2015

Attorney Sposaro – That’s my understanding.

Engineer Sterbenz – Correct. It when from 4 to 6 sq. ft. Anything over

Members talking over each other.

Vice Chairman Pryor – I’ll defer to Tony but the literature I read it, you got to stop thinking about political signs or real estate signs. A guy could put up I Love Cats and that would be you know, or (inaudible) child

Mayor McKay – And they can leave them up indefinitely.

Members talking over each other.

Mayor McKay – Is that right Tony? Is that your understanding of that?

Chairman VanVliet – No I think the understanding on the, about leaving them up is there is a state law that regulates

Mayor McKay – For political signs

Chairman VanVliet – (Inaudible) political signs

Mayor McKay – They have to come down, right, yeah, but how about

Chairman VanVliet – The real estate signs, I think 30 days or something like that, after the house is sold.

Members talking over each other

Mayor McKay – Well we think but we don’t know and any other sign apparently has no limit by the way this ordinance reads.

Vice Chairman Pryor – Again that’s illegal

Members talking over each other

Mayor McKay – I don’t either but I’m worried about you going to all this trouble to change this law that’s been on the books for twenty years, thirty years. I think we should try to address all the things that are, that should be addressed and if there is no way to take, like, an individual sign that is not real estate and not political, there’s no way to force people to take them down and now we allow them to put up even bigger signs, maybe that is something we should address in here.

Attorney Sposaro – I think maybe perhaps we need to take a closer look at how this affects all

August 26, 2015

signage but we are coming up upon the political season and I think the goal here should be to clean this part of it up at least so there is no question on what candidates for office can and cannot do in this next election.

Mayor McKay – Well, presently, there's no question.

Attorney Sposaro – Presently there is a question because in review of, the township attorney and I happen to share that view, the ordinance that exists right now is not constitutional so we are looking to avoid the cost of potential litigation involving this issue. We are looking to level the playing field for everyone that is involved and to let everyone know in advance of posting these signs what is permitted and what is not permitted. We also need to, in fairness to the zoning officer, let him know where we stand on this issue. I think for all those reasons, it makes sense to move forward now. I think it is the limited role of this body to decide whether it is going to make a recommendation to the governing body to move forward with this ordinance.

Vice Chairman Pryor – Maybe I can add one other thing Tony, and you are the attorney for the Board of Adjustment. I reviewed the minutes from the June meeting. I was there at the July meeting; I thought the message was clear; the Zoning Board of Adjustment is not going to enforce the existing ordinance for those reasons.

Attorney Sposaro – With that in mind, Mr. Chairman, I don't know if you want to open this discussion that is supposed to be reviewed by the Planning Board, I think it would be appropriate to open it to the public and see if anyone from the public has anything to offer on this but I would just say to please remember that we're not the ones adopting or not adopting this ordinance. We make a recommendation on whether it is consistent or not with the Master Plan, no more, no less.

Chairman VanVliet – I have no objection, so at this point if there is no more comment from the Board, I'll open it up to the public for comment. Mr. Orchef, Marla did you want to.

Marla Endick – 10 Byron Drive – Um, Hi Mr. Sposaro nice to see you again. If you remember back a couple months ago I attended the Zoning Board meeting and we had a nice discussion about the issue at hand and at time you very clearly stated that this was an issue that really had nothing to do with the Zoning Board. So now what I'm hearing is, by some statute that is cited here, this has to come before the Planning Board. Can you explain why, what is the role of the Planning Board in this?

Attorney Sposaro – This is an ordinance; proposed ordinance that is part of zoning ordinance and under the Municipal Land Use Law, the governing body is required by statute to send that proposed ordinance to us as the planning board for review and comment. We comment, we take no action but it is my recommendation to the board that we take a look at the ordinance and offer its feedback to the governing body.

Marla Endick – She went on to say that she did a side by side comparison of the two ordinances

August 26, 2015

and felt extremely confusing to a lay person and read through the new ordinance and it is just as confusing, if not more, she thought. She thought the only real change was a permit is now required for signs over 10 ft. She asked the Board if they were going to render an opinion on an ordinance with typos in it.

Chairman VanVliet – We would be rendering an opinion (inaudible). We did not originate the ordinance (inaudible by Ms. Endick talking over him) so what we are doing is advising Council of what our thoughts are on it and what we think.

Marla Endick – Wanted the ordinance written to make sense to a lay person.

Vice Chairman Pryor – Bear with me one second. It says permit required greater than 6 ft. and if you assumed it, the next two things are typos. So you don't need.

Engineer Sterbenz – Went over the part of the ordinance 243-53B which is general sign regulation – there is a requirement that certain signs not be more than 4 sq. ft.

Vice Chairman Pryor – If you want to put up I Like Cats 243-55 would not apply to you. Dash 52 is what applies to you. It is 6 sq. ft. across the board – that is what content neutral ordinance is.

Marla Endick – Asked to make the ordinance clearer.

Chairman VanVliet – I think the only thing we were addressing was the fact that the constitutionality of the 4 ft. signs was called into question especially the election signs that were here and I think that is what Council is trying to correct.

Marla Endick – Though people were having a hard time reading the name on the signs as they drive by.

Chairman VanVliet – I think there was an objection made to the Election Board about that so.

Vice Chairman Pryor – There's two parts; the first part is the way the ordinance was written we had different square footages and different requirements for different types, for different sign content. So you got to get rid of that, everything gets the same square footage which is not in this new ordinance. The second part is per the law and per the case law, what is a responsible size to convey your message and I think Tony has explained that.

Marla Endick – So Tony and Katrina think 6 ft. is the best practice for signage for a township.

Attorney Sposaro – It is more than that, it is constitutionally suspect.

Chairman VanVliet – That does not preclude you from putting up a 4 sq. ft. sign if you want to.

August 26, 2015

Marla Endick – Felt that the ordinance was a mess and is going through the exercise to rewrite it to make it one that we could be proud of because this is not good work.

Olschewski – Highlands Way – For the attorney, just real quick, Point of Order is a resident's right to interrupt the meeting when things are not right, right?

Attorney Sposaro – No it isn't your right. The Chairman controls the meeting.

Olschewski – Okay I will file a complaint.

Attorney Sposaro – Excuse me; excuse me you asked me a question let me finish. There is an opportunity for public comment at the end of the meeting.

Olschewski – Point of Order.

Attorney Sposaro – Excuse me. You are all given the opportunity now to present whatever comments you would like regarding this proposed ordinance.

Olschewski – Point of Order is a resident's right to interrupt a meeting when it is not held properly. I don't think you know what you are doing; I don't think you know what you are doing and you most certainly not. I will file a complaint. That first. Secondly, since you have sued or tried to sue our zoning officer if he enforces the law and then you sit here and say it's not or he doesn't want to enforce it – that's a lie. You and Mr. Belcaro tried to sue. With your involvement in the whole sign issue, because you screwed up your size and now try to finagle it so it fits your size, at least you should have the decency to recuse yourself from any discussions. People like you who try to get out of here and not have more off if you try to sue the town, you should not sit here and try to stir anybody in any direction. You have no right and you should make sure that he and Mr. Belcaro have no involvement in the discussion of any sign issues or ordinances since they are the one who threatened to sue the town and that's my comment. Thank you.

Vice Chairman Pryor – Can I address him.

Chairman VanVliet – Certainly.

Vice Chairman Pryor – First off we didn't sue anybody. We now, you've had your time now be quiet, be quiet. This isn't, this isn't we run our meetings differently here. You've had your time, you sat down correct. All right, can we get him out of here? One more outburst and you're gone. All right. It's my turn now. We didn't sue anybody, we appealed and once we appealed, it's really up to the township how they want to handle that. It didn't go anywhere so we didn't sue anybody. Secondly, there's no question we were principles in that dispute, so is the zoning officer who sits on here and I contend so is the mayor. Zoning officer works for the mayor, that's the way it goes. So four of us would have had to recuse and I would of if this was over that dispute. We've been given an ordinance for our comment. This ordinance goes forward, it does not go backward and I feel I am as informed on this as anybody else and I'm giving my opinion.

August 26, 2015

Now that we are not taking formal action if the Council wants to disregard my opinion, that's their right.

Attorney Sposaro – For what it's worth, I don't think there is any conflict here and although the township attorney can offer an opinion on conflict to vote on this because it involves political signs. If you take that to its logical conclusion then no one on the council would ever be able to vote on an ordinance that applies to political signs because they are all elected officials. It is akin to a judge not being able to make a determination on whether judge's salary should be increased or not, they should get certain benefits when there is a legal challenge because they may be affected by the decision. Sooner or later someone's got to make that call so that's my peace.

Member Belcaro – I'd like to make a comment that is based on the issue. I have no intention of suing (inaudible) My personal opinion is that we were targeted because we took photos and measurements of signs throughout the town that exceeded 4 sq. ft. so we were targeted on for our signs. So that means somebody is not doing their job enforcing the ordinance around town and these signs are up all year long. So I have a problem with that. So either someone is not doing their job or they are incompetent and they do not know what they are doing. When they are given a directive, a complaint and follow through, however, we were targeted because no other signs, no one else got any letter around town all right, to say that they are in violation of ordinance.

Mayor McKay – My understanding is that another candidate filed a complaint with Degan and Degan went out and looked at it and he made his determination. I never knew about this until I got it and this was handed to me at the council meeting.

Member Belcaro – With all due respect, I don't care who made the complaint, it doesn't matter who did it. The point is if he's going to come out and enforce a particular sign and this was never enforced in the past, never and then to target us, I got a big problem with that.

Chairman VanVliet – I'm going to cut it off here. We are getting way far what this Board can possibly do so let's move on. We have one more comment.

Ed Shuster – There talking about being able to see the sign if it is 4 or 6 ft. If we would all drive the speed limit we could read the sign even if it is 4 sq. ft. Right here, it's a 15MPH I believe. Who goes 15 MPH, I don't think any of us do so know what size the sign is, if you go the speed limit in the car, you can read the small sign. If you walk it, it don't make any difference so if that subject does come up about the size just think about that, that it's a good point.

Chairman VanVliet – This Board is not an enforcement Board. If you want to talk enforcement, this Board is also not going to make those types of decisions. We are here to review the ordinance as it is and we will provide our comments up to the Council who will make the ultimate decision. So I'm going to end this discussion. Is there any more public comment, we will move onto the next order of business which is the Zoning History Report for Block

August 26, 2015

Attorney Sposaro – Before we do that, I think it would be appropriate, if it is the Board's pleasure to someone make a motion to adopt a resolution making certain recommendations with respect to this ordinance to the governing body. The recommendation can, that it be adopted as drafted, that it be adopted with certain changes to make sure that it is content neutral and that it is consistent with respect to size. Given the comments here tonight I think that is the thrust of what everyone wants to see. I don't wish to speak for the Board, I just want to advise, but that's my understanding of what I think this Board wants – to be content neutral and consistent as to size limitations and if that is your desire, I can draft a resolution and I will also be in touch with Katrina regarding the short comings that you perceive in the ordinance.

Chairman VanVliet – I'll entertain a motion for that.

Mayor McKay – One item to put in, that is, that the duration that temporary signs can remain erect should be set forth in the ordinance. Now, for the political signs, you can just reference the political or, you know, for the real estate signs, apparently, there's a rule for them, but for you know, if I want to put up a sign with a silly face on it and leave it on my lawn for six months, I guess I can do that now. So, I mean, I just think that should be

Chairman VanVliet – We're going back to the I Love Bunny stuff.

Mayor McKay – Yeah, we don't know. (Inaudible) 50% bigger than it used to be, so, it would be more annoying, you know, people look at that crap.

Attorney Sposaro – Paul, you had a comment.

Engineer Sterbenz – I think that one of the main focuses of the Board in this type of review, if whether or not it is in compliance with the Master Plan or in conflict with the Master Plan and I don't believe this ordinance is in conflict with the Master Plan. At least, as I understand it, so, I think that should be stated in whatever motion you make in addition to any position you take in the ordinance, any recommendations you put forth to the governing body.

Mayor McKay – A blank piece of paper would fit that definition too. So, I mean, if you are going to do something, why not make it a good work product and draft it so it takes care of the issues concerning signs. That's just the way it

Members talking over each other.

Attorney Sposaro – First, to have is there any discussion on the motion or a second?

Chairman VanVliet- We have a motion.

Mayor McKay – The discussion on my point was to add a direct time duration for signs into the ordinance as a suggestion.

August 26, 2015

Member Belcaro – Time duration for what types of signs would you say?

Mayor McKay – Well, political signs have one so they can just put that in and

Attorney Sposaro – You want something in there with respect to real estate signs?

Mayor McKay – Real estate signs any other temporary signs only to stay up for whatever you think is appropriate – a month, a week.

Member Clymer – That is a very difficult thing to enforce. For example, somebody has a sign at the end of their driveway, beware of dog. You're just going to tell them they can only have it up for six months? He's going to have the dog for 12 years. I don't know how you can enforce that.

Vice Chairman Pryor – We have people put signs up, curb your dog – again that's a permanent (inaudible)

Member Clymer – I don't know how you enforce that

Members talking over each other

Mayor McKay – The way it is now, somebody can have 40 signs on their front lawn.

Member Gural – You can have it in there so if there is a complaint, you can act, but having it wide open once you get in a court of law, how does that work out?

Vice Chairman Pryor – Again, I don't think something that is depending on a complaint is going to fit the criteria.

Attorney Sposaro - I think the point is we need to act on this motion and Mayor I will include in the resolution something concerning the duration of temporary signs and address your concerns if that is the consensus of the Board to the governing body.

Vice Chairman Pryor – Again, the case we brought up; if somebody says, you know, curb your dog, you know, careful kids live here or something that's

Attorney Sposaro – I don't know if they're temporary signs, so, I think.

Vice Chairman Pryor – Then you'd have to define temporary versus

Attorney Sposaro – Right we're going round and round

Mayor McKay – This has gone on for years, this kind of thing – I lived in Virginia and somebody put about 250 flamingos on their front lawn and they made it a big issue and they couldn't get them to take them down because it wasn't a specific law that conveyed putting all that junk on

August 26, 2015

your front lawn and it looked awful.

Vice Chairman Pryor – Mayor, how about as a compromise, let me suggest this, that you endorse the ordinance with typographical corrections we talked about and ask, suggest, the Council look at time limits for temporary signs or perhaps eliminating signs from the right-of-way as a future.

Member Belcaro – So eliminating the setback 10 ft.?

Vice Chairman Pryor – No, no they would, they'd have to be inside on the lot – eliminates all the clutter

Member Belcaro – Okay, in the property.

Members talking over each other.

Mayor McKay – The right-of-ways vary don't they, they vary all over town.

Vice Chairman Pryor – Not really, which is available on the tax map, almost everything should be, there maybe one or two that are wider. Paul, most of them are 50 ft.

Engineer Sterbenz – What's that now?

Vice Chairman Pryor – The right-of ways.

Engineer Sterbenz – Yes.

Mayor McKay – On lawns? So you have to put the signs 50 ft. back from the center of the road.

Vice Chairman Pryor – No, no. The center of the road, the right-of-way extends 25 ft. either side and it usually, you get a 30 ft. cart way and then you have 10 ft. in which you have one area for utilities within the sidewalk. So, usually, a foot after the sidewalk, your property line starts. You would put (inaudible) a foot inside the sidewalk as opposed

Mayor McKay – A lot of people put them on the rim

Vice Chairman Pryor – Pardon me.

Mayor McKay – The put them on the rim.

Vice Chairman Pryor – Yeah and I'm saying that's where you get into arguments comparing site lines and esthetics and so on, so.

Mayor McKay – People aren't going to understand what (inaudible) and that's going to be I think a problem.

August 26, 2015

Vice Chairman Pryor – I don't think so, but you know, what I'll take that out if you make this thing go forward.

Mayor McKay – I don't mind putting it in but you have to define it so that people know what it is.

Vice Chairman Pryor – (Inaudible) fine we can educate the people and I'm saying we'll study it for future just like we will the, the time limit on temporary signs.

Attorney Sposaro – Rather than slow this process down I think the core of what this Board needs to do is to make it' recommendations on signs begin content neutral and the size of signs. Let's start with that so we can get this ordinance off and running and get it constitutional for the upcoming election and then we should take, we should and the governing body should take the time and the attention it deserves to get this ordinance right once and for all. I think it makes sense for everybody.

Chairman VanVliet – Do I hear a motion to allowing Tony, the square foot discussion is now over.

Vice Chairman Pryor – The explanation doesn't have anything to do with the Planning Board the Council can correct that. I'd say, I'll make the motion to the time stated and we include it with the corrections to make the dimensions and everything to make it content neutral and make the dimensions conform to a minimum of 6 sq. ft.

Chairman VanVliet – Is there a second?

Member Belcaro – Did you say minimum or maximum?

Vice Chairman Pryor – Maximum square feet.

Attorney Sposaro – Without a permit.

Member Clymer – Seconded it.

Chairman VanVliet called for a roll.

AYES: Members Belcaro, Clymer, Fischbach, France, Gural, Vice Chairman Pryor, Chairman VanVliet.

NAYS: Mayor McKay (there is one other thing, I can't add right)

Secretary Dilts – Motion carried.

Mayor McKay – On a side note, what are we going to do with these awful son of guns that are going to put up two foot square signs or 4 square foot signs – they are unconstitutional, shall we

August 26, 2015

rip them out?

Attorney Sposaro – They are not unconstitutional Mayor. What is unconstitutional is limiting people to 4 square foot signs. If they want to put up 4 square foot signs, they can do so and they don't need a permit to do so if this ordinance

Mayor McKay – Yes but there, you know, there hurting the public because people are going to have car accidents trying to read them and for all those reasons that you gave, I think we should outlaw signs that small.

Member Gural – There is case law, when I was doing this research which the towns tried to use that card, it didn't fly.

Chairman VanVliet – All right, you'll draft a resolution on that and come back and we'll

Member Belcaro – The cost (inaudible).

Mayor McKay – Cost

Member Belcaro – Yeah in the 6 sq. ft. sign they cost more.

Mayor McKay – There not much more – they cost more?

Member Belcaro – Yeah, much more.

Chairman VanVliet – We not in the position of discussing costs of signs so let's move on. We have the Zoning History Report for Block 116, Lots 26.01, 72, 27.02 and 28. George will you outline that for us.

Planner George Ritter – Yes, the Board has in their package a report on the proposed rezoning of what historically has always been called the Piazza Tract. As you are well aware, Mr. Larken came in and requested that the Board consider a rezoning request to change the HB Zoning designation to permit multi-family housing. What this report tried to do was to take a look at the proposal from the developer in the sense that he put forth two conceptual plans; Conceptual Plan A and Conceptual Plan B that involved one that was a Mixed Use Plan that involved 175 multi-family units along with retail on the Rt. 57 frontage. The other was 100% multi-family project – 199 units with no commercial activity and along with that there were comparisons made to the existing HB District. What this report attempted to do is look at various elements in the town. It looked at the historic zoning of the site that is to say that the HB zoning and essentially why if it continued to exist at that location today and then it began to make comparisons between the alternative plans that is being requested as a possible site design for the site and the available infrastructure, traffic, sewer, water and finally fiscal in terms as it related to school children generation and possible impact on the school on the school system itself. Essentially, the HB Zoning District and many of you were here for this, went through several configurations over the

August 26, 2015

years. The zoning that's been in that area has been there for many, many years. It actually predates my involvement with the Board but we did do a rezoning several years ago that basically, reduced the amount of HB Zoning in the town particularly as it extended down 57 and headed out of town, essentially, into the farm country. We pulled all of that back and we retained the zoning on the corner which is the subject of this applications; Strykers Road and 57 as a potential spot for neighborhood/commercial zoning because it appeared to be associated with both existing commercial that had developed in the area and also that it appeared to be compatible with the multi-family zoning, the commercial uses in the area, access to 57 and abutting streets, we did feel it was a compatible use. As you are aware we are being asked now to consider rezoning that tract for multi-family use. Our general discussions here as it relates to compatibility is that the proposal to change the zoning to multi-family remains compatible with that location, that is to say, that the shift from a larger commercial area to a multi-family area would not result in any particular type of compatibility with the surrounding land use which is essentially commercial and multi-family development. We also felt that the local traffic and access system, the surrounding roads were adequate to handle the traffic that's going to be generated though it should be pointed out obviously that the commercial development that is being proposed, if it was fully built out, would actually generate the highest rate of traffic and impact on the surrounding streets and that what the Larken's are proposing, the two alternatives obviously the mixed use plan would have the next highest level of traffic and the pure residential plan would have the lowest level of traffic so that the proposals if you are going to make a comparison there, the As Zoned Plan if fully built out would generate more traffic on local streets and on Rt. 57 then either of the two proposals that you are asked to be considered here this evening. From the standpoint of utilities, we went through an analysis and there it works exactly in the opposite. In what we were saying there was is that and we had discussed this at various Planning Board Meetings, the town does have a general cap on how many gallons are available for future use for development in the town and this tract of land is not in the Wastewater Management Plan and essentially what we have estimated here is that currently we have about 44,500 gallons reserved for the data center and if we add that into 39,140 gallons is what is currently available in the plan, the data center which is not in the cards anymore would add another 44,000 to it so that the town would have available for future development about 83,640 gallons and it has not been allocated. If this project was to go ahead, as I said it would work just in the opposite and that is to say that the all commercial, if it was left as zoned, we would be using a little over 9,000 gallons of that capacity. The mixed use development would be around 36,000 and the all resident project would be around 40,000 gallons, so what you can see if that the shift from a commercial project to a residential project will have a direct impact on the future gallon age that may be available to serve other projects in the town that are not perceived of right now or included in the Wastewater Management Plan. The other aspect of the project was looking at the schools and the applicant had submitted a report that began to look at the potential impacts of these two alternatives on the school system and whether or not it had a positive/negative or basically no impact on the local school system. Our evaluation of that report and it was that the estimate of school children that they put in the report itself was very reasonable and conservation and actual fact. We would agree with the methodology that they used that they came up with the school children numbers in the report itself which was to generate between 23 and 26 school children coming out of the project for grades K through 12.

August 26, 2015

Where we did suggest that the Board might want to ask for additional information in terms of how the impacts were calculated, one of the things that we noticed in the report was that Lopatcong Township has both their elementary school system and then they have the Phillipsburg School system and your sending children to both. The report itself appears at least in reading it that the only thing that was considered was the Township's side of that equation. There was no calculations in there determining – one how many school children out of this project will end up in the regional high school system nor were the economic impacts included in that report so we feel that the Board may be justified frankly in asking for some more detail in that evaluation that would actually look at those numbers of school children, how they were distributed and then the cost allocated based on the local school system and the regional school system. The other aspect of that analysis is that we thought would require some additional look/see was that there was an assumption built into the calculations that said that the cost of educating the new children coming into the system would be exactly the same as that is currently born by the Township tax base and what they're really saying there is let's say that it cost \$12/13,000 to educate a grade school pupil, today only \$9,000 is supported by municipal taxes the rest is supported by other forms of income. What that does from the standpoint of looking at the finances is making the assumption that one current funding will always remain the same that is to say that that monies flowing will always remain in the same proportion to the number of children so that one there will be no reduction in support say from the state or from other people but also it assumes that for every new child that you add there will be additional state money to keep that balance. I would think that it would be fair to ask the people in this case to look at this in two ways – the way they have looked at it which is generally fine but also to look at it assuming that there would not be a growth in state subsidies that is to say that the kids coming in have to support themselves and what that will do is give the Board a good idea of between the high, the potential side of it versus what it will be if everything remains consistent. So we felt that the Board may wish to ask for more detail on the school enrollment side of this. The other aspect that in making the decision in terms of whether or not to rezone the property that we should keep in the back of our mind is that historically the Master Plan is always wished to encourage non-residential development but the town has absorbed over the years many, many residential units and there is built into the Master Plan a desire to increase the Township non-residential retables, quite frankly, to help generate more support for the schools and help to maintain the municipal budget. The loss of this 16-acre parcel is not a huge loss as it relates to the HB District – it's only about a little over 5% of the district but one of the things that we thought was important to consider is that the largest non-residential portion of the tract is the I-R piece and how that goes in terms of commercial development versus non-commercial development in that area may play an important impact in terms of whether or you will have commercial ground available for future development. If you take the I-R tract out of this, this is probably one of the few remaining undeveloped commercial pieces that you still have in town that can absorb it. It is also located in an area that I thought in terms of the Master Planning of it would be a good place for neighborhood (inaudible) but I think that what the report basically concludes is that what the applicant is asking for is compatible with the area. There is sufficient utilities to support it but to shift from commercial to residential will have a cost in terms of eating up the gallonage that might be available for other development in the town and that it also will have a cost in the sense that it will eliminate a fairly substantial size of potential

August 26, 2015

neighborhood commercial. One of the recommendations that we had in here is if the Township is inclined to grant the request for zoning change, we felt strongly that it was important that there still be some commercial context on Rt. 57 and we think that quite frankly, there should be reserve at least the frontage on Rt. 57 for commercial even if it is felt that the residential is appropriate in the back. We also felt that the inter linking of the streets which is part of the plan that was presented to us between the various streets is a very positive thing because the more we can distribute the traffic out to more streets the less impact it will have on any one street. We did feel though that if the first alternative involves no commercial is approved then we, I'd see very little reason to have a connection to 57. If we are not going to develop that commercially than quite frankly internalizing the circulation to me seemed to make more sense than creating another intersection on Rt. 57. So in general, I think our report shows that overall the impacts of this proposal are manageable, there are costs involved with it primarily loss of commercial ground impact on our available sewer capacity and quite frankly, I think that the impact on the schools hasn't been well enough defined and I would think the Board would be well within it's prerogative to do a little more work on the school impact part of this report. If they decide it's worth going forward with it and that's it in summary. You've had it in front of you; I'll try to answer any questions you have on it. It's not a very lengthy report but I'll try and take a shot at it.

Vice Chairman Pryor – I do have a few George and I wanted to let you finish and I like the report, I think it's been well done. I have a few questions on the utilities. I have different numbers than you for a lot of these things and I'm not going to go into that here, but I am working with the version of the Wastewater Management Plan that was approved by the Highlands and I'm not sure we are working off of the same edition. Anyway, we can reconcile that.

Planner George Ritter – Well, if yeah if there is, we'll reconcile it.

Vice Chairman Pryor – Yeah, I'm coming up with different flows. I took DEP flows, I put them against 169 two bedrooms units and 30 three bedroom and I got a higher figure there. We can reconcile that but you are saying it does not include any of the properties; the WMP doesn't include any of the properties. It doesn't include them in the current sewer area but it does include this include this in the future sewer area in the same manner it does the I-R Tract.

Planner George Ritter – Well, that wasn't clear to me that there was a reserve for this.

Vice Chairman Pryor – No, it is not reserve, but I mean when you color the areas, the areas to be sewer, and I think the Highlands noted that at the time that there was and we've had this discussion before, there's more area that accommodates development than there is sewer capacity to go around and they said, you know, you are going to have to deal with that. So, I don't know if that makes sense to you, it is colored yellow on the future sewer map the same way I-R is.

Planner George Ritter – Yes, but there's no gallonage. All I'm trying to say

August 26, 2015

Vice Chairman Pryor – There's no allocation

Planner George Ritter – there's no allocation.

Vice Chairman Pryor – Then you can state that, make it clear.

Planner George Ritter – All we were trying to say was that this would have to come out of what is left.

Vice Chairman Pryor – Right

Planner George Ritter – That's all we were trying to say.

Vice Chairman Pryor – And, and maybe you can just tweak that a little bit.

Planner George Ritter – Yeah, sure.

Vice Chairman Pryor – I do have two other small comments. There are 20,000 gallons under dispute. It is noted in the Master Plan. So let's pick a number, let's say we had a balance of 40 we may have as little as 20. If we lose the dispute, it could be less than the 40 so

Planner George Ritter – Oh okay.

Vice Chairman Pryor – We have a range there and there is footnote on the Master Plan. The other thing I suggest you may want to add is we do have sewer lines available, they're there. We don't have a limited amount of contract with P'burg. There have been allegations by P'burg and limits on downstream capacity so the connection is not a slam dunk. We'd still have to get a TWA from Phillipsburg and we might need some work either with I & I work or work on the downstream sewer, so.

Planner George Ritter – Okay, we'll I've noted that there is sewer adjacent to the property.

Vice Chairman Pryor – Yeah and you might just add a few words to the downstream capacity is yet to be determined or something like that.

Planner George Ritter – Okay.

Vice Chairman Pryor – Paul, you agree?

Engineer Sterbenz – I agree with everything you said.

Vice Chairman Pryor – The other thing, I do, my feeling is what George expressed we have a limited area remaining where we can have commercial. It is also obvious we have limited sewer capacity remaining. If we brought that all to residential development that's, that much less sewer

August 26, 2015

capacity available for commercial. So, if it were between these two alternatives, I would personally favor if we could do something with that parcel along 57. I understand that the strip mall stores aren't doing well but daycare seems to be doing very well, medical seems to be growing, dental, and I was thinking along the, you know, something professional as opposed to a strip mall type use. Even legal seems to have a demand.

Chairman VanVliet – This isn't exactly concerning the report, however, as late as August 14<sup>th</sup> we were notified by the Highlands Council that Regional Master Plan for the Highlands is going to require us to reevaluate Module 3 Housing Element and Fair Share Plan and the Highlands Module 7 Information Implementation Plan and Schedule. This is going to or is proposed to be inclusionary housing development. I'm wondering until we get a number forced on us by either COAH or the Highlands or the Supreme Court. As it resides now, we are not going to know what we are going to need in the Township as far as COAH units are concerned.

Planner George Ritter – I would agree until this is resolved by the courts and the number and how this fits into that is going to be up in the air.

Chairman VanVliet – I understand that also that we, Mr. Larken, Larken's attorney has indicated that they are now intervening in Lopatcong's action with the Supreme Court for COAH obligations through the Township. I don't know where that is going to leave us. Where it is going to put us and we are starting to hear numbers come out that are way beyond what we thought we were going to be getting, so, I really don't know how this would impact it.

Planner George Ritter – Well, the, I don't know how it is going to impact the final numbers because none of us know what they are in the end. Clearly, if you were to proceed with this the applicant, I shouldn't say the applicant, this is not an application, but in this case the proposals before the Board both involve a percentage of affordable housing. They're requesting, not requesting but indicating a willingness to provide us with at least 15% of the units as affordable. So, they would be providing some units as part of this proposal which, you know whether that is substantial enough to impact the final number or whether as we at least believed we already has a surplus but whether that remains, we'll find out. So, all I can say is, is that they are offering to provide affordable housing. What the impact is on the final plan I really can't tell you because we don't know the final number.

Chairman VanVliet – Any questions.

Member France – I'll just throw out some thoughts I mean listening to the whole thing, I mean, I think, I kind of agree it is a good place for non-residential, you know, town. There is no crystal ball to see what is happening on the I-R tract. There is no way of knowing that, so, if that doesn't go in a certain direction, we have very limited highway business available in the Township and to give that up, I don't know that's a good idea and so that's one thing. The other one is the sewer allocation. If this is going to eat up majority of the allocation that we may or may not even have, that's another undesirable with changing this away from Highway Business and I think that having, you know, whether it is professional building, medical, you know, those types of things,

August 26, 2015

it is a good location in the Township to do that. So, to me, I think I'd rather see it stand as Highway Business.

Chairman VanVliet – Mayor, any comments.

Mayor McKay - I concur that Highway Business is an issue and you know, to preserve it, I think is a good idea. We don't know the sewer capacity, we don't know what is going to happen with I-R and if they come around tomorrow and they'll need water too, so, and sewer.

Member France – And, that I-R tract has been discussed for many, many, many years so there is no indication on when that would be settled one way or another what's happening. I think you give it today would be a mistake.

Member Clymer – I would concur with Fred. We sat here years ago and put the Master Plan together and we did it for a reason to allow the Highway Business area and I don't think anything has changed that would say we should change that.

Chairman VanVliet – Anyone else. We will forward the report to Council for their consideration. That's what we were asked to do.

Planner George Ritter – If the Board desires, I'll make contact with Paul and Joe and get the right numbers in the report for gallonage so we are all consistent.

Chairman VanVliet – Okay.

Mr. Gardner – Spoke all though not at the microphone – asked for his professionals to answer any questions.

Planner George Ritter – It is really up to the Board if they want more information in regards to the schools, that type of thing. It's really up to the Board to make that call in terms of

Chairman VanVliet – I'd like to forward this up to the Council with our concerns on it and if they want to continue with this and go this way, so be it, we are not making a decision here tonight as Mr. Larken just stated this is not a hearing or site plan hearing that we are doing here to make final decisions on.

Mr. VanCleeef – We had the opportunity to hear all the comments. I don't think that we disagree with any of the facts in the report. It appears to me that the only request from Mr. Ritter was regarding the school and that would be (inaudible) and so Mr. Reddy (inaudible) the information on I-R is factual information. We'd certainly have no control what-so-ever on this property. Facts pertaining to the sanitary sewer are accurate whether or not the numbers are a little bit this or a little bit that, they are generally accurate numbers. We don't dispute that. There were two projects we proposed; one had what we consider to be two acres commercial portion of the HB Zone which we then requested the Board to rezone; namely 14 acres would go to residential. I

August 26, 2015

think the discussion; the Board would rather have at least the two acreage along Rt. 57 remain in the HB Zone. Once again, the applicant certainly does not want to build the non-residential. The property is under contract and it is his desire to go ahead with residential projects so that's why we are trying to get a feeling where this is going but (inaudible) why did I present a plan showing 90,000 sq. ft. and the answer was Mr. Larken, Mr. Gardner of Larken Associates is just not interested in constructing 90,000 square feet of retail on that property. That is still factual today. He is interested in building one of the two options and so he is trying to get a feeling where this is going and if you feel that you can't make a decision unless we go back to Mr. Reddy to supply additional school information we can certainly do that but quite frankly, that is a waste of our time, we'd also like to know that. I can't do anything about the sewer. I can't do anything about I-R and there was only one question.

Chairman VanVliet – I realize where you are coming from but we are, basically, in a conceptual overview right here. This Board will not make the ultimate decision of whether we are going to zone or not; that's strictly up to the Council.

Mr. VanCleef – I understand that but without a recommendation from the Planning Board

Chairman VanVliet – I'm looking to the Council side to which way do you want to go.

Vice Chairman Pryor – Council didn't ask for a recommendation. Council asked for a report. A history and so I think we are fulfilling that request.

Chairman VanVliet – As I say, I hate to put you through a whole operation of submitting site plans and what we're going to do, we go through the exercise of reviewing it and then we ship it up to Council and it gets shot down. I'm trying to find out what does Council want to do with this property from the overall viewpoint of what's happening to this Township, COAH, Highlands, commercial development of the I-R property which is under some discussion right now where it is going to go. Nobody here knows what's going to happen on that one. Our sewer capacity, impacts on the schools, I think we're still trying to sort out what we are going to do, what we are being requested to do by Highlands now is to review everything that is effecting the Fair Share Housing Module that we had to fulfill for Highlands and COAH I should say sorry and they're not giving us any figures right now. I mean we've been going around and around with this since 2004. We thought we had something coming up when the Supreme Court declared Round 3 and 2 I'm sure you're well aware of this.

Mr. VanCleef – I'm well aware of this and this municipality (inaudible)

Chairman VanVliet – So, I mean until we get an answer of exactly how much, how many units are we going to be required to provide, you know, we looked at our Township as saying as far as residential is concerned we are sitting out on Red School Lane with a 600 unit apartment complex – Brakeley Gardens that we can't get a COAH obligation for even though it is rent control. So I mean I think we've provided a lot of our own affordable housing in this community that is not recognized by COAH because of the deed restriction and you know, I'd love to give

August 26, 2015

you and answer if I had the answer so that's about where we are.

Mr. VanCleaf – Do you think it would be valuable information to you to go back to Mr. Reddy to get the school information?

Chairman VanVliet – I would like to see a little bit more information on the school costs.

Mr. VanCleaf – Try and keep the ball rolling.

Chairman VanVliet – George that's one of the things we need to look at.

Planner George Ritter – Well, I would think that that would be helpful if the Board would like to see that range and get a sense of where that is; I think that would be helpful. I would assume by the way, along with the Board's review of this report after tonight, we can release this them so they can actually see it. I've not released it to them this report yet to the public until the Board heard it it really wasn't public but I'll be glad to release it and they can try to address anything in here. The schools are the main issue.

Mayor McKay – But there were certain issues that Mr. Pryor brought up that you wanted to reconcile.

Planner George Ritter – Well, I want to get the numbers so that we finally all agree to within a couple of gallons but the answer is they don't match so I want

Mr. VanCleaf – There should only be, in my opinion, one set of numbers.

Planner George Ritter – Yes I thought I had them but obviously

Vice Chairman Pryor – You probably have two different dates on the Master Plan. They will get reconciled. I think it is more, you are in the future sewer service area, it is just a question of the allocation more than that and there are some issues with the downstream capacity.

Mr. VanCleaf - I'm not disagreeing with any of the statements but I can't cure all that.

Vice Chairman Pryor – Well, the Township Council asked for a report. It seems to me

Chairman VanVliet – Do you want to rework the numbers on school George?

Planner George Ritter – No, I prefer that they rework the numbers on the school but I don't think that necessarily would stop this from going to Council if they want to get it to me. That's your call if you want them to get it to me before it goes up to Council.

Chairman VanVliet – Keep the discussion going between the professionals. I think we should send the report up to Council and if the rest of the Board agrees.

August 26, 2015

Member France – Do we provide any recommendation to Council or not?

Chairman VanVliet – Were not making any recommendation, we weren't asked to do that.

Member France – So will Council come back and ask?

Vice Chairman Pryor – It's up to Council. They want us to investigate more; they'll send it back down and request that.

Mayor McKay – We want you to put those updated capacity figures

Vice Chairman Pryor – That'll be done.

Chairman VanVliet – We'll make it a work in progress that we all agree on what the numbers are.

Mr. VanCleaf – We will go to Mr. Reddy and ask him to supply you with the school data.

Mr. VanCleaf – The applicant would like me to repeat one statement that I made and I thought it was clear but apparently it is not. If it is the desire of the Township either the Council and or the Planning Board (inaudible) consider just the one two acres commercial that's left alone on 57 if that is the desire of the Township.

Chairman VanVliet – That's what we were even trying to determine.

Mr. VanCleaf – We proposed the two way because I started it with one way, then it came to the Board and it was a discussion about a potential so we proposed it both ways; case one and case two.

Larken Planner – The Board's been very patient and I appreciate that and I've had some good conversations with George and there is nothing in that report that troubles me. The only thing I would add is George made a recommendation if you rezone the site that the applicant should be building housing instead of making a payment in lieu of housing and we agree to that so I just want to be clear that we would agree to the multi, the mixed use concept with a set aside for affordable housing. I think the other thing that I would agree with is that we don't really know what your housing obligation is. I think I know it is going to be pretty big but you don't know that yet. George doesn't know that yet and I think that eventually you will find this is probably going to be part of the way that you are going to respond to the housing obligations.

Chairman VanVliet – That very well may be.

Larken Planner – That will play out and I think what is encouraging to us is how collegial this process has been and I thank you for that.

August 26, 2015

Chairman VanVliet – Thank you for your patience. I wish we had more definitive numbers to work with. I guess we can open this up to public comment. If there is any more public comment.

Olschewski – I have more public comment. First off since you guys lectured me about running a proper meeting I would appreciate if you apply all these statutes to everybody. None of the gentlemen that came forward stated their names – I don't think this is a proper meeting. Should of done differently. Second, I would like to state – I'm not sure why we are paying attorney to draft a resolution I think we pay him for it a thing that does not belong before this Board here what-so-every. Just because an engineer and a (inaudible) to measure 4 sq. ft. I don't think that the taxpayer should have to fit the bill for anything. Went on to make accusations.

Chairman VanVliet – Any further comment. Motion to adjourn. Member Pryor, seconded by Member France. All in favor.

Respectfully submitted,

Margaret B. Dilts  
Planning Board Secretary