

TOWNSHIP OF LOPATCONG
PLANNING BOARD MEETING

March 23, 2016

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.”

Roll Call: Members Fox, Johnson, Olschewski, Pryor, Woolf, Mayor McKay, Vice-Chairman Gural, Chairman VanVliet, Alt. No. 1 Fischbach, Alt. No. 2 Frank. Attorney Sposaro and Engineer Sterbenz were also present.

Minutes – Member Pryor asked to change a word on Page 5 next to last line word should be “affect”. Member Johnson – page 25 talking about the application and assessor. Secretary Dilts indicated that she did not hear it on the DVD. She told Member Johnson that if he could listen to the DVD and send her the wording, and if she can hear it listening to his words, she would add it to the minutes. Chairman VanVliet stated that the minutes will be approved as published with correction from Member Pryor and pending corrections from Member Johnson.

Contracts for Professional Services: Engineer Paul Sterbenz, Planner George Ritter and Attorney Anthony Sposaro. Motion by Member Johnson, seconded by Member Olschewski. Roll call vote:
Members Fox, Johnson, Olschewski, Pryor, Woolf, Mayor McKay, Vice-Chairman Gural, Chairman VanVliet.
NAYS: None

Member Olschewski – I do not know if it is the right moment, but maybe in regards to the contacts sent out, I've never seen, we have our own budget right?

Chairman VanVliet – We have a submitted budget, you know, but the contracts that we extend for our professionals are required by the Council to provide funding for them. I don't, they offer their fee for services and the contracts that we sign with them, in other words, so much money per hour they charge, and we take it from there but if we have fiduciary duties, we don't budget for that.

Member Olschewski – I just wondered and if Gary, it may not be the time right now, but I don't know how the budget of the Planning Board is put together, I have no idea.

Secretary Dilts – Well Gary and I usually work on that.

Chairman VanVliet – Come up and we present it to Council. We don't actually vote on our own budget, it goes to Council like any other, like the DPW or any other

Member Olschewski – And we do that budget, is the, the, accounts for attorneys, for our engineers

Chairman VanVliet – For the regular meetings and if we have anything additional or we start going over the top, most of our money comes in from escrows that they post with the application that comes in and that varies widely so. Okay, any further comment on it? Okay, next order to business is I-78 Logistics Park General Development Plan – review of completeness and carry notice and discuss recent email correspondence. Paul, I turn it over to you.

Engineer Sterbenz – Yes, since the last meeting in February, the applicants submitted the revised General Development Plan as well as various supplemental reports, addendum to report to address the deficiencies that were outlined in my February letter and the items that were submitted as part of this resubmission were detailed in my March 18th letter. It was my conclusion after looking at all that material and comparing it to the review letter back in February and also looking at Mr. Burr's notes; he attended the meeting on my behalf, back in February, that this applicant addressed deficiencies and I have recommended at the conclusion of my March 18th letter that the Board should deem the application to be complete. So, I am recommending you do that tonight and you can discuss scheduling a public hearing on the General Development Plan application.

Member Pryor – Mr. Chairman, I have a question for Paul if I may? I've been away, I just really picked up the materials the day before yesterday, but I didn't see a revised traffic report in there.

Engineer Sterbenz – There was not, but they submitted a traffic report; again this is an administrative function

Member Pryor – Okay

Engineer Sterbenz – It could be the worst traffic report in the world and we could have 50 comments on it, so, one was submitted so, I think from an administrative prospective, it is approved and No. 2 it doesn't mean there isn't technical comments on it. You may have a lot of questions when we have the hearing and No. 2 it doesn't preclude you from asking for more information if need be to clarify an issue.

Member Pryor – Yeah, but I get you.

Engineer Sterbenz – So, I think the Board should be satisfied and deem the application to be complete.

Chairman VanVliet – Any other comments from the Board or questions from Paul which completes this aspect?

Attorney Sposaro – I would only add it if the application be deemed completed and the notice be carried. I think they have noticed previously for the February meeting and I think they'd like to avoid having to notice again.

Chairman VanVliet – Yes, I agree to that at the last meeting we agreed to carry this. We have it scheduled for the April meeting for a hearing on it so we'll carry forth. Any further comments, if not I'll entertain a motion to deem the application complete. Motion by Vice-Chairman Gural, seconded by Member Fox. Roll call vote:

AYES: Members Fox, Johnson, Olschewski, Pryor, Woolf, Mayor McKay, Vice-Chairman Gural, Chairman VanVliet.

NAYS: None

Karl Kemm – On behalf of the applicant, I appreciate you hearing us and deeming us complete and I know this is a bit of a narrow issue, but just, you know, you are continuing our notice, but just an affirmation that the notice was proper and complete.

Attorney Sposaro – Yes, I reviewed the notice as well.

Karl Kemm – Thank you Mr. Sposaro. Thank you Chairman. Have a good evening.

Chairman VanVliet – I have one other thing that we have received correspondence from Mr. Baumann who I believe is also a person you have an attorney and in his correspondence we indicates that the Planning Board of Lopatcong Township has refused to hear his applicant and that concerns me quite a bit from the aspect of, he indicates that “all we received disappointing news today, the Planning Board is refusing to hear our application in March. This will be the second meeting they have they refused to consider the application that prompts us to wonder whether the Township still intends to attend a 3/31 meeting”. It concerns me, in the fact that the Planning Board did not refuse to hear their application. We heard the application in February, we acted on it, they may not have liked the application but I want it to stand on the record that this Board did in fact act upon the application. I'm not going to chance the Board have legal action taken against them for failing to meet the deadlines in order to review this application so; I want that stated on the record. I'm going to ask Mr. Sposaro to formulate a letter with permission of the Board to Mr. Baumann indicating what our feelings are on that.

Karl Kemm – Where was this letter come?

Chairman VanVliet – This was an email sent to the Mayor, a matter of public record, and what I want to do is clarify the fact that we did act on that application.

Karl Kemm – Mr. Baumann is my partner and I understand your reading of the email. I don't disagree with you; I think there was a bit of a misunderstanding with Mr. Baumann. He does not deal with Land Use as much as I do. I did speak with him subsequently, and he understands that we were here, that we had discussion with you regarding the completeness issues; that you wanted to make sure the completeness was taken care of before we actually started the hearing itself so I understand your position and your response to the actual language of the email that's not what was intended though. So he, his understanding, was we were coming in that night and put on the full blown hearing with charts and witnesses and testimony, the traffic expert and the whole nine yards. Again, I subsequently spoke with him and advised him that we were heard that night. We had to address the completeness issue. We are coming back tonight to resolve that and be heard so, certainly, Mr. Sposaro can send a letter. I just wanted you and the Board members to know it wasn't, you know, it could be read negatively and that's the worst thing about black and white words versus talking to each other. We don't see body language and inflection and saying, oh by the way, that was not exactly what happened so, so again, certainly send a letter Mr. Sposaro and again, there was no, you know, disrespect to the Board and we do appreciate you deem us complete tonight and we will see you in April with everything.

Chairman VanVliet – I just wanted to clear that written record up because this now exists and if it does come to some point later when disagreement arises, it could be a point of contention, a legality of whatever this Board takes so.

Karl Kemm – I completely understand Chairman; appreciate that. Just wanted to let the Board know, hear it from me so it's not left in black and white. Again, I don't want to take up more of your time, I know you have families to go and see and don't want to talk any further so thank you again Board members we'll see you next month.

Chairman VanVliet – Thank you very much.

Member Johnson – Mr. Chairman, I have a comment on that as well. This is all great but that report made it to social media so you know there was no discussions happening and it like is this true or is this not true. This made it out to social media. There was an article on this. That is not appropriate because it wasn't true and we didn't talk about it ahead of time so I just wanted my, I was a little disappointed to see it and that was news to me when I read that article. Where is this coming from? You know the fact that it made it to social media like that was really an inappropriate step. I just want to make that clear in my opinion.

Attorney Sposaro – Unfortunately, we don't have control over social media.

Member Johnson – But it was leaked by someone. Somebody had to.

Attorney Sposaro – It is not a question of a leak, it is a matter of public record so the social media is going to do what they are going to do; accurately, inaccurately, slanted, objective; it is what it is.

Member Johnson – Unfortunately, yes.

Member Olschewski – I don't think it was actually social media; it was on Leigh Valley Live. Tony.

Member Johnson – Yeah Lehigh Valley Live.

Member Olschewski – It actually wasn't in the newspaper, it was not.

Member Johnson – Yeah sorry.

Chairman VanVliet – In any event, I just wanted to correct the record because it has a way of snowballing into something that it wasn't and you know I fully accept his explanation. I just wanted the record clarified that, you know, we did have the hearing. Thank you very much.

Member Johnson – And I agree, thank you.

Karl Kemm – Thank you again, Mr. Chairman.

Chairman VanVliet – Good evening. We'll see you again, next month. Okay we have our next order of business is a memorandum about the zoning amendment discussion between the professionals and Board members. If defer to Mr. Sposaro on this. I refer to his letter that he had received and was authorized to do for the Planning Board.

Attorney Sposaro – Before discussing the substance of this, since there is pending litigation that concerns property that maybe included in the proposed zoning amendment discussion I feel strongly that we should go into closed session because there is pending litigation to discuss this matter. If

everyone agrees, I would recommend that someone make a motion that we go into closed session and then we can either go into a separate room or we can clear the room and discuss this matter.

Member Pryor – I'll make that motion that we go into closed session.

Chairman VanVliet – Do I hear a second.

Vice-Chairman Gural – Second

Secretary Dilts – All in favor.

Chairman VanVliet – Ayes in favor. All right on this matter, sorry but I'm going to ask the public, I don't know how long it is going to take, we really have

Mayor McKay – Is it appropriate for the tape to be turned off?

Secretary Dilts – I'll do that just, in a minute.

The Board entered Executive Session.

R 16-06

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND THE STATE OF NEW JERSEY AUTHORIZING AN EXECUTIVE SESSION

WHEREAS, there are presently pending matters to be considered in Executive Session concerning possible matters listed:

Attorney/Client Privilege – ROM Zone

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Lopatcong, County of Warren and the State of New Jersey that the Council is authorized to hold an Executive Session.

BE IT FURTHER RESOLVED that the Council of the Township of Lopatcong will make said matters public within approximately 30 days of said meeting or until such a time as confidentiality of the matters is no longer required.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk 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, April 6, 2016.

Margaret B. Dilts, CMC

The Board resumed Regular Session.

Attorney Sposaro – Let me just repeat this so someone can make the motion.

Mayor McKay – You want to make the motion peter?

Member Olschewski – Okay.

Mayor McKay – I'm the mayor, I can't, you do it.

Attorney Sposaro – It is my understanding that the Board may want to consider having our Planner provide us with a written report that details the history of the zoning in the ROM Zone, whether it is advisable to amend the ordinance as it relates to the ROM Zone, whether it is feasible, and if so, to provide us with some concrete recommendations on how the ordinance could be amended. I'm going to ask our Planner to have that written report available to us at next month's meeting.

Member Pryor – I just think the first time you said it Tony, in order was history, feasibility, advisability and concrete recommendations in that order.

Attorney Sposaro – Yes.

Vice-Chairman Gural – And, consistent with the Master Plan.

Attorney Sposaro – Yes, and consistency with the Master Plan. I think that falls under the category of whether it is advisable (inaudible)

Mayor McKay – Is the machine back on by the way?

Attorney Sposaro – I'll ask him to specifically address that as well.

Mayor McKay – Okay.

Member Johnson – Yeah he needs to address the Master Plan and what needs to happen there, if there is something.

Attorney Sposaro – Anyone want to make a motion?

Vice-Chairman Gural – I'll make the motion.

Chairman VanVliet – Do I hear a second?

Member Fox – Second.

Chairman VanVliet – Roll call Beth.

AYES: Members Fox, Johnson, Olschewski, Pryor, Woolf, Mayor McKay, Vince-Chairman Gural, Chairman VanVliet.

NAYS: None

Attorney Sposaro – I will communicate with Mr. Ritter tomorrow and next month should be an interesting meeting.

Mayor McKay – Thank you Tony.

Chairman VanVliet – I would like just to indicate next meetings probably going to be a lengthy meeting because of the hearing we're going to have with the OPUS group and the questions there. If this turns into a lengthy meeting, because we're trying to stop at 10:00 pm it would have to be continued over so, is there any objections to that now or

Vice-Chairman Gural – Well, do we put this on the agenda first or and then listen to OPUS?

Chairman VanVliet – No, I wouldn't.

Attorney Sposaro – In fairness to the applicant, they're going to show up with a 1/2 dozen witnesses. I don't think that is particularly fair. You may want to consider a special meeting.

Mayor McKay – Yes, in two weeks.

Attorney Sposaro – Because I think it's going

Member Pryor – Wait a minute. He's got a month to do it. How can you have a special meeting?

Mayor McKay – Well, he can do it in two weeks.

Member Pryor – Is that what we want to tell him to do?

Member Johnson – For a report like that (inaudible).

Member Pryor – That's not what the motion is.

Mayor McKay – What?

Attorney Sposaro – No it's not.

Mayor McKay – Well, the reports already done.

Attorney Sposaro – Let me do this, let me communicate with George, find out how quickly he can put something together and then I'll communicate with Beth and through email we can find out whether we can schedule a public meeting, a special meeting when the room is available, when our professionals are available with conflicts and see if we can pull it together because I don't see us having time at the next public meeting. I think the OPUS application there's going to be a lot of public interests. There is a lot of interest on this Board. It is an important matter for this Board and I don't want to rush through it.

Mayor McKay – Do we have to, can we start at 6:30, would that be. Can we advertise?

Olschewski – Do we have to do that formally or is that like an informal thing with the special meeting. Do we have to

Chairman VanVliet – Very formally; it's got to be noticed

Mayor McKay – All right. So we need to know that by tomorrow Tony. When he can do that?

Attorney Sposaro – I will find out and

Mayor McKay – You got to get to Beth so she can notice it.

Attorney Sposaro – I'll be in touch with Beth. Beth knows what to do as far as scheduling a special meeting. There's statutory requirements, notice in the newspaper, what have you but we can get it done.

Engineer Sterbenz – I'll provide Beth dates that I'm available.

Mayor McKay – Does the Planning Board have to vote to have the special meeting now, authorize it so that I can happen? So we don't want to go (inaudible).

Chairman VanVliet – We don't know when we're going to have it so.

Mayor McKay – Well, we can just vote that we're going to have a special meeting.

Member Fischbach -The 27th is when the next meeting is. Can you turn around and say you'll have the meeting on the 27th and any unfinished business will carry over to the 28th if everybody is available?

Chairman VanVliet – The 28th?

Member Fischbach – Well, which is a Thursday right?

Chairman VanVliet – Is the building available? (Inaudible).

Member Fischbach – I'm just saying if everything falls into place, I don't know that, that would be a date that you would

Chairman VanVliet – Well this Board has been accused before of rushing through these things (inaudible) so.

Member Fox – Does the Board have to vote to convene a special meeting or can the professionals and secretary say we spoke with everybody, we need a special meeting here is the date and we've made notice.

Member Olschewski – I just want to make sure it happens.

Member Fox – Does it need to get voted or can you just decide which date is best?

Attorney Sposaro – There is no, to my knowledge, there's no legal requirement that the Board vote to approve.

Chairman VanVliet – I can call a special meeting.

Member Fox – That's what I thought.

Chairman VanVliet – But again (inaudible) will he have the report ready. Is there (inaudible)

Member Fox – You are going to wait for Tony to talk to George find out when it can get done.

Chairman VanVliet – And then, when the other professionals are available, when the building is available,

Member Fox – And then (inaudible) pick the best time, correct.

Chairman VanVliet – you know, and what time do you want to have it? (Inaudible) available at 7:00 at night or 11:00 in the morning.

Member Fox – So, the answers no (inaudible) is the best date to have it.

Mayor McKay – Well, it would have to be at night.

Chairman VanVliet – It's not the easiest thing to get to because the public wants to listen to it.

Mayor McKay – Yeah, we have to do it at night time.

Chairman VanVliet – and it happens to be 3:00 in the afternoon, the public is not available so I'm very hesitant to start calling you know public meetings.

Member Johnson – Thinking about the calendar, I recommend, cause this meeting is the 27th (inaudible) I throw the number out, I say, let's look into the 20th, one week before hand and see if that, see if the rooms available that gives our professionals two weeks.

Chairman VanVliet – Usually, the Board of Adjustment meets that Wednesday.

Secretary Dilts – They meet the second.

Mayor McKay – Second, second Wednesday.

Engineer Sterbenz – I think I'm available Thursday, the 21st. I'm pretty sure of that. Tony is checking his calendar right now.

Member Johnson – So, what is that Thursday, is it the 20th?

Engineer Sterbenz – The 21st.

Member Johnson – It's the 21st.

Engineer Sterbenz – So, Tony and I are available on the 21st.

Member Johnson – That would give the planner three weeks.

Mayor McKay – Tentative 21st.

Member Johnson – Yep.

Mayor McKay – Okay guys. 7?

Member Olschewski – Seven o'clock good.

Attorney Sposaro – Beth do you know if the building is available; the meeting rooms available?

Secretary Dilts – If it Thursday, it's generally available.

Attorney Sposaro – All right. I will communicate that to George as well. I'll let Beth know. I'll speak with our Chairman and we have a plan.

Mayor McKay – Very good. Motion to adjourn?

Chairman VanVliet – Well, I'll open it up to public comment.

Mayor McKay – Oh public comment. What am I saying?

Attorney Sposaro – We have public who waited all this time.

Chairman VanVliet – Is there any public comment?

Marla Endick – 10 Byron Drive. I'm curious having George Ritter go and do the feasibility and the sustainability and the ability, ability, ability. If this is, my understanding is that the goal or what we want to, or that what you guys want to present to Council is to consider reverting the ordinance back to the way it was, is that not correct?

Chairman VanVliet – No.

Marla Endick – No. It's not?

Chairman VanVliet – You really can't do that. We're going to have to go forward. You have to create an entire new ordinance.

Marla Endick – So the new ordinance would basically, is the idea to change the zoning back to the way it was prior?

Attorney Sposaro- The idea is to reexamine the uses that are permitted in the ROM Zone and Standards and the Conditions that need to be met and to get a recommendation on whether it is feasible, whether it is advisable and if so, is it consistent with the Master Plan and then, provided all those things are yes, how can we do it.

Marla Endick – Okay, thank you.

Mayor McKay – I don't think there's any more public comments.

Chairman VanVliet – No more questions, okay, any from the Board. Hearing none, I'll entertain a

motion to adjourn. Motion by Vice-Chairman Gural, seconded by Mayor McKay. All in favor.

Respectfully submitted,

Margaret B. Dilts
Planning Board Secretary