

TOWNSHIP OF LOPATCONG
PLANNING BOARD MEETING

June 22, 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. Attorney Sposaro, Planner Ritter and Engineer Sterbenz were also present.

I-78 Logistics Park Resolution-

Attorney Sposaro – I drafted the resolution soon after the last Board meeting on June 2nd with the benefit of input from our Board professionals. I also sent the resolution for review to the applicants attorney Carl Kemm and he got back to me literally 6:01 this morning with an email with changes. I did incorporate some of the changes but by no means all of the changes proposed. There is one additional change that I would like to make to the resolution is on Page 15 Paragraph 10. In lieu of what I have there that would now read “the applicant shall pay any outstanding invoices for fees and costs incurred with connection with this application as provided in the escrow agreement with the Township and I suggest that change be made. I think it is a reasonable request. We’ve had discussions with the applicants attorney regarding paying for services rendered by the professionals for this Board and all of them have been assured that they will be paid. The ordinance has a hole in it and doesn’t provide for a payment for professionals fees by the applicant. So we need to make this modification with the applicant present acknowledging the payment through the escrow account. Condition 10 would be deleted and this would be in its place. Delete 10 and for 9 instead of saying within 30 days we can simply say as provided in the escrow agreement with the Township.

Secretary Dilts confirmed that Attorney Sposaro would make the changes and provide a clean copy which she would distribute to the Board.

Chairman VanVliet – Okay with that change are there any other questions or comments?

Member Johnson – All the stipulations that we had talked about are in there? What we wanted them to agree to, okay.

Chairman VanVliet – I believe so. Paul did you have any further changes you wanted to go over?

Engineer Sterbenz – We’ve had the chance to review and am satisfied.

Chairman VanVliet –George, you also.

Planner Ritter – Yes I did see the revised one and Tony you put in my comments.

Attorney Sposaro – Yes I did.

Engineer Sterbenz – The lion’s share Mr. Kemm came up with

Chairman VanVliet – Any further question? If not, I’ll entertain a motion to approve the resolution with the changes so outlined.

Vice Chairman Gural – Motion.

Member Fox – Second

Roll call vote:

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

NAYS: None

ROM History Report –

Planner Ritter – What we did is put together an outline of for the Board’s consideration possible zoning amendments for consideration of the Board’s ROM Zone, Industrial Zone. What we tried to do in this report is we’ll go through it and identify how the town would wish to define what uses are permitted in the ROM District. As most of you are aware, our Industrial District basically says, well I’ll actually read it – Generally under permitted uses it says permitted principle uses as industry which involves only processing, assembly, packaging or storing materials such as but not limited to the following industries and the question that has come up is that’s a very permissive type of ordinance and it leaves it open. What we are suggesting is if the Board would like to get a tighter handle on that is that we think about going to a more traditional version most towns use and you use today and that is, that if a use is not specifically listed, it is

prohibited and then to try and define that what we are suggesting is that the town might consider wanting to identify the various permitted uses by the federal industrial code which provides a very detailed description of each industry and what we did in this ordinance is list all the various industrial codes that we think might apply. We're not saying that this is the list that you should necessarily approve, but it is a list of uses that might be worth discussing whether or not they should be permitted in the district but what this would do, let's make it very clear that if an application came in before us, the industrial code that he would be assigned to his business could be matched against the ordinance and it would either be a permitted use or not permitted and if he wasn't on the list, then he would have to seek clarity of a use variance with the town in order to construct it within the Industrial District. So, we talked about going to that which would give us a way to define to not only define specifically what uses but also give us a very firm definition of what each use is defined because the industrial codes that I did in the past is attached to the back of which you have but just for the ones we have in there, that the industrial each have two or three pages of the spreadsheets. What constitutes that use so it's a very definitive way to look at uses and there are a few towns that actually use this; Wahl Township is the one I'm most familiar with. So one of the things we were thinking is to have the Board think about it, see if this tightening as an approach to committed uses is one that you think is appropriate and if you do then we ought to go through these lists and see if, you know, what uses you think are compatible or not compatible with the Townships Industrial District. The other aspect that we looked at was changing the ordinance to be compatible with the Highlands legislation that deals with our center designation. In other words, we're expected at some point to develop an ordinance bringing our Township regulations into conformance with the Highlands regulations and also we are supposed to be adopting a land use recommendation and actual land use regulations for the Township also consistent with the Highlands. As one of the things that came out of that is that the Highlands has identified a list of major uses that should be reviewed and given special consideration if they fall within the karst topography, a Tier 1 well head area and a within a ground water recharge area. They consider that certain uses be given a very close review and so what this ordinance does is recommend that those uses that have been identified as a major pollutant source within the Highlands, within the Highlands area would actually to go under their review to determine if they could be constructed within one of these areas and what that is is they have established what they call Best Management Practices in order to be built on top of a karst topography or a ground water recharge area. The one thing that the ordinance would do is that certain types of polluters would not be allowed in the Tier 1 well head areas, they actually prohibit those uses and if one of those would come in they would essentially be considered a prohibited use obviously subject to review. The other thing that we did in this ordinance would be well not in this ordinance but in our recommendations would be to repeal the resource recovery section. If you are familiar with it, we do allow resource recycling and recovery industries to be located in our Industrial District. The Board had concerns about that so this would repeal that section of the ordinance and basically eliminate them for consideration. The recommendation also in here essentially redefines the asphalt manufacturing and concrete

manufacturing plant to be specific to the uses that we already have. In other words, the definition has been revised so that the existing concrete manufacturing shall continue to operate as a permitted use. We've also tightened the definition on an asphalt plant to make sure that they're not actually making asphalt but making products from asphalt. Also, in this package we went through and tried to identify what businesses might be impacted; existing businesses if the ordinances were changed and modified and that's located on Page 8. We went through and the list is five businesses that exist in the area and the potential impact and I can go through them in detail. There's a concrete supplier within the district SCC Enterprises. They are located within a Tier 1 well-head area and if this ordinance were adopted, they would go non-conforming and obviously, if they chose to expand or do anything, they'd actually have to get a use variance. The Performance Metal, a chemical manufacturer, one of your large companies is also located in the Tier 1 well-head protection area so, essentially, there they would be a pre-existing non-conforming use and obviously in the Tier 1 well-head area, if they chose to expand, they would have to come in and be considered as a use variance within that district. Brake and Spindle, an automobile repair shop, we believe that they are considered that they currently are fine, that they would have to if they ever came in, would have to meet Best Management Practices because they are considered potential polluters. Precast Concrete, the company that is out there today, is a permitted use and would remain a permitted use but if for some reason they would expand, they are on a karst topography area, they would have to meet Best Management Practices and the currently approved asphalt plant that isn't built is essentially the same. They would be a permitted use, a permitted conditional use and if they were to come in and modify their plans or change their standards. It doesn't affect many of the properties but those are the five that we thought had direct impact. On the back side of the ordinances there is a chart that is very difficult to read unless you have glasses on. We should discuss at more detail at another meeting is my suggestion or I'll try to answer any questions now but I would also like to point out that in terms of where we go from here, if the Board were to decide to go ahead with these amendments a question that we should ask ourselves is when because we are required by the Highlands regulations to adopt a new set of regulations for our town center and also we are required to adopt a new set of land use regulations to put our town's ordinances into conformance with the regional master plan. That is a process that is ongoing and will be covered with grant money from the Highlands. If we do this separate from that, then it's going to be on us so it's going to be on us so it's a question of timing and when we do it and how we do it. So it's something to think about in terms of timing and expense because as I say, we do have to do the Highlands conformance materials which are covered by grant money and it is a larger process; we look at more than the ROM District.

Member Fox – Do we know that schedule?

Planner Ritter – We're working on part of it now. We're working on some of the requirements for the center designation right now in terms of that. It will extend out over several months before we'll be ready.

Member Fox – But is it due this year, next year, five years?

Planner Ritter – There is no set, to be honest with you, there is absolutely no set date.

Member Fox – Have we requested the grant money to start the research yet?

Planner Ritter – The grant money is in place.

Member Fox – So we have the grant money?

Planner Ritter – No the town doesn't. The Highlands does but the answer is the grant money, it has been funded and the way that our Highlands grant money has been set up is you basically do all the work complete the thing, the town approves it and then it is sent to the Highlands for payment.

Member Fox – So, we can start it now.

Planner Ritter – Yes, we can start and we have started. It's just not very far along.

Member Fox – But you said we couldn't start this yet because we don't want to do it before we get the grant money.

Planner Ritter – Oh, I'm just saying we shouldn't do it as two separate elements.

Member Fox – Oh, no, no absolutely.

Planner Ritter - That's all I'm saying is it should be combined I think just to make more sense financially for everybody. The Highlands will pick up the largest percentage of the fees but anyhow I think it is worth looking at. It is a fair amount to digest but I'll try and answer any questions you have tonight and also, I'll leave with Beth the different industrial codes and descriptions of each of the uses you can look at to see how detailed the descriptions actually are.

Vice-Chairman Gural – George I had sent an email this afternoon, I don't know if you saw it, it was kind of late in the afternoon about using the SIC codes.

Planner Ritter – No I didn't see it.

Vice-Chairman Gural – They are absolute. The government since 1997, the government is now using a NAIC (inaudible) American Industrial Classification system which supersedes and takes over for the SIC system.

Planner Ritter – Well, that’s interesting because we just downloaded this stuff. We can adjust it. I mean I’m not worried about that.

Vice-Chairman Gural – I’m just putting it out there. It is up to the Board what to consider but it is an absolute system.

Planner Ritter – Okay. Well, then we will take a look at the numbers.

Member Pryor – And you know, I’m not saying you’re not right but on the Jippidy system and pre-treatment, all of that is configured around the SIC codes unless there’s some sort of correspondence between them, a lot the ordinances that are out of date.

Planner Ritter – Well, I’m sure they are.

Vice-Chairman Gural – They haven’t updated those in 20 years and the NAIC system is updated I believe every five years.

Planner Ritter – Okay, we will look into that if you think this is the way you want to go.

Member Fox – I guess this is as good a place as any to jump in, I really didn’t think it was the way to go (inaudible) until your summary you were saying, you had suggested that we go through these and see which we may want to eliminate from being included into Lopatcong. Cause I’m like well, this just lists everything. I don’t, this then was township specific by listing everything but I like the idea of going through and seeing if any in here are inappropriate.

Planner Ritter – Well, that was our idea is that you could go through it and make decisions as to what fit and didn’t fit that kind of thing.

Member Fox – Can we go through and eliminate and tear down what we want for our town?

Chairman VanVliet – You can absolutely. The problem you face with this is once you put it down; you have a very difficult time of modifying it. There might be industries here that come out of other industries that you may want to have. I mean we’re not into amusement things that was suggested at one time for the Strykers Road area. I’ve always felt that once you absolutely define something it is very difficult to change it and you know, do any of us here have the complete foresight to see exactly how you want to put those properties and you know, we have to take a look at some of the existing industries in town like the concrete producer who is down off of River Road down there in the ROM Zone, down by the old Baker Chemical. He’s been there for a long time. I mean are we looking to limit his operation or sometimes there are consequences that you don’t foresee when you get into this kind of detail of limiting land use.

Member Fox – Another possible idea instead of going through that that might also limit or control what comes into the township in that area is possible being more strict than the Highlands indicating that the major potential contaminate sources are restricted from Tier 1 and Tier 2 well-head protection areas. That would eliminate them from getting without going through conditional use.

Chairman VanVliet – I'm sure you can do it but if stands a challenge, I don't know.

Member Pryor – Gary, can I say a couple things on this and some other things? I think in some respects we put the cart before the horse here. I really think you have to go back and revisit the Highlands stuff and the master plan and the zoning is supposed to fall out of that. Second, we were going to talk a little bit about the history and advisability and history is important because if you go back into the court case, we spent quite a bit of time in the court explaining why we had permissive zone and now you want to undo that and I don't have a problem with prohibiting the most obnoxious uses that you feel don't belong here but once you make a list you may have a very good applicant that comes with a good project and to get a use variance is not an easy thing; very strict criteria we have to go through that. We supported a permissive zoning ordinance, we explained to the courts why now we're going to have to undo that, we're going to have to explain why. John, I know you are an environmentalist and I respect the environmentalists, I respect the environment but I'm going to touch on something Gary said. In the end, you have to defend your criteria and one of the things I note in the Highlands model land use ordinance, they don't forbid things in Tier 1 protection area they prohibit them from locating within 200 feet of the well head which is different. That's the less stringent criteria then prohibiting it in the Tier 1 area.

Member Fox – I was going on the (inaudible) we have.

Member Pryor – Yeah I know and the Highlands, actually, didn't invent well head protection. DEP invented that more than a decade ago. They have their own regs. and they're even less stringent. I think for the, I think it's only 50 feet of the well head and that burden is on the purveyor. They have to actually acquire that property and then there really are no restrictions on two or three. So you got DEP who is here and you got the Highlands who are here and then we would be beyond all that. We better have some darn good support if we are going to go in that direction. Some of the other things here I just noticed, you go back to the court suit and there was a lot of testimony in the court and the court decided that you know the asphalt plant and concrete plant were the same thing. We had some language in the report that says that we want to leave the concrete plant alone and just attack the asphalt plant. I didn't know there was no vote on that. I think you have to go back and look at the precedent set in the court case again. The Highlands treats them similarly. Again, you have to have justification for everything you do and I'm not saying it can't be done. I think if you look back at the master plan, yeah we have a

reason to revisit it. Now we get a back you know warehouse project coming. Captive Plastics just underwent a huge expansion. One of the reasons for the plan as it was is we wanted to achieve this balance of residential and non-residential. We're getting there. We got a bigger project on Ingersoll Rand than we ever had before and maybe that's the approach that we take to revisit some of the ROM District either turn it into a more benign use or just change the zoning all together but I think when you start picking on one thing and trying to get overly specific, the harder it is to defend yourself. So, my suggestion is very simple, let's get started with the Highlands work, let's do this in the right sequence, with the right planning, with the right justification and the right timing. Each one of these steps has hearings and so on. It's not something you do overnight and in the end, you probably get what you want if you attack it piece meal like this you're not going to get agreement on the Board, you not going to get agreement on Council and you're probably not going to get something that is defensible.

Member Fox – I agree. I, you know, I don't want to attack this piece meal but I think the certain areas should require more scrutiny when we are doing the overall conformance of the master plan and so we are voicing the areas that we want particular attention spent on and you're right I mean.

Attorney Sposaro – And that's the way it's done. I mean there's some things warrant significant review and change but there are other's that are going to get your attention and this is going to be one of them and that's what it's about.

Member Johnson – So, regardless of how we move forward, I saw a little bit in the report and your summary that you just gave that this could potentially affect existing businesses but it can't because they are grandfathered in. The only time it would affect them is if they wanted to expand or get bigger. Correct?

Planner Ritter – That's correct.

Member Johnson – But from where they are now, they're grandfathered in.

Planner Ritter – If they wanted to expand, they would fall under whatever we regulate including, if we get included, Best Management Practices and if we include a prohibition about being in a Tier 1 obviously if they fell within that, they would have to get a use variance.

Member Johnson – The list for the PCS do we have that anywhere? Can we see what's on the PCS from what Highlands considers that there's potential contamination?

Planner Ritter – Yeah that's true, that's true. I didn't attach, I can send you those. I'll do that. I'll get it up to the Board.

Member Johnson – I think that list would be good to see because we might want to just prohibit anything that is a PCS but I can't say that without looking at the list.

Planner Ritter – The main thing is the Highlands doesn't prohibit these polluters, they list them but what they really say is that unless you are in a Tier 1 well-head area, what you must do is meet the Best Management Practices. They don't outright prohibit them except in a Tier 1 well head.

Member Fox – And as Joe was saying, once you get into the actual ordinance, it's really not the whole area; is within 50 feet or so. So, yeah, if there is a way we could be more strict to the more detrimental industries or

Member Johnson – We have to rewrite anyway because we are redoing cause of the Highlands Act.

Member Fox – Right.

Member Johnson – So, we're doing that anyway. So, to become more strict and take the Highlands Act maybe to the next level or stricter level or more prohibited or tighter this is the time to do it when we are doing the Highlands like you said so we can lump it all into the fee and get the funding for it versus

Planner Ritter – There maybe more things that you want to do. It may encompass other regulations that the township has. It would be a package all done at once. It will be revisions to the master plan and so on that is all done at once. So, it is a much more efficient way and it is a much more comprehensive way to do it.

Chairman VanVliet – One of the situations as a scenario, as far as the township trying to increase the prohibitions based on say we want to put it Tier 1 and Tier 2 areas, in a lot of instances, we're not allowed, especially, when it comes to air quality to impose our own regulations over top of what the state regulations are now. To do that, the amount of resources the town would have to expend to do all the research to come up with trying to implement that would probably be prohibited to the township. I mean we are relying on the DEP to enforce or promulgate the air quality regulations in the state. If we come in as a township and try to override theirs with a stricter interpretation, what do we base it on? We would have to go out and actually do the research that they probably already done and the asphalt plant, we had experts in from the DEP on air quality and we were not allowed to override, we had no basis to override, I'm saying not allowed, but we had no basis to come in, we didn't have the research, we didn't have the case studies to override what they've already done. So, I mean there's another case where we did it and someone comes back and wants to challenge it, I mean we have really no defense to take

care of it. I'm not trying to minimize it but as we're going down the road there's some areas that as the Planning Board we just are not allowed to get into.

Member Fox – (Inaudible)

Chairman VanVliet – There's avenues that we could go to increase the number of monitoring stations, increase the availability of information to the public, establish hot lines. That's stuff that you know you try to negotiate through as we're here, even if they provide the minimum amount of monitoring, we might be able to cajole them into increasing the monitoring or the frequency of the monitoring but to say that we're going to monitor to a position above what has already been established.

Member Fox – If there is a way that we can get these industries into conditional use applications that are stricter and harder to get approved then that's better; more scrutiny, more reviews, more studies as opposed to permitted uses.

Chairman VanVliet – Are we the ones that are going to do that?

Member Fox – We're zoning. Isn't that what we do?

Chairman VanVliet – No, not as far as setting the standards of what it is.

Member Johnson – I think there's a lot of circumstances where you can actually exceed what the state says. If the state says you have to have a minimum 24 foot road, you can change it to say no our town wants a minimum of 26 foot. You can

Member Pryor – That's what the Residential Site Improvement Standards are for.

Member talking over each other

Member Pryor – Towns were doing that so that's more like Gary's example.

Member Olschewski – Just for my own benefit why a conditional use is, what makes it hard to get them?

Chairman VanVliet – Conditional use is not hard to get.

Member Olschewski – No, what Joe said

Member Pryor – No, a use variance. A use variance means it's zoned for this, I want to do that. That is covered in detail in the Municipal Land Use Law. Not an easy variance to get.

Conditional use is something different. It means it is not a permitted use but if you meet these conditions then you conform and I know what you're saying and I think that's an avenue if it is done correctly.

Member Woolf – Gary I have a question. I don't know if it's for you or Tony. We're proposing code changes and stuff like that. It has to go up in front of Council for their approval. Has anybody run it by Council whether or not we should spend the time and money to even research all of this and send something up to them when they are going to be in agreement?

Attorney Sposaro – I don't think anyone's researched it but I think George's suggestion is an excellent one. You can bypass the issue of where the funding comes from if you do it as part of the re-examination of the master plan.

Member Fox – Right and we did mention that a couple months ago now the re-evaluation of the master plan is this Board's responsibility correct?

Vice-Chairman Gural – Yes.

Member Fox – So, and that's why, and that's how we, okay, so we already established that. Is it every ten years the master plan?

Chairman VanVliet – Yes.

Member Fox – So we are past due. We are eligible for funding. We need to look at the master plan, our ordinances and how they compare. Plan out this town's development for the next ten years and get the funding for it.

Member Woolf- I'm a little concerned when we talk about recycling whether it be the concrete plant or the asphalt plant, Berry Plastic is a good example. I don't know if Berry Plastic uses all virgin materials or they recycle their existing material. You start talking about what can be recycled and can't be recycled. Mallinckrodt Baker, Avantor you get into purified chemicals, they're recycling, just to pick out recycling, and say as a blanket issue, you are not going to allow recycling.

Planner Ritter – Just to clarify that, we have a section in the code that talks about not how a company would recycle but this is like a recycling facility where you would come in and have aluminum can, you separate for each product you have trucks

Members talking over each other.

Planner Ritter – It's whether or not you want to allow one of those types of facilities and under our current ordinance as a conditional use we allow it. In the general sense I got and you don't have anybody doing that, that nobody thinks that a good idea anymore and we should consider taking it out and I don't have a problem with that. I can understand the concern but it doesn't deal with the recycling of an individual industry. How they handle it, their product.

Member Olschewski – If we would follow your outline and suggestions and whatever you come up with, what do you see as possible downsides to this. Are there any, you could foresee as

Planner Ritter – No, I think not. We have to go through the process of amending the master plan, we'd have to follow the procedural, we have to get those out of the way. The downside would be more or less the impact on the industries that are here.

Member Olschewski – I understand that some of the industries like for instance the concrete guy he is maxed out to begin with right? He cannot expand any more.

Members talking over each other.

Member Olschewski – so then he would come here and apply for

Chairman VanVliet – But then he would be allowed to expand if he was grandfathered in.

Member Olschewski – But then he can come before what board and apply for a use variance. Right?

Planner Ritter – (Inaudible) the existing concrete casting industry that is up there today that casts pipe and stormwater basins and that sort of thing, under this ordinance it would remain a permitted use. It wouldn't change that classification. The only thing it would change is that under the proposed modifications to come into conformance with the Highlands regulations is that if they would expand, they would have to use Best Management Practices.

Member Olschewski – That's good.

Planner Ritter – Well that's it. I mean they would still be permitted but so they could go out and buy another piece of property and develop it but they'd have to meet Best Management.

Member Olschewski – But that's good right? Meeting Best Management Practices.

Member Fox – Isn't that a minimum standard? Doesn't everybody have to meet Best Practices?

Mayor McKay – Wouldn't you have to do that anyway?

Member Pryor – Yeah the difference I think though is this is actually in the land use ordinance as opposed to getting a permit to do something. This is a condition of the zoning when you do it this way.

Planner Ritter – It has things that they must do in order to meet Best Management Practices.

Member Olschewski – From where I sit and they are not able to expand at this point in time but if they want to (inaudible) another property, they can apply for a variance but he has to meet Best Management Practices which in my viewpoint everybody should do that anyhow so that's a good thing. I cannot see a downside.

Member Pryor – You really departing from what this says. It would be a permitted use under this proposal and nobody's agreed to that. If it's a permitted use, he would just acquire the land, he'd come before here if its permitted use there's nothing we can do, he expands. One of the conditions is he meets Best Management Practices. He wouldn't need a use permit or use variance so I mean you have to understand what's going on. I can speak for Council, Gary you asked me. I wouldn't act on this coming before Council. I would act, I know what the objectives are if this were done properly with revision to the master plan and the reasons are laid out and they made sense that would be a hard thing not to go along with. If this came up helter skelter like this I would have reservations.

Mayor McKay – I guess Mr. Pryor speaks for the entire Council.

Member Pryor – Well, I speak for me and I'm a vote and you can speak

Member Fox – I thought months ago we already had established we wanted to do it by going through the revaluation of the master plan.

Chairman VanVliet – Well, we're going to do that anyway.

Member Fox – There's a lot of talk of not yet, we can't start it yet, we can't do this, we can't do that, as opposed to on one hand you're saying we can't do and the other hand you're saying we need to do it through the re-evaluation of the master plan and the grant money's there all we have to do is do it, but we can't do it, we shouldn't be talking about this yet.

Attorney Sposaro – That process has begun. What I think the advice is is that we shouldn't do this piece meal. We should incorporate this as part of our re-examination of the master plan that is being funded by Highlands.

Member Fox – And if you are saying it has started, how has it started?

Planner Ritter – Well, one of the things, the first thing we have to do is the Highlands has a grant to update basically, go through and redo the land classifications and bring all those up to date and that's what we're doing right now. We're doing that to get all the mapping current so that they have the mapping in place as to what's going on in the town and what has changed since the last time you did it and we're in the process of doing that. That should be completed probably in the next two to three weeks and then from there we'll start moving into looking at the land use ordinance, the center designation. We wanted to get the mapping finished and quite frankly, we haven't finished it. It's still going to take a little time to get it together.

Member Fox – Well, I imagine since funding is granted to us, for this process that must be done by the paid professionals.

Planner Ritter – Well, not without interaction from the Board don't get it wrong. I mean we will prepare the various studies that are required to go ahead subject to your review, tweaking, approval. It's not something that is done in a vacuum. The answer is yeah, we'll probably pull together the additional information present it to the Board and then, essentially, the Board's job is to look at it and say well it's okay or it isn't look harder at this and that type of thing. We'll then present that material to you for review and then the actual ordinance process still has to go up to Council and they have to review the ordinance portions of it and eventually, adopt them if they so choose.

Member Fox – Would that presented to Council by sections or one whole giant here's all the changes.

Planner Ritter – If I have anything to do with it, they're going to come in as a unified package so that you don't have to repeat the process four or five times. It may be broken into two sections; maybe I hadn't thought about this. Maybe they'll be our center designation regulations that might come up in two parts but they are interrelated so it's virtually a tight package.

Chairman VanVliet- We still have a housing component of

Member talking over each other

Planner Ritter – We haven't even started and that is as part of planned conformance you are supposed to have an approved COAH plan; affordable housing and obviously that's up in the air and that is nowhere closer to being done than it was two/three years ago. Until the courts make some decisions, we can't finish that.

Member Fox – Is that going to be an element of our master plan evaluation?

Planner Ritter – It can be a separate element. It can be totally separate from the center designation and that but we have to keep in mind some of the, we'd like to have in your mind what the regulations are on developments so you know where you are headed.

Chairman VanVliet – It may affect other zoning areas in the township. We have several components working here where one is affecting the other. We don't want to charge ahead and re-evaluate the master plan then all of a sudden we

Member Fox – Three years you've been working on it. Why is that so

Chairman VanVliet – Well we've been working on this for fourteen years.

Member Fox – that's going to hold up everything then.

Chairman VanVliet – Well you know, state does not move real quick in a lot of instances but you try to conform with what their requesting of you so you don't get a black eye with someone coming in or going through a court case and say well now you got about 1500 homes where your golf course was going to be. It's a tough situation. You just don't have the answers to come in right away and get these things. I'd love to have a number that we could consider what the number would be for our COAH obligation as opposed to the state coming in and saying Lopatcong you're responsible for 550 affordable housing units. You will pay for them. Taxpayers won't be real happy.

Attorney Sposaro – We can segregate the housing part of this. Perhaps it will help George if we could get some idea of the time line from now until the Board would see a or maybe you can explain in greater detail the process of how we get to the master plan revision that we can ultimately pass on to the governing body.

Planner Ritter – Yeah what I'll do for the next meeting, we'll put together an outline of where we are in the process, what has to be done and we can put a timeline to it so everybody knows where we are.

Vice-Chairman Gural – How long does it typically take? Is it six months, is it a year for the

Planner Ritter – Well, a lot of it, some of the delay in this, over the years, has been supposedly the Highlands Council is developing proto-types of regulations that they wanted you to use as a base. Doesn't mean you had to adopt them exactly as they drafted them but they wanted you to use these as an outline and then modify them as you see fit. Well, a lot of that stuff hasn't come together even such things as clustering which is one of the things they'd like towns to do more of that at least the last time I talked to them which is had to been two or three months on this subject. They still hadn't got their clustering ordinance together they were going to recommend

and so a lot of this stuff has been churning water waiting for them to get some of their things done so that we can spin our rules and try to reinvent a wheel that they already did. So there has been some delay in that and also just getting the material out and getting it all assembled we had done some (inaudible) land use build out analysis as well as the things you finished first to get that out of the way and so we concentrated on that. I'll bring up to the Board a list of their projects that we have in line and a rough idea of how long it will take to do it. There is no due date in a sense (inaudible)

Member Woolf – That was my question to George. With the time, what we are discussing tonight is there any way you can come up with a timeline on when this would fit into the re-evaluation of the master plan?

Planner Ritter – Yeah, I can help with the timeline in terms of when we will be discussing stuff in front of the Board go through that process. Once it comes up to the Board and goes through the review here, the revisions and up to the Council I can tell you (inaudible).

Member Pryor – You had budgets George?

Planner Ritter – I'm sorry what?

Member Pryor – A budget?

Planner Ritter – I do have budget items, yes

Member Pryor – No, I mean for the grant.

Planner Ritter – Yes we do.

Member Pryor – What are we talking about?

Planner Ritter – I get you the numbers.

Member Pryor – Yeah. I'd like to know if it's \$5,000 or

Planner Ritter – (Inaudible)

Member Pryor – The other thing I touch on, something you mentioned about an outline and so on. I think it's good if you had the discussion first before you commit things to a draft I think that would save a lot of wheels spinning

Planner Ritter – Okay.

Member Pryor – and I would invite you know, input along the way and you'd see whether there is consensus on something before we incorporated it.

Planner Ritter – That'd be fine. I don't have a problem with that. If I understand correctly, then I'll come up with just a verbal presentation of the schedule.

Member Pryor – Yeah, I don't know how everybody feels, that would be my suggestion. I think it's the smoothest way.

Member Olschewski – No. If I may I would like to confirm with Joe because it happened for the last three or four times. We wanted to move ahead and then Joe voiced his concerns and we all nodded and then we walked away and nothing really happened. If George comes up with the timeline and from what you said you'd like to have it done the right way, is that for you sufficient to have it done the right way and what do we have to do?

Member Pryor – You don't show up with an ordinance that changes the master plan and changes the previous ordinance with no study, no backup and that's why the master plan is done here and ordinance are developed consistent with the master plan and that's what I'm saying. Now George is talking about the master plan. I see some planners come in and they give you a draft and everybody reviews it and they start tearing it apart and go up and down and sideways but what I'm suggesting is just what George said he gives an outline, gives you some of the things you want to consider and then he gets some policy decisions to incorporate into his planning. Is that fair George?

Planner Ritter – I think so. I'll give you an outline of where we are going to go.

Mayor McKay – But isn't that what we've been doing here for months.

Member Olschewski – I think.

Member Pryor – I don't think so I mean nobody voted on this that the concrete gets one thing and asphalt gets another and the ordinance reads this and that's not the charge of the Planning Board.

Member Olschewski – Yeah, I would think we voted on our ordinance and not part of the (inaudible).

Member Pryor – I don't know, show me a vote.

Mayor McKay – I don't think, I don't know if there was vote, this is a discussion.

Planner Ritter – Any discussion I thought was directed toward the areas of the industrial district that you thought needed consideration and change. It's really just an outline of the ideas about how

Member Pryor – And that's where we are you know, saying that you know it was a step, I think we, it's time to get going with the real plan.

Planner Ritter – I have no problem with that.

Chairman VanVliet – Is the

Members talking over each other

Mayor McKay – We've been going with the real plan for months.

Chairman VanVliet – revision to their master plans

Mayor McKay – Right?

Member Olschewski – So how do we change it Tom?

Member Pryor – Explain what we did?

Mayor McKay – What?

Member Pryor – Explain to me what we did?

Mayor McKay – We

Member Pryor – Eric came in with an ordinance says we want to do this. They'd been working on an ordinance. I don't see any master plan here.

Mayor McKay – Well there's no master plan yet because the people here are not, do not know in what order this is supposed to go. It seems to be changing all the time. It is very ephemeral. It's not tangible.

Member Pryor – George (inaudible).

Member Olschewski – I just want to make sure that we now how the steps which we need to take to actually move forward and that Joe is satisfied as a member of the Planning Board that the

steps we're taking now are the right steps and we have everything in place to, I feel like we're doing this for the last what three month, four month?

Mayor McKay – I think something like that maybe longer and it doesn't seem to progress. It seems to get lost in the vapor and you know, we always say we have to do this; oh we can't do it yet because we have to wait for the Highlands. Oh but we really can't do that yet because it has to wait for the state and oh you know how it is and we don't want to get sued and the judge says that the asphalt plans are the same as concrete plants – that's just the thoughts that are going around in my head but how do you bring this to a

Chairman VanVliet – How do you bring this without the answers were supposed to get from the Highlands is promulgating a new master plan which we have to conform to. They don't have it yet. How do we conform to something that doesn't exist yet?

Members Olschewski – Okay.

Mayor McKay – So, essentially, then what you say is that we cannot do anything to alter the zoning in the township until such time as the Highlands gives us a format for the master plan.

Chairman VanVliet – Well

Mayor McKay – So, then we are just in, well I'm just saying, is that what you saying? I'm trying to get clarity.

Chairman VanVliet – We're looking at to revise the master plan. Review the master plan. They are offering to pay for it but it's got to be in conformance to their master plan. Their overlay of the master plan for Lopatcong Township. Now if we don't know what that is, how do we conform our master plan to their overlay master plan?

Mayor McKay – So, then the short answer is that we can do nothing on these matters until such time as the Highlands Commission gives us their overlay for the master plan. So, why are we going therefore, going to attempt put out a timeline since we are against a brick wall apparently?

Vice-Chairman Gural – Does the Highlands have a time line for their master plan?

Planner Ritter – I haven't talked to them about that in quite a while. I'll have to call to see where they are in it. Part of coming back to the Board is I will contact them and find out where they are on the various elements. See what they have. I think what we're all saying is that we can go ahead and amend the township zoning ordinance right now if we wanted to but we'd have to amend our master plan. This is the planning area. We'd have to amend our master plan, draw up a draft of this ordinance and go through the process of forwarding it to Council. Having them do

there first reading, second reading, their review. We could do that but what I guess I'm saying is that's on the town. Whatever it costs to do that process would be on the town.

Secretary Dilts – And it might have to be redone when the Highlands comes out with there's.

Member Fox – How do we get back to this every time? We already established I thought that we are going to do it by doing the master plan conformance.

Chairman VanVliet – But you have to realize that all this, no matter what we do, has to be submitted to the Highlands to be approved.

Member Fox – Fine.

Member Pryor – That's understandable.

Member Fox – That's the proper procedure right?

Member Pryor – But George, we're not writing a master plan. We are writing certain things we have to adopt as part of the master plan.

Planner Ritter – Well, it gets all packaged together. You are absolutely right they have some of the outlined verbiage all the stuff and what we are doing is editing, modifying and trying to make it fit better in the town rather than a general package they have assembling that all and bringing it up here for your consideration. That's what we'll do.

Member Fox – Have they suspended all grant money until they issue their go by draft master plan?

Planner Ritter – No as far as I know.

Member Fox – So, we can move forward?

Secretary Dilts – That's what he should confirm. That hey this money you put forth for this grant and you start moving and going forward and getting your feedback as you move forward.

Chairman VanVliet – They don't reimburse you until the thing is complete and they are the ones that deem it complete.

Secretary Dilts – So, we have to spend the money upfront.

Member Woolf- If you want to move forward why don't we just take a vote on what you want to send up to Council.

Member Olschewski – Can I just ask we always talk about sorry, Gary, but we talk about the money spent – how much money are we talking about? Anybody know?

Chairman VanVliet – For review of the master plan?

Member Olschewski – Yeah.

Chairman VanVliet – Everything you are talking about here?

Planner Ritter – I'd have to with the budget you're are talking \$20,000 plus.

Member Olschewski – Okay.

Member Johnson – So, we previously established that we can move forward and we have moved forward I heard we are already in the process of moving forward.

Planner Ritter – Well, I would hope that the criteria you have here set you on (inaudible) how you want to think about your Industrial District in terms of changes and modifications that can be incorporated into the Highlands but into our revisions and our master plan and the center designation and the material that's I here can begin to focus you on what some of the issues are in the Industrial District and how you might want to handle it. Whether we do an ordinance now or three months from now, I mean the point is, is it should help you think about the types of uses or how you want to structure the uses that will be permitted in the Industrial District.

Secretary Dilts – Does anybody want a copy of the master plan?

Member Fox – I printed the ordinance and I looked at it.

Secretary Dilts – We should send that out to everybody so they can look at it.

Attorney Sposaro – Maybe I can jump in here. I think what everyone, what some of us are saying is that we can deal with this in a piece meal fashion; there is nothing illegal about that. There is nothing improper about it but if we are going to do that we need to amend that portion of the master plan that addresses this to make it consistent. We have to pay for it out of taxpayer dollars and it may not get Council support but it may be more difficult to defend. Positive side is making an ordinance that's defensible and you have insurance that uses that you may not want to see expand or come to fruition that doesn't happen so those are the pros and cons.

Member Fox – Well and another con is that when we eventually do go through the master plan re-evaluation it is subject of review and change again.

Attorney Sposaro – Correct.

Member Fox – So, I don't think there is a Board majority who (inaudible) plan by taking a soft count without showing hands I just don't think it is there to go forward separate.

Member Pryor – Recognize that you don't start with the ordinance, you have an objective and I heard everybody's objections and they don't want another asphalt plant. I understand that. Your charge here is the master plan and then the Council are comfortable or uncomfortable with it they'll adopt an ordinance that is consistent with the master plan.

Attorney Sposaro – George can give you a timeline and budget numbers next month but in fairness to George and everyone, we need some direction from the Board if you want to pursue this piece meal or as part of the bigger reexamination of the entire master plan and planning element that admittedly is going to take more time.

Vice-Chairman Gural – I think we need to hear what's going on at the Highlands first.

Chairman VanVliet – That's where the answers have to come from.

Member Johnson – Well we can do this as part of the Highlands Reevaluation of the Master Plan and start now. That's what we said before.

Mayor McKay – We don't have the format so we can't start.

Member Johnson – We don't need the format. We were told earlier we can start now.

Mayor McKay – All right I was just told we couldn't do it because we don't know the format that they want us to follow.

Member Fox – Well, that was one of the arguments brought forward but the Highlands have not suspended all review. If we got our work done and submitted it under the old plan, they say oh but we're still nine months later, were still trying to come up with a new format for you; it's submitted you go under what you have in place.

Members talking over each other

Member Pryor – I don't know. I haven't read the grant. I have a hard time thinking

Chairman VanVliet – The point is they don't have to act on it.

Member Pryor – They tell you to sit on your hands for a year.

Chairman VanVliet – If you submit it to them and they know that the master plan is being developed whether they have the (inaudible) for it or not

Member Fox – Well, we're half way through doing our work and they finally submit it and say okay good (inaudible) everything on the old master plan or they come out with a new format and say (inaudible)

Secretary Dilts – Everybody keeps guessing. Why don't you just let George get your answers and then come back and you'll have something substantial to speak about.

Member Pryor – George will figure it out.

Engineer Sterbenz – I think George you'll give you a memo next meeting with two alternatives; he'll tell you that looking at a master plan with a reexamination of the ROM District and what's involved with that including costs. He mentioned several times that you will pay for that on your own.

Member Pryor – I don't think I need that. I recognize you may not have money to do that.

Engineer Sterbenz – The second is actually (inaudible) approved petition that we have with the Highlands Council and there is a whole series of planning tasks in that petition that has been approved with dollar amounts and under that scenario you are looking at the whole town including the ROM District as part of that and that will be funded. You have two choices here.

Member Fox – And twenty minutes ago George said that he would put something in writing that followed that second option just a rough draft

Members talking over each other

Planner Ritter – I'll do a memo or verbal at the next meeting as scheduled about where they are and we think we are and how we go.

Member Fox – And I like the written aspect instead of verbal. Joe said verbal would be fine. Peter also said he not prefer something in writing. So, I prefer something in writing.

Member talking over each other

Planner Ritter – No problem.

Member Johnson – Quick question for George. I was looking at the list of permitted uses that goes through here and then we get to the SIC codes for the concrete products except block and brick and I notice that asphalt is not listed. Just concrete products but my follow up question is I know that the courts have already said set they are the same product.

Planner Ritter- We have the two definitions for the type of operation that is being proposed for the asphalt and for the concrete. The SIC codes make a distinction between the two in terms of other business activity that takes place.

Member Johnson – So should we not be listing the SIC code for the asphalt?

Planner Ritter – There is a definition of the asphalt plant under the SIC codes. There are two SIC codes describing the process; one for the concrete manufacturer and one for the asphalt. There are two separate codes.

Member Johnson – That was what I meant as we move forward we're going to list them both.

Member Olschewski – Just for the record, there are probably more (inaudible) just want to make sure it's not picking just two there are more (inaudible). I'm just saying.

Member Johnson – So, the Best Management Practice that we're talking about, that's going to be in there regardless of the fact that we're going to make a master plan conformance to the Highlands Act, the Highlands Act says you have to do Best Management Practice. So, were not being any tighter than what we would have to do anyway to have our agreement with the Highlands right?

Planner Ritter – Yeah what we will do is the master plan; will discuss Best Management Practices which will then be turned into part of our land use regulations and attached to the land development regulations in town.

Member Johnson – We would do that anyway. Yeah we have to do that anyway for the Highlands Act.

Planner Ritter – Yes.

Chairman VanVliet – So, I think we're going to proceed with George giving us a list and the estimated costs and be ready for the next meeting. We have an agreement on that to proceed that way?

Member Fox – And what do you mean by lists of costs? The two different options?

Chairman VanVliet – Well, you are going to provide the two options for the Highlands.

Planner Ritter –Right. My understanding is the Board

Members talking over each other

Planner Ritter – bring back to the Board the process using their grant.

Chairman VanVliet – Okay.

Member Pryor – I'll make it easy Mr. Chairman, I make a motion that we proceed under the Highlands Program using the Highlands money.

Chairman VanVliet – Okay

Mayor McKay – Wait a minute that's not particularly understandable to me. I was just told that the Highlands does not give you money until you submit your work product so that means we can't proceed.

Planner Ritter – Well, that's a problem for me not for the town. The money is there. The real question is how much do I want to put out in order to get this work done because it is my dime that is going to ride on it till it's finished, approved and eventually sent to the Highlands.

Mayor McKay – So, you're saying that you don't expect the township to pay you as you go along out of regular township monies.

Engineer Sterbenz – This grant should have been recorded by the CFO several years ago.

Mayor McKay – I don't know if it has been. It should be.

Planner Ritter – George has been working years on this. It took about a year and a half after the work was done.

Member Pryor – George they didn't pay it at 100% completion.

Planner Ritter – On the section of the grant that we completed.

Member Pryor – On a section? So, if there are eight sections as we complete one, you would get paid.

Engineer Sterbenz – There are a whole series of planning tasks.

Chairman VanVliet – Well, I have a motion on the floor, do I hear a second? I'll second it.

Member Pryor – Two options but I don't want to proceed piece meal using our own dollars. I want to do this as part of the Highlands Program under the grant.

Mayor McKay – Is there a time frame that describes this?

Vice-Chairman Gural - I don't think we're prepared to vote on that until George comes back with what the Highlands Plan, the status of what that plan is right now.

Member Pryor – Oh we can defer it, I mean I'm just trying to keep we're going to have to pick one direction or the other.

Vice-Chairman Gural – I think you're voting one way but without enough information.

Member Pryor – We have no budget to do the other.

Mayor McKay – We don't have a firm budget yet in Council.

Member Pryor – I'll withdrawal the motion.

Chairman VanVliet – I withdrawal the second. Any more comments on this subject? If not, I'll open it to public comment.

Attorney for 189 Strykers Road Associates – Two questions for Mr. Ritter. Was there a (inaudible) asphalt fabricating plant; this west (inaudible)? Are there any companies in New Jersey that make asphalt pavers? You mentioned before that this zoning ordinance is written would permit the use that 189 Strykers got approved and is being sustained by the court what they have to prove is the plant I'm talking about not the type of plant the ordinance is talking about. Unless I'm missing something. You said this ordinance wouldn't have an effect upon the asphalt plant that was approved. If you have a pre-existing non-conforming use because the

ordinance change and the building burned down to the ground and the person wants to rebuild that with the insurance proceeds they just got, isn't that also a use variance?

Chairman VanVliet – Anyone else? Seeing none. We'll adjourn the public portion.

Motion to adjourn by Mayor McKay, seconded by Member Pryor. All in favor.

Respectfully submitted,

Margaret B. Dilts
Secretary