

TOWNSHIP OF LOPATCONG
PLANNING BOARD MEETING

June 28, 2017

The meeting of the Planning Board of the Township of Lopatcong was called to order by Chairman Johnson at 7:00 pm.

A silent prayer was offered followed by the Oath of Allegiance.

Chairman Johnson 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 Correa, Fitzsimmons, Fox, Pryor, Schneider, Woolf, Mayor McKay, Vice-Chairman Olschewski, Chairman Johnson. Also present were Engineer Sterbenz and Attorney Sposaro.

Old Business:

Minutes – April 26 Minutes Executive and Regular Minutes were presented for approval. Mayor McKay had a correction to Executive Session on second page, second sentence of last paragraph “Mayor McKay asked Attorney Sposaro for his legal opinion as he thought the man was not legally engaged”. He thought this was more like “he sought him for his legal opinion as he was uncertain whether the man was legally engaged”. Mayor McKay also asked to make a change on Page 35 of the full minutes next to last line the word “even” should be “each”. Motion to approve with corrections by Member Olschewski, seconded by Mayor McKay. Roll call vote:

AYES: Member Correa, Fitzsimmons, Fox, Pryor, Woolf, Mayor McKay, Vice-Chairman Olschewski, Chairman Johnson.

NAYS: Member Schneider

Minutes – May 31st minutes were presented for approval. Tabled until the next meeting by Vice-Chairman Olschewski, seconded by Member Schneider. All in favor.

Resolution – Ferruggia Self-Storage – Block 116, Lot 24.01 – Attorney Sposaro – as originally adopted was adopted at the May meeting. After it was adopted, the applicant's attorney contacted me and brought to my attention that there was some names that were not spelled correctly and there was one substantive change – it was at, I was of the impression when the plans were revised that square footage was under 30,000 square feet and as a result, only one loading dock was necessary and the Board granted a waiver for that. It was brought to my attention that the plans as revised bumped that number up to just over 30,000 square feet so technically; they needed a waiver for two loading docks. I don't think it really matters but I modified the resolution so it would be accurate and consistent with the plans as they were approved. I would recommend, and those are the only changes, so in light of that I would

recommend that the Board, someone make a motion to adopt this amended resolution to move on.
Motion by Mayor McKay

Chairman Johnson – It will replace the last one

Attorney Sposaro – Yes.

Chairman Johnson – Okay, so I have a motion I heard.

Mayor McKay – Yeah, motion

Chairman Johnson – Let's take a second.

Member Pryor – I will second.

Chairman Johnson – Okay roll call:

AYES: Members Correa, Fitzsimmons, Fox, Pryor, Schneider, Woolf, Mayor McKay, Vice-Chairman Olschewski, Chairman Johnson.

NAYS: None

I-78 Commerce Park – Preliminary and Final Site Plan and Preliminary Major Subdivision for the Connector Road. Completeness Review and Determination.

Chairman Johnson – This is the completeness review and determination including the submission of the waiver requests. So our applicant is here I see.

Attorney Kemm – Good evening Board members Karl Kemm on behalf of the applicant. We were here last month and I noticed for that meeting which was carried for that meeting which was carried to tonight. We have received the report from Mr. Sterbenz as well as from your Board Planner reviewing the application submitted and because we're ready to address the completeness items in the report, I think Mr. Sterbenz wanted to address something before we got into the details.

Engineer Sterbenz – Yes, as the Board may recall, I had issued a May 22nd letter. That letter on this particular application dealt exclusively with completeness. We had found when we initially looked at this application that there were some omissions with the initial submission. We also felt that there was a number of inconsistencies in the applications and checklists and other pieces of paperwork that were submitted that if corrected, could actually reduce the number of administrative problems with this application. Mr. McGrath, the applicant's engineer, did make a submission on May 31st which happens to be the date of our last meeting which addressed a number of the items but there are still some missing items that evening and the Board per my suggestion to deem the application to be incomplete. Subsequent to that Mr. McGrath, the applicants engineer did file additional paperwork as well as revised plans with the Board to address the remaining comments so that's what we ended up reviewing. In addition to looking at the completeness of the application, we also looked at the technical aspects of the application so this month's report, the June 26th report, deals with both completeness and technical items. So in

any event, we're going to stick with completeness tonight. I think based on some discussions with Mr. Kemm we had made a recommendation due to the large number of technical comments that there be a meeting after tonight's meeting to go through those comments and you know, work with the applicant on another set of revisions so the length of the review letter could be pared down some so it is a little more manageable for the Board members. So we're not going to be getting into any hearing tonight, but so getting back to the completeness aspects of it, I thought the applicant did a good job in reformatting the checklist and requesting waivers on the checklist and also addressing omissions so first and foremost, I didn't find any in the omissions in this particular application and based on that fact, then what we really need to focus in on at this point, are waivers that have been requested by the applicant for the various applications and they're (inaudible) applications here; we have the Subdivision Plan application, the Preliminary Site Plan application and the Final Site Plan application. With respect to the Preliminary Subdivision Plan application, the checklist that the Township has in the Ordinance is really set up for a residential subdivision and when you do a residential subdivision plan, you would have grading and utilities and landscaping and lighting and all that built into your, into your set of plans and in this particular case, we have a commercial subdivision and all the detailed information that you would have to detailed development, it actually put on the site plan so the subdivision plan is very, very, I guess, it, it really sticks to the lots lines and the easement lines and it doesn't provide any engineering detail on how this project is to be constructed so the applicant is requested waivers for many of those checklist items because this is a commercial subdivision and has an accompanying site plan with it where all those details are being shown. So I'm supportive of all the waivers for the subdivision plan application, from a checklist at this point, for that very reason. Getting to the site plan checklist, again, all the detail having to do with development of this site is, is on the site plan and is addressing the lion share of the site plan items. However, the applicant is not showing the building as part of the site plan application is not working on every area of the site at this point. There are areas to the site that are not part of the development application. A perfect example of that is the nature center in the recreation area. That area is not part, is not really being dealt with as part of this application so we don't need a landscaping plan for that area of the site for example or lighting plan at this point. So there's certain site plan checklist items that really should be waived as well because of the fact that we don't have the building and we don't have development being proposed in all areas of this 100 acre tract. So I'm supportive again of the waivers that are being requested from the preliminary and final site plan checklist for that reason. So in summary, I'm sorry about that long winded explanation, there are no omissions, they've been addressed by Mr. McGrath and Mr. Kemm and No. 2 waivers that have been requested which have been properly formatted this time, I think are all reasonable waivers and I think the Board should approve those waivers and should deem the application to be complete tonight. That's my recommendation.

Member Pryor – Paul, may I ask two questions?

Engineer Sterbenz – Sure.

Member Pryor - I wasn't here, but I did read the minutes. I guess the sign package is not part of this application?

Attorney Kemm – There is a sign, the sign that was on the other side of the road which is not in

the redevelopment area

Member Pryor – It is not in the redevelopment area

Attorney Kemm – Yeah

Member Pryor - and that was going to be taken out of this.

Attorney Kemm – Yeah, we submitted a subsequent letter clarifying that and also we discussed it with Mr. Ritter on the phone the other day just to clarify

Member Pryor – Fine, so that's agreed that's somewhere's else?

Attorney Kemm – Yeah, we're pulling that – yeah we had, it was an oversight that it wasn't in the redevelopment area and would create variances that this Board couldn't hear so that's being withdrawn.

Member Pryor – Yeah, I'm trying not to take too much time. I only had the two questions. The other discussion came up about the landscaping plan for Lock Street and I don't know if that was resolved. It's my feeling if they're going for final, that it should be in there and we can always work out when it's installed so you don't make a mess and destroy things but if you're going for final, I think that, personally I think that, you know, it should be complete in that respect.

Attorney Kemm – I believe when we were here last time, the Board Planner asked us to reach out to him and talk to him about the landscaping and the revised landscaping plan was submitted to him for review, I apologize, I don't remember his comments off the top of my head

Member Pryor – Yeah, I wasn't here so I'm planning a little catch up myself.

Attorney Kemm – regarding yeah, certainly if, you know, if you talk to Mr. Ritter, we did submit a revised landscaping plan addressed his concerns. We still had a few more comments; for example, the different species of trees to be used which we'll work with him on but maybe Mr. McGrath (inaudible).

Member Pryor – Yeah, I think from the Board's perspective if you get final approval, you've committed to complete that plan, I know if there's a problem with going in before constructions completed we can defer that, you know, phases.

Chairman Johnson – I thought there was two landscaping plans submitted.

Engineer Sterbenz – There's one.

Attorney Kemm – Yeah, we just squared

Engineer Sterbenz – There are landscape, there is a landscaping plan and there is planting proposed along Route 22 as well as the along the portion of Lock Street that's proposed to be

realigned. There is more landscaping on, you know, the opposite of the realignment where the nature center is going to be because that's going to be a subject of a future site plan application. Separate site plan application but anyhow, along the realignment on 22 there is a landscaping plan.

Attorney Sposaro – To be clear, George's letter of May 31 this year indicated that (inaudible) that lacked in landscaping proposals only street trees were depicted, a subsequent letter of June 20, 2017 says that landscaping plans consisting of two sheets have been submitted for review and he has comments about them but the applicant was quick to supplement them. There's application to improve that.

Member Pryor – So, that's part of this package.

Attorney Sposaro – Yes to (inaudible) these purposes (inaudible).

Chairman Johnson – Where else have you seen it clarified? It's going to be part of (inaudible)

Member Pryor – I understand that.

Engineer Sterbenz – And our office has technical comments on the landscaping as well that we're going to talk about in a meeting Monday so.

Chairman Johnson – The waivers that they are going for, all of them don't apply Paul?

Engineer Sterbenz – They don't apply

Chairman Johnson – They just don't apply?

Engineer Sterbenz – They don't apply in my opinion.

Chairman Johnson – Okay. I

Engineer Sterbenz – We can always ask for something at a later date if something comes up, if a member of the public comes up and makes the point on something we can always look at it but in this juncture in time I don't think the items that, waivers that they requested for have to be provided.

Attorney Sposaro – Let's move on to the second plan as opposed to the subject two plans

Chairman Johnson – Look's like the site plan one of the waivers for the site plan is the location and dimensions of the lot lines; the property lines

Engineer Sterbenz – Yeah that

Chairman Johnson – That, that

Engineer Sterbenz – typically that's shown on the subdivision plan.

Chairman Johnson – That's on the subdivision plan okay.

Attorney Kemm – If we had come in with just a subdivision, that was really a different set of plans and since we're combining an entire plan package; subdivision, site plan, landscaping issues and other details. Some of the details that would already be on one sheet or over a couple so that's why there's a waiver. It's all in there when you look at all the sheets it's just not on that particular sheet.

Chairman Johnson – Okay so there somewhere else. I gotta work it together

Attorney Kemm – And then in addition, as Mr. Sterbenz indicates some things don't apply. This is not a residential development. The only improvements that are being built is the road and the infrastructure related to and the site plan of it is really grading issue so we're not building a building. We're not, defer to the building it's just you know, leveling area where the building will be built in the future of the construction will be the roads and the infrastructure, the detention basins, things of that nature. So it's a limited application. Some of those things don't require the level of detail that would normally apply would be really necessary at this point.

Chairman Johnson – Some items I definitely understand

Attorney Kemm – Right. As Mr. Sterbenz indicated as we get into detail, I mean for completeness purpose, I appreciate Mr. Sterbenz (microphone garbled his voice) and he's correct and again we'll get into detail, as for example, as Mr. Pryor indicated we need some more detail on landscaping along Lock Street. We can certainly agree to amend the plans to include that, however, I think for purpose of completeness, you, the waivers are appropriate and we requested it frankly.

Member Pryor – I was just gonna if you can clarify this for me and the Board, they don't apply now but at such time that you would build, that you would be back before the Board for a site plan and we would revisit all these things.

Attorney Kemm – Exactly. (Inaudible) and when we do eventually have a building to be built, we will be submitting a site plan again for the actual building exactly where the parking lots are going in and how many spaces, size all the normal nitty gritty you are used to seeing in a site plan will come at the point in time so this is kind of an interim site plan if you will.

Member Pryor – (Inaudible) the development of that site so you'll be

Attorney Kemm – Yeah, you're gonna build

Member Pryor – for the pad site and then you come back.

Attorney Kemm – Yeah, you gotta build the road to access the sites to build the buildings so we kind of doing baby steps but that's how you get there.

Member Fox – (Microphone garbled his voice) separate application or is it just a combined subdivision with a final

Attorney Sposaro – Should be heard simultaneously.

Member Fox – Right. So would we be approving or denying completeness or do these separately

Attorney Sposaro – You can do it collectively.

Member Fox – Okay.

Attorney Sposaro – I don't think you need to do it separately because they're interrelated. They are all going to be considered at the same time.

Member Fox – Right and I appreciate the breakout and to be separate. I just want to make sure this is still just one package.

Member Pryor – Tony, I sent you an email (inaudible). Any chance to think about that?

Attorney Sposaro – I did. Let me discuss the question.

Member Pryor – You want me to read? Well, my concern was, my concern is if the applicant has perfected his status as redeveloper because we still don't have the financial agreement. So how can we go all the way to final approval without that being perfected and one of the reasons I bring that up, I read the minutes last time and the applicant talked about perhaps letting somebody else build and I mean, typically in these agreements you don't assign the agreement without the approval of the town and so on and so do we give the guy a final approval without a financial agreement or is that a necessary agreement and I ask that constructively because that's where we are.

Attorney Sposaro – I didn't look at the issue and it is my opinion that the Board can and should consider the application. The Redevelopment Act does not supersede the Land Use Act under the Section 22 of the Land Use Act because there was abuse by boards historically that did not hear applications until other permits and other governmental approvals were secured. The Land Use Act was amended to explicitly allow an applicant to come before the board and to seek approval subject to securing other governmental approvals and I think coming to an agreement a Pilot Agreement falls within that category.

Member Pryor – So, we can make that a condition at the end?

Attorney Sposaro – Yes. As a practical matter, if they are not going to put a shovel in the ground, there's a valid Pilot Agreement so I don't think, we don't want them to

Member Pryor – I rather bring it up now than a year from now.

Attorney Sposaro – I'm glad that you raised the issue but that's my opinion on this. I think we should move forward with this.

Chairman Johnson – Joe, thanks for bringing that up. So, that won't affect our completeness determination then?

Attorney Sposaro – No.

Chairman Johnson – Okay.

Attorney Sposaro – Nor will it affect your determination on the merits when you get there.

Chairman Johnson – Okay. Do you have anything you want to add? I'm just getting

Attorney Kemm – No, no. I think Mr. Sposaro covered that effectively. No need to comment further, thank you.

Member Fox – Some of the items in the subdivision checklist waiver I can see not being applicable to subdivision but there going be addressed in site plan but then some of the site plan ones, I guess if there not on the subdivision list, they don't have to be provided?

Engineer Sterbenz – Well, let me just go through them with you. Proposed lot areas Checklist Item 10 that is actually on the subdivision plan. So it's been addressed by the, they're requesting a waiver from the site plan checklist and the reason for that is it's on the subdivision plan. Eleven – the location, dimension of lot lines that's on the subdivision plan. Sidewalk locations – there are no sidewalks at this stage of the development scheme; they're only providing the roadway network coming into and out of the site. Twenty-eight – location capacity and dimensions of all off-street parking areas. There are no parking areas because there's no building yet so they requested a waiver. Twenty-nine – parking space calculations, again, there's no building so we have no need to calculate parking spaces. Fence locations – there is some fencing shown on the plan in association with some of the retaining walls. That's something they've requested a waiver on because again, what they're building here and so we don't know if they need fencing at this point in other locations. Checklist Item 36 – right-of-way and easement information that's on the subdivision plan. Checklist Item 37 – location, size and description of any lands to be dedicated to the Township or County that is actually on the subdivision plan at this point. Thirty-nine – location of landscaped areas to be retained again, they're only working in limited areas of the site. They're not building the buildings so that's not totally relevant at that point. Where the road is shown, they are showing wooded areas that are to be retained but again, it is not across the whole site at this point. Refuse areas plans and details again there's no building so there's no refuse area. Forty-six – preliminary architectural plans for building seven, there's no building seven yet. We don't know what that's going to look like at this point cause there's no request for that approval. Storage area location – same thing we don't have an application for building so there's no need for that information. A waiver's been requested. Utility line locations and sites – that's really a partial waiver, they are showing some utility; the utilities is part of this application. It is really running co-terminus with the roadway but again it's not being shown within the site because there's no building yet. W-9 Form submission. I know a

waiver's been requested. I thought we had a W-9 Form so

Attorney Kemm – We actually meant to talk to you about that. We spoke to you today. We have submitted the W-9. You know, I don't know if I copied you Paul. They just sent it right to the Board Secretary, so I'll get you a copy, that'll be fine.

Engineer Sterbenz – Off tract improvement requirement compliance – again at this point, we don't really know what off-tract improvements that are going to be needed so a waiver's been requested. There's some off-site improvements that are being shown right now along the frontage having to do with the intersection improvements but we don't know at this juncture in time about off-tract improvements so they've requested a waiver. Then on the final site plan, plan scale has been cited for waiver. I don't have a problem with that. Some of the sheets needed to have a very small scale in order to fit all the information on these particular sheets so they weren't on multiple sheets and again, provisions for refuse and garbage disposal, again there's no need for that at this point because there's no building proposed as part of this application.

Chairman Johnson – Paul, real quick, the plans are still to scale it's just that they haven't asked for a waiver to change the scale?

Engineer Sterbenz – Correct.

Chairman Johnson – Okay.

Attorney Sposaro – It's just a different scale.

Chairman Johnson – Gotta make sure.

Attorney Kemm – Yeah, then the ordinance requires a specific scale.

Chairman Johnson – Okay, good. It might not be the correct time for completeness but I wanted to ask Joe if we have heard anything from New Jersey DOT yet on

Member Pryor – No. You are all familiar with the string of letters that have gone out. The last one was from Senator Doherty requesting that the DOT, he's aware of all the whole benefits but he's asking the DOT to give it, give consideration to our concerns and that was it. I've only gotten one letter back

Attorney Sposaro – I really think there should be a discussion at the public hearing although the applicant noticed for this hearing the agenda indicates that it's on for completeness only and this really goes to the merits. I think it's more appropriate to discuss this when we have the hearing on the merits of the application.

Chairman Johnson – As it was part of the application it was kind of, I just wanted to get the update on it since it was part of the application but that satisfy's me to where we are now so

Member Pryor – But you know, I can see Eric's point, if, if that were available, when we're going to see that at this point as part of the submission so

Attorney Sposaro – I am certain that once the applicant hears from the DOT we are also going to be hearing from the DOT and we'll all know.

Member Pryor – I am too, but I get Eric's point, did we hear

Attorney Kemm – I mean I appreciate Mr. Sposaro's point that, you know and we will discuss it more at the hearing on the site plan subdivision but just since it was a question that everyone has, we have not heard back from DOT. We're expecting so June 15th was the date under the regulations but the regulations are guidelines so it's not as if we can go, so you haven't given us an approval, therefore, we're approved. So we're still waiting to hear something formally from them. As soon as we get anything in writing we'll be submitting that to you of course this Board and the professionals as well as Phillipsburg as well. We're keeping everyone apprised of whatever we receive from DOT.

Chairman Johnson – If there are no further questions, I'll take a motion to deem this complete both together; you have subdivision and the site plan.

Member Pryor – Before I make that motion, I just want to confirm with Paul, you're ultimately charged with the technical review. You believe that with these waivers, we'll have all the information we need to do, for you to do a complete

Engineer Sterbenz – I think there's enough information for the Board to review this application and that's why I'm recommending the waivers.

Vice-Chairman Olschewski – Just to confirm what time, if any point in time we would like to see any of these items, we can?

Engineer Sterbenz – Yes. The law allows for that.

Vice-Chairman Olschewski – Thank you.

Member Pryor – On the basis of our discussion and Paul's recommendation, I'll make a motion that we deem this application complete.

Chairman Johnson – Okay, do I have a second?

Member Fox – I'll second it.

Chairman Johnson – Okay, we'll do the roll call on this on.

AYES: Members Correa, Fitzsimmons, Fox, Pryor, Schneider, Woolf, Mayor McKay, Vice-Chairman Olschewski, Chairman Johnson.

NAYS: None

Attorney Sposaro – As it relates to this application; I think there are a couple issues we should talk about this evening. When and number one is when we're going to hear this application. Our next meeting is in July but there are I think a couple of practical problems with that. The plans still need some substantial revision. I'm sure the applicant is putting significant pressure on its engineer to make those changes but Paul generated a twenty page letter and there's a lot to be done here. The other complicating factor and so the plans would need to be revised very quickly in order to get Paul and his staff the opportunity to review them in advance of the July meeting. Complicating matters further is that Paul's going on vacation and would not be here for the regularly scheduled July meeting. Although he has an engineer in his office who is intimately familiar with the plans, with Paul's experience before this Board and the Township that spans decades, I personally would like to see him present and I suspect the Board would as well and I mean that with no disrespect to Adam. So, the question is whether you want to forge ahead and schedule this for July or whether you want to hear this application in August. I think the applicant may request a special meeting. I think it's going to be problematic to get something scheduled before the regularly scheduled July meeting. I just think it's going to be difficult with Paul's vacation schedule. If anything, the meeting would have to be moved up meaning, it would be earlier in time which would even lesson the time for the plan revisions and their review. We're sort of getting painted in a corner here.

Chairman Johnson – I think we would need more time for our professionals to review this.

Attorney Sposaro – Karl, what's you client's view on this?

Attorney Kemm – I think your point is well taken and as we spoken and certainly I know that the engineer in Paul's office who's certainly well qualified. Paul has just intimate knowledge of this and the relationship with the Board that I think would be helpful. I think your recommendation of an August meeting would be best suited. Is it even possible to do a special meeting in August, this is going to be quite a lengthy application and if the Board would consider that. That way you can keep your regular meeting for other applications that may come up. We're going to be sensitive to smaller applications within the town.

Attorney Sposaro – We have nothing else in the hopper right now do we Beth? Any other applications pending?

Secretary Dilts – No.

Chairman Johnson – I think the timing of it works out for the August meeting. It would give you three or four weeks to address all the comments and that would give Paul from one month to look at it and make comments and possibly even submit them to you and get them addressed before we even have the August meeting. So by the time August comes around, we should haves pretty good package in front of us.

Attorney Kemm – Yeah we're actually meeting on Monday. A lot of the revisions that Paul has asked for and his technical comments in the report before you tonight, we've already addressed a lot of those. The plans are already in revision as we speak so there'll be plenty of time for Paul to

do that we want to give him and his office sufficient time

Engineer Sterbenz – What might be, what might be prudent, I guess if we're going to look at special meetings in August? I have a very jammed up schedule when I get back from vacation. Our regular meeting is the 23rd. It's pretty early in the month. If you are going to do a special meeting to try to move along the public hearing process on this, maybe you do something in the fifth week that month. Maybe you do a special meeting on the 30th like a week after the regular meeting so that there is a continuum of a discussion and you know, perhaps we can, you know, gives the public the ability to review this, you know, within a week period two times and the Board to really stay focused on it. I think that would be really the best way to handle that if you're going to do a special meeting but I think earlier in the month is going to be very difficult. I have very little availability when I come back; I'm going to be crunched.

Attorney Sposaro – I think it's a great idea. I think the fifth week of the month is always a great week for land use professionals because we don't have regularly scheduled meetings so that's the odd week where we get to stay home at night but if the 30th works for everyone else, or a majority of you

Attorney Kemm – So, we can start on the 23rd and finish on the 30th?

Attorney Sposaro – Does that fit your schedule Karl?

Attorney Kemm – Yeah, we can start on the 23rd and finish on the 30th will be great. We'll take care of the additional notice

Attorney Sposaro – That we can continue on the 30th.

Attorney Kemm – Yes, right. It is a large application realize that and like I say we're trying to get the plans clarified to, you know, so we meet Paul's comments as well as to make it easier for the Board to digest. We do appreciate that report.

Chairman Johnson – I think that gives us time. We just want to make sure that our Planner has that date available and it's good for both of you, I think so.

Attorney Sposaro – If George is not available he has a partner that can cover but I think with enough notice he should be able to. A couple other things that I wanted to mention. I know this is an important application to this Board and to the community. I've never been on this property and as a result of that, I contacted the applicant's attorney and requested a tour earlier today because I wanted to see with my own eyes the layout of the property, see where the municipal boundary was, see the dilapidated and standing buildings, see where the point of ingress and egress was, the footprint of the building that's proposed for Lopatcong, and it was a real eye opener to me. In one other application, one application that I handled on behalf of an applicant in Mendham Borough I suggested to the Board and they agreed that immediately prior to the public meeting that the Board went out to the site to see the property. It's difficult with a set of plans of this magnitude and this complexity to look at it and really understand what's going on. I had suggested to the applicant's attorney that we may want to employ that approach here. I think

they think it's a good idea, I think it is a good idea and we would have to provide some kind of notice to the, we have to publish something wouldn't we Beth?

Secretary Dilts -Yes.

Attorney Kemm - Yeah, a special meeting.

Attorney Sposaro – Because technically it's a special meeting. So, everybody would know what the ground rules are. You can look around, you can, I guess, I would just refrain from talking about the application and you can't really ask any questions. I think what we'll do is we'll allow the applicant to; there'll be a spokesperson that can just point things out. I've asked them to flag the location of the access point on Route 22, the four corners of the building, the hypothetically building that's proposed in Lopatcong and they can show you where Lock Streets being aligned. A lot of it made a lot more sense to me when I was out here today so is that something you're agreeable to Karl?

Attorney Kemm – Yeah we, we had discussed that and I think you seemed to really to find it helped put things in perspective and we certainly are willing to accommodate the Board and can arrange transportation and do that if the Board would like to go out on site as indicated. You know, we'll just point out where things are and it's really not a good idea to have discussion but if you know, if anything we can point out like that's the location of the interchange, you not clear, obviously ask we'll clarify but we'd certainly be amenable to that. It is often had especially something of this size.

Attorney Sposaro – Why don't we say then that we'll all convene here at 5:45 to give us a few minutes to get over to the property? That you give us the tour and we can be back here for 7 and start the meeting.

Member Schneider – Is this for July you're talking or August?

Attorney Sposaro – We're talking about August.

Chairman Johnson – This would be the August. So the August regular meeting

Attorney Kemm – Yeah, the 23rd. Yeah, we'll set it for like 5 even. We assume August 23rd at 5 pm.

Chairman Johnson – Can most people, I can accommodate that.

Member Correa – That'd be better 5:45 for all us to come and be back by 7.

Member Schneider – Yeah, it's too early 5.

Chairman Johnson – That's it. Let's meet here at 5:30.

Attorney Kemm – All right well if we need to change it between now and if other people look at

their schedule at home and their spouses realize their scheduled for something you didn't know about, we'll assume 5:30 and again, we will work with the Clerk to prepare a notice. Yeah and then, one second, so again to make things easier because where we have to go on the property, you know, walking and vehicles is not as easy so you know Tony, we are going to arrange for a bus to take the Board members over there so we can get on the site because it is under demolition so there's security. We don't want people wondering around potentially getting hurt and then to get out to the Lopat portion is the road's not really fit for your average vehicle. So if you can let us know the total number of people coming obviously, there's the Board staff as well as Board members, if less show up at least we have the right size vehicle and we'll plan on being here at 5:30 on August 23rd and if we need to change that by 15 minutes, ½ hour, you let us know. We'll accommodate and again, I work with Mr. Sposaro, the Board Secretary to make sure the proper notice is given and anything else we need to do on the Open Public Meetings Act.

Attorney Sposaro – The reason there's notice to the public, I presume a member of the public could show up and they would like to see it for themselves as well. I think they are entitled to it. So just plan on a bus of a reasonable size. If we need to provide some additional transportation, we'll figure it out.

Attorney Kemm – Okay.

Chairman Johnson – So, this would be then, this bus tour, this tour would be open to the public then if they

Attorney Kemm- Yeah, I'm not so sure about that Tony. You and I should look at that legal issue. I think normally a site visit is for the Board. It's noticed because it is a quorum of the Board and it's public business and under the Open Public Meetings Act that triggers a notice issue but you and I should look at that and talk.

Chairman Johnson – If it's for Board members only make sure it's in that notice

Attorney Kemm – Good pointer.

Attorney Sposaro – Karl and I will discuss that so we can, Beth, I can let you know about that issue.

Chairman Johnson – All right, thank you.

Attorney Sposaro – Last topic that I wanted to raise is because of the importance of this application, I suggested to the applicant's attorney that they bring a court reporter. Sometimes when a court reporter comes in the Board might feel intimidated or somebody's rattling (inaudible) do you want to prove this or we're going to sue. I think they should bring in a court reporter. It is difficult for Beth, if not impossible for her at times to discern who is saying what with the number of people that are talking. We are not all as disciplined as we'd like to be and everything doesn't always come through chair and yes it is an expense to the applicant but I think the purpose of the record that's entirely clear, I think we can all benefit from that and I've encourage them to bring court reporters so we have an accurate record. Member Schneider – I

agree.

Secretary Dilts – They will provide a transcript and I don't have to correct – sometimes they don't prepare it they just take it and hold it.

Attorney Kemm – We'll prepare it as well as provide it

Secretary Dilts – Okay.

Attorney Kemm – And we'll take care of that and have the court reporter at the next meeting and you tell us where you want to set up so she's not

Engineer Sterbenz – Just to confirm I guess we have two special notices; the field inspection on the 23rd and the special meeting on the 30th.

Attorney Kemm – Correct.

Engineer Sterbenz – Okay.

Attorney Sposaro – Correct.

Attorney Kemm – As an attorney I will work with the Board Secretary to make sure we got all the proper notices in order and we'll take care of any costs associated with that as well.

Attorney Sposaro – And the witnesses (inaudible) that hearing.

Chairman Johnson – Any questions or comments. Tony, I think those are all great ideas.

Attorney Sposaro – That's it I think we're done for tonight.

Chairman Johnson – Thank you very much.

Attorney Kemm – I appreciate your time.

Highlands/Master Plan

Chairman Johnson stated that although Planner George Ritter was not present this evening he asked if any of the Board members had any topics they would want to discuss at the next meeting. He handed everyone an 11X17 color copy of the map of the Morris Park area for anyone who would be making a trip out to the field. He also noted that other than a self-guided tour, members in a group could not be greater than a quorum; four members or less would be the target number.

Discussions of Concerns by Board Members:

Chairman Johnson said now is the time to speak if a member of the Board had concerns and opened the floor for discussion.

Vice-Chairman Olschewski brought up concerns he had regarding the Council's Executive Session wherein possibly the council discussed Planning Board conflict of interest issues and he raised the possibility that what they discussed did not qualify for discussion under the Open Public Meetings Act. Member Pryor noted that the Township Attorney, Katrina Campbell makes the decisions as to what qualifies to be discussed in Executive Session and suggested Board Attorney Sposaro reach out to Attorney Campbell. Attorney Sposaro noted he did speak to Attorney Campbell in advance of the meeting with regards to a grievance filed by a municipal employee. Member Pryor also noted that the Council funds the Board and the Highlands Grant. He said the Township's Ordinance and the Municipal Land Use Act clearly talks about conflict of interest and the proper way to deal with them. He said Council is empowered and has an obligation to discuss. Attorney Sposaro confirmed that there is an ordinance and thought it was a topic Council could discuss but stated the Planning Board was capable of policing itself and noted that the advice Council was getting was not to meddle in the Planning Board's business. Vice-Chairman Olschewski felt this was not an Executive Session item for Council and made a motion to authorize Attorney Sposaro to investigate the discussion of conflict of interest, whether it was discussed in Executive Session and acquire the minutes to the meeting. This was seconded by Member Schneider. A roll call by the majority of the members carried the motion with abstentions by Members Fox, Pryor and Woolf.

Vice-Chairman Olschewski stated that in Joe's letter he outlined that the Council agreed that members of the Board all had some level of conflicts of interest and questioned how this decision could be made without a proper hearing having been conducted; he felt this is not fair or ethical and accused Member Pryor of having a back door deal with the Council. Member Pryor objected to everything Vice-Chairman Olschewski was saying and said Peter's representation was filtered and not accurate. Although Vice-Chairman Olschewski made a motion to have Joe remove that statement from his letter with Member Schneider objecting also, Attorney Sposaro said you cannot edit what other people write and what they want to submit. Chairman Johnson suggested to Vice-Chairman Olschewski that he could refute this in his letter to the Local Finance Board himself. Attorney Sposaro said the time frame for submission of letter to the Local Finance Board would stand at June 30th and he would then put the package together and send off to the Board for their review and decision. He noted he would mail this package after the 5th of July due to the holiday and he would accept any Board members letters up until the 5th.

Vice-Chairman Olschewski stated that he was committed to the Board and how he looked forward to working on the matters before the Board and expressed the disappointment that he felt with Member Pryor road blocking everything he was trying to accomplish and told him that he would approach the Council to replace him with somebody else. Member Pryor informed the Board he is an engineer and had a great deal of experience and noted he appeared before dozens of boards over the years as well as having served on Zoning Boards of Adjustment, Planning Boards and Land Use Boards. He asked Vice-Chairman Olschewski if he was indeed not a contributor to which Vice-Chairman Olschewski acknowledged that he absolutely was.

Member Pryor said he knew the Land Use Law very well and said he felt strongly about how the Board should function. He would always speak up if he felt the Board was not following the Municipal Land Use Law. Member Fox thought the Board would be weak without Member

Pryor. Member Schneider stated she thought everyone contributed one way or the other to the Board and acknowledged Member Pryor's experience. She did state that in her opinion, that although Member Pryor has valuable information, he also had some hypocritical things; that he wants to follow everything, follow the law, follow this, follow that, but there was some clear cut things she believed that did not follow the law that he was willing to overlook. Contracts that are here - two were illegal; one being issued illegally and another one was no resolutions for years. Member Pryor responded he has only been on the Board for a year and a half and the issue came up really the last two, three months and the matter was put in motion four years ago with two different attorneys having looked at it and could not come to an agreement. Member Pryor said no one said it was illegal and he also reminded the Board that Attorney Sposaro stated you would look like the village idiots if you did not continue. This was in reference to the Carbone contract. Mayor McKay said that no one said it was illegal but what kind of importance does it have.

Resignation:

Member Fox said he would be leaving the Board and this was probably his last meeting. He would be moving out of Lopatcong. He noted he was the dual member and sat on the Environmental Board as well. Members provided their many thanks for his service.

Public Comment:

Motion by Vice-Chairman Olschewski, seconded by Mayor McKay.

Kathryn Devos – She noted that she requested Member Pryor's letter through an Opra Request. Attorney's Sposaro stated he would not stand in the way of its release because Member Pryor noted he wanted it released. She also stated she was the one who made an Opra Request for the video of the January 25th meeting wherein Member Schneider left the meeting for two minutes to return an iPad belonging to one of the applicant's experts but Ms. Schneider denied having left the room. Ms. Schneider replied that she thought this was not leaving the meeting by going out into the hall to return this item.

John Betz – Asked for a copy of the map of Morris Park. Also noted Member Pryor had a wealth of knowledge and felt he did a great job for the Council and the Planning Board.

Gary VanVliet – He indicated from his prospective that undue pressure was being placed upon the Board Attorney regarding the conflicts of interest and Board member representation as individuals not as a full Board and could be running into Rice problems with regard to accusations back and forth before the Council. Thought it was unfair and they should retain their own attorney in his opinion.

Motion to close Public Comment by Member Schneider, seconded by Vice-Chairman Olschewski.

Motion to adjourn the meeting by Member Schneider, seconded by Member Pryor. All in favor.

Respectfully submitted,
Margaret B. Dilts, Secretary

