

REORGANIZATION & BUSINESS MEETING

Lebanon Township Planning Board
Municipal Building 530 West Hill Road Glen Gardner, N.J.

January 15, 2013

The 867th Meeting of the Lebanon Township Planning Board was called to order at 7:00 p.m. by Board Clerk Ms. Glashoff. Present were: Mr. Milkowski, Mr. Schmidt, Mr. Gerlich, Mr. Piasecki, Mr. MacQueen, Ms. Bleck, Mr. Weiler, Mr. McKee, Mr. Skidmore, Mr. Laul, Attorney Gallina, Planner Bolan and Engineer Risse. **Excused:** Mr. Rich

In compliance with the "Open Public Meetings Act" notice is hereby given that the Lebanon Township Planning Board has scheduled their Reorganization & Business Meeting for Tuesday January 15, 2013 at 7:00 p.m. prevailing time in the Main Meeting Room in the Municipal Building. The Business portion of the meeting will begin at the conclusion of the Reorganization Meeting. Notice of this meeting was published in the Hunterdon Review on December 26, 2012. Copies of the agenda were faxed to the Hunterdon Review, Hunterdon County Democrat, Express Times, Courier News, Star Ledger and posted on the bulletin board on January 7, 2013.

SWEAR IN:	Tom McKee, Mayor	Class I	1 Year Term
	Art Gerlich	Class II	1 Year Term
	Ron Milkowski, Committeeman	Class III	1 Year Term
	Marc Laul	Class IV	2 Year Term Alternate I

Ms. Glashoff asked Attorney Gallina to do the honor of swearing in the above list of board members. Congratulations to all.

NOMINATIONS FOR CHAIRMAN:

Ms. Glashoff asked for nominations for Chairman. Motion by Ms. Bleck and seconded by Mr. Weiler to nominate Mr. MacQueen as Chairman. Being no further nominations, motion by Ms. Bleck and seconded by Mr. Gerlich to close the nominations. Unanimously approved. Congratulations to Mr. MacQueen. At this time, Chairman MacQueen took over the meeting.

NOMINATIONS FOR VICE CHAIR:

Chairman MacQueen asked for nominations for Vice Chair. Motion by Mr. MacQueen and seconded by Mr. Schmidt to appoint Ms. Bleck as Vice Chair. Being no further nominations, motion by Mr. Milkowski and seconded by Mr. Gerlich to close the nominations. Unanimously approved.

NOMINATIONS FOR SECRETARY:

Motion by Ms. Bleck and seconded by Mr. Milkowski to appoint Mr. Gerlich as Board Secretary. Being no further nominations, motion by Ms. Bleck and seconded by Mr. Piasecki to close the nominations. Unanimously approved.

NOMINATIONS FOR ASSISTANT SECRETARY:

Motion by Ms. Bleck and seconded by Mr. Milkowski to appoint Mr. Weiler as Assistant Board Secretary. Being no further nominations, motion by Ms. Bleck and seconded by Mr. Laul to close the nominations. Unanimously approved.

APPOINTMENTS:

- a. John Gallina, Esq.
- b. Michael Bolan, PP
- c. Stephen Risse, Engr. - Bayer/Risse Engrs.
- d. Gail W. Glashoff, Board Clerk
- e. Mark Blount, Esq. (Alternate Board Attorney)
- f. James Kyle, PP (Alternate Planner)
- g. Jess Symonds, PE (Alternate Engineer)

Ms. Glashoff informed the board that she has not heard back from Planner Kyle and Engineer Symonds. Planner Bolan said that Planner Kyle would like to be reappointed. Chairman MacQueen read the list of appointments and asked for a motion to approve the list. Motion by Mr. Gerlich and seconded by Ms. Bleck to appoint all of the above people. Unanimously approved.

ADOPT RESOLUTIONS:

- a. Authorizing Agreement for Professional Services
- b. Annual Notice Schedule 2013

Ms. Glashoff reviewed for the board the two resolutions for adoption. Motion by Ms. Bleck and seconded by Mr. Gerlich to adopt both Resolutions as presented. Unanimously approved.

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ADOPT RESOLUTION FOR PROFESSIONALS ON PAY TO PLAY:

Motion by Mr. Piasecki and seconded by Mr. Schmidt to adopt the Resolution for Professionals on Pay to Play. Unanimously approved.

ADOPT PROFESSIONAL CONTRACTS:

- a. John Gallina, Esq.*
- b. Michael Bolan, PP*
- c. Stephen Risse, Engr. (Bayer/Risse Engrs.)*
- d. Mark Blount, Esq. (Alternate Attorney)*
- e. James Kyle, PP (Alternate Planner)*
- f. Jess Symonds, Engr. (Alternate Engr.)*

Ms. Glashoff informed the board that she had contacted Planner Kyle and Engineer Symonds and is waiting on their contracts. Ms. Glashoff noted that she did get a letter from Attorney Mark Blount who is still interested in serving as Alternate Attorney, also in reviewing the contracts there were no increases in any of the contracts, all stayed the same as last year. Ms. Glashoff said once she receives the two contracts they will be placed on the next agenda for adoption. Motion by Mr. Schmidt and seconded by Mr. Gerlich to approve the contracts for Attorney Gallina, Planner Bolan, Bayer/Risse Engineering and Attorney Blount. Unanimously approved.

APPOINT APPLICATION REVIEW COMMITTEE:

The following board members will serve on the Review Committee: Mr. Rich, Ms. Bleck, Mr. Skidmore, along with the Board Clerk Ms. Glashoff. Mr. Milkowski will serve as an Alternate. Motion by Mr. Gerlich and seconded by Mr. Laul to appoint the approve mentioned board members. Unanimously approved.

PRESENTATION OF MINUTES: December 4, 2012 Executive Session

Motion by Mr. Schmidt and seconded by Ms. Bleck to approve the Executive Session minutes as presented. Approved by those eligible to vote. Abstain: Mr. Piasecki, Mr. Gerlich, Mr. McKee, Mr. Weiler

December 4, 2012 Regular Meeting

Motion by Ms. Bleck and seconded by Mr. Gerlich to approve the Regular Meeting minutes as corrected. Approved by those eligible to vote. Abstain: Mr. Piasecki, Mr. Gerlich, Mr. McKee, Mr. Weiler.

ITEMS FOR DISCUSSION:

a. Highlands Update – Planner Bolan

Planner Bolan said the Land Use Ordinance that was being revised by the Highlands last July is why we held off on our continued review of the ordinance, then the ordinance came out the end of December. Planner Bolan said he hasn't had a chance to review it thoroughly and give the board a memo on it because the board had about a half dozen items that we had addressed in a letter to them back in May and they responded in June and we were going back and forth with them and then everything shut down and we waited for the revised Ordinance. Planner Bolan said in looking over the ordinance, the one thing they revised and that he thought would be acceptable to the board was in the Agricultural Resource Area provision which they clarified and it only applies if you have a cluster development. Planner Bolan said the chances of this Township having a Cluster Development are slim to none considering the requirements of the DEP.

Planner Bolan said when he puts the memo together from the revised Ordinance which is less pages than the one the board has now, he asked if he could just give the board the relevant pages where they addressed these items. The Board agreed and Planner Bolan said he will mail it prior to the February 5th meeting. The other item on the Highlands Update is one of the plan elements that is funded is the Green Building and Environmental Sustainability Plan. Planner Bolan said he was preparing a proposal. When the board had their meeting in December and Nancy Lawler was present from the Environmental Commission, Planner Bolan said he did not know that the Township was participating in the Sustainable New Jersey Program. Planner Bolan said he went to the Environmental Meeting in December and found out what they were doing. They have a work program where they have to submit certain items which they have to submit for certification which makes them grant eligible. He then went back to the Highlands and told them he put together in his proposal what the Environmental Commission was doing and they said that was fine. Planner Bolan said if you go into the Website you can see what the Environmental Commission is doing with the Sustainable Program.

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b. Quarry Ordinances (Glen Gardner, Hopewell Twp & Delaware Twp.)

Attorney Gallina said due to the previous issues that were discussed, he suggested that Mr. Milkowski recused himself due to a conflict of interest. Mr. Milkowski stepped down and sat in the audience. Chairman MacQueen said he contacted Ms. Lawler the day after the board's last meeting and asked her if she would be able to attend the board's next meeting and gave her a couple of ideas because she said she wanted to stay on top of this issue. Chairman MacQueen gave Ms. Lawler some information and names of people to call and those who are rehabilitating quarries and how they are dealing with the municipalities. Chairman MacQueen said he had Ms. Glashoff get a few more quarry ordinances and she informed him that she spoke to someone in Glen Gardner and they will be revising their ordinance. Ms. Glashoff said when she called Glen Gardner she spoke with Marilyn the Municipal Clerk and she informed her that they will be revising the ordinance. Also, Ms. Glashoff asked Marilyn if Glen Gardner is notified when there is blasting. Marilyn told her that they are only notified when there is a major heavy blasting otherwise they are not informed. Chairman MacQueen asked if there is a guideline for blasting. No one knew the answer. Ms. Glashoff said in speaking with Marilyn regarding the blasting, that might be one of the items they will be addressing. Chairman MacQueen asked if the board had any questions regarding the ordinances.. Planner Bolan said the only ordinance that deals with zoning standards is the Hopewell Twp. Ordinance. They also have a mining District. At the last meeting the board discussed creating a new zoning district. The quarry ordinance that was sent via the Township Committee, the first sentence refers to a mining district. Hopewell Township has two Quarries, one on Route 31 which is the Trap Rock Pennington Quarry and the other is on Route 29 which is also Trap Rock. A lot of the quarry property was sold to the Park. Planner Bolan said if the board wants to look at zoning standards, not licensing standards then the Hopewell Township Ordinance would be the one to review.

Planner Bolan said the Glen Gardner Licensing Standards dates back to 1969 and the Hopewell Ordinance dates back to the late 1970's. The Delaware Township Ordinance regarding Licensing is dated 2012. Planner Bolan noted in reviewing the Licensing standards the board should refer to the Delaware Township Ordinance. Planner Bolan also noted that the Hopewell Ordinance dates back to the late 1970's references blasting provisions on pages 17-25. Chairman MacQueen said the board needs to decide whether they want to have a Licensing Ordinance or a Zone Change and asked the board for input. Mr. Skidmore said at the last meeting the question was asked why did the Township Committee want the board to look at this ordinance. The board deferred to Ms. Lawler from the Environmental Commission. The explanation was how we got where we are, but not what the Township Committee was actually looking for in an ordinance was actually answered. Mr. Skidmore said in reading these ordinances, the question is what does the Township want to do and does the Township Committee want us to find answers. Mr. Laul said it is either how we can make money for the Township or how to keep them out of the Township. Mr. Laul asked do we want to stop them from acquiring more land. Ms. Bleck said there seems to be too many questions that need to be answered and to entertain ordinances. Ms. Bleck said it doesn't look like they are fulfilling their requirements with Glen Gardner and referred to a comment by Ms. Lawler that it seems that they are already digging on the 34 acres and the quarry wants to expand and acquire more land. Ms. Bleck said that maybe the quarry has come to the end and they shouldn't be expanding anymore. Per Ms. Bleck, Mr. Schmidt had asked if the quarry had paid the fine and the answer was yes. Ms. Bleck said that we really need more information and what is Glen Gardner doing about this and also expressed concern with the water supply and apparently, it is affecting the water supply and wanted to know why we would consider an ordinance when it could be a moot point.

Engineer Risse said he has gathered some information. Engineer Risse passed out to the board an aerial view of the quarry. At this point there were several conversations between board members. Chairman MacQueen asked Engineer Risse to explain what is going on. Engineer Risse referred back to the board's discussion at the last board meeting. The questions were, how far along are they, how much life do they have left and why are they trying to expand where they are now. Engineer Risse hand out a color vision of the quarry location which he obtained from the County's GIS website. It shows where the property boundaries lines are approximately in relation to the aerial. The red lines are the original contours and the color is the aerial of what the quarry looks like which is fairly current. The other survey Engineer Risse said he obtained from Glen Gardner's Engineer Bob Clerico which is from a 2010 survey and you can see where they went over the property line. Per Engineer Risse, a gentleman stopped in to his office yesterday to have them look at his select fill materials (sand materials) from the quarry and since he wasn't at the office when the man was there, he called and asked about having a tour of the quarry. Chairman MacQueen said he would like to be included in the tour. Chairman MacQueen said what triggered all this was Ms. Lawler finding out about the land swap and from there was discussion on water supply, trees etc. Chairman MacQueen said because of this the Environmental Commission wanted the board to get involved. The Commission is looking for the board to do something so the land swap can't happen. If it hadn't been for the quarry needing more land and wanting to do a land swap, this would not have come to the Township Committee and Planning Board. During the board's discussion, it was noted getting more information was definitely needed. Chairman MacQueen asked the board for input on what information we need next. Mr. Schmidt said he would like to see the land they propose to swap and what it looks like and if it is really worth it. Mr. Gerlich said he thought the quarry was in Glen Gardner and it turns out that 2/3 of the quarry is in Lebanon Township and we don't have an ordinance to control it in any way. Mr. Gerlich said in looking at the map there is no buffer around it, or a fence. Mr. Gerlich said we need to take a good hard look at this, see just what a quarry does, what rights the Township has and what we can do

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about it. Mr. Gerlich went on to say we are lucky there is no subdivision around it or near it. The board continued with their discussion. Planner Bolan said once they swap the land and it is owned privately, then we can zone for it. Planner Bolan was concerned with who owned what land and what was being swapped. Chairman MacQueen said from what he heard there is 100+ acres up in Sussex County that the Quarry owns and the Land Trust wants it. The 34 acres is rock which is zoned residential. If the swap takes place, the quarry would need board approval since their operation is Industrial. During the discussion, Mr. Piasecki said since two thirds of the quarry is in the Township, it isn't out of line to have an ordinance. Mr. Skidmore said it is over due. Mr. Gerlich stated the Township has very little control without an ordinance. Mr. Piasecki said we need to know the terms of the Land Trust. Chairman MacQueen agreed. Mr. Piasecki said we need to know how a Land Trust works. Mr. Gerlich said the only way you can do a land swap is with a Land Trust. It is a swap for equal or more land. Planner Bolan said it is the State House Committee that decides what they can do. Planner Bolan explained what happened in Hopewell Township with Merrill Lynch. The property was at Scotch Road Intersection with I-95 and explained that it wasn't an easy process. The State House Committee consists of Legislators and State Executive people.

Mr. Piasecki said the land swap is gone if they can't do what they want to do. Chairman MacQueen said it sounds like the board wants to work on an ordinance and does the board want to do a Licensing Ordinance or a Zone Change Ordinance. Planner Bolan said if you are going to deal with what you have now, then it is a Licensing Ordinance. Planner Bolan said you can create zoning standards but you can't have them retroactive. Planner Bolan stated he wasn't sure with an Licensing Ordinance whether it could be retroactive. The question was asked about the property around the quarry. Planner Bolan said that is a whole different issue. Planner Bolan said if you want to go forward, then do a Zone Change. Then with the property around it you would be dealing with a Licensing Ordinance and a Zone Change. Planner Bolan said if you are only going to deal with the pit, then it is a Licensing Ordinance. Mr. Gerlich said we have to be Pro-Active. Mr. Laul said we need both a Licensing and Zoning Change. Mr. Piasecki reiterated that we need to know the terms of the Land Trust. Mr. Gerlich said that Ms. Lawler should be able to get that information. Chairman MacQueen asked Planner Bolan, if we do a Licensing Ordinance for the quarry in Lebanon Township it would from now forward. Planner Bolan said that it was a legal question. Attorney Gallina asked if it was to expand it. Chairman MacQueen said from the property line shown now on the plan. Chairman MacQueen showed Attorney Gallina the area on the map that he was referring to. Mr. Weiler said would it be considered part of the existing or would it be considered new by going on to a new lot. Attorney Gallina said if they go onto the Land Trust property, then they would be expanding the quarry. Mr. Gerlich said they have to be filing a mining plan with the State. Chairman MacQueen asked if we put a Licensing Ordinance into affect and if it went beyond the existing property line then the ordinance would go into affect. But since this is a pre-existing non-conforming use, he asked Attorney Gallina if that was correct. Attorney Gallina said yes and didn't think it would stand up since it predates zoning. Planner Bolan said since they have already crossed over the property line and the Township could site them for a zoning violation. Mr. Skidmore asked if it would apply to the operator. Attorney Gallina said it goes with the land not with the operator.

Chairman MacQueen said we need more information. We need to have Ms. Lawler get more information on the Land Trust. Mr. Gerlich said he will check with Ms. Lawler at their next meeting. Chairman MacQueen wanted to know how can they swap land to expand since the land is in a residential zone. Attorney Gallina said they would need to go to the Board of Adjustment for a use variance. Planner Bolan said the land in question is in the RC 7½ zone. Engineer Risse said as soon as he hears back about going on a tour he will let Chairman MacQueen know. Chairman MacQueen asked the board if they want Planner Bolan to look into having a Licensing Ordinance and will it have any meat to it or are we wasting our time. Planner Bolan said to have the Licensing Ordinance on the existing property, then it will be up to Attorney Gallina and the Township Attorney to hash it out or are you just looking to have it on the new parcel. Planner Bolan asked if the board wants to have this ordinance on the new parcel, if so, then you will also want a zoning ordinance change. The board needs to decide what they want. Planner Bolan said you could expand the Industrial zone to pick up the expansion. Chairman MacQueen said there are other quarries in the Township that are dormant. Mr. Gerlich said do we want the quarry to expand and do we want to change the zoning. Planner Bolan said Licensing is a police power, it has nothing to do with zoning. At this point, Chairman MacQueen asked Engineer Risse to read the Mine Block Description & Volume on the 2010 Mining Plan.

The board continued with their discussion and decided that more information was needed regarding Licensing and have Engineer Risse look into the State Mining Plan, Reclamation Plan and have Attorney Gallina check with the Township Attorney on what we can do. It was agreed that Delaware Township's Ordinance is a good example and it covers everything. Chairman MacQueen asked Planner Bolan to check into what type of Licensing Ordinance would be need and to see if the board would put an Ordinance together or would it be the responsibility of the Township Committee. Also, we will need to see if there is a State Mining Plan & Reclamation Plan. Engineer Risse said he would look into it. Planner Bolan stated he didn't know why the board was involved when this should be handled by the Township & Township Attorney. Mr. Piasecki said having Attorney Gallina talk to Attorney Cushing was a good idea. Attorney Gallina said he will contact Attorney Cushing regarding this matter. At the conclusion of the board's discussion, Mr. Milkowski returned to the board at 8:35 p.m.

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ITEM FOR DISCUSSION:

- a. *Per Home Occupation Ordinance Section 400-11(6)(b)2*

Zoning Officer Flemming asked that the board review this application. Planning Board had no problem with the proposed Exempt Home Occupation. Ms. Glashoff will relay this to Mr. Flemming.

PRESENTATION OF BILLS & REPORT:

- | | |
|-----------------------|-----------------|
| a. John Gallina, Esq. | \$1,377.50 |
| b. Michael Bolan, PP | \$1,168.80 |
| c. Bayer/Risse Engrs. | \$562.50 |
| Total: | 3,108.80 |

Motion by Mr. Gerlich and seconded by Ms. Bleck to approve the bills for payment. Unanimously approved.

CORRESPONDENCE:

- a. *Law of the Land Articles (5)*
b. *Ltr from Attorney Gallina re: litigation (Confidential)*
c. *Ltr from Attorney Davilia re: Sprint Spectrum*

OPEN TO THE PUBLIC

There was no public comments. Mr. Milkowski said as a member of the Township Committee and asked Attorney Gallina to stop him if he had too. This was brought to the Committee's attention regarding the land swap with the quarry. Even though this can be handled strictly by the Township Committee, he wanted input from the Planning Board for any recommendations they may have. This is why it came to the Board and it was strictly for input and from listening to the board, there was plenty of input. Chairman MacQueen said he wants to wait until the two Attorneys have a chance to discuss this before going further with it.

Being no further business to come before the board, nor comments from the public, motion by Ms. Bleck and seconded by Mr. Schmidt to adjourn the meeting at 8:39 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK