

## REGULAR MEETING

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

**March 5, 2013**

The 868<sup>th</sup> Regular Meeting of the Lebanon Township Planning Board was called to order at 7:04 p.m. by Chairman Gary MacQueen. Present were: Mr. Milkowski, Mr. Schmidt, Mr. Gerlich, Mr. Weiler, Mr. McKee, 1<sup>st</sup> Alternate Laul, 2<sup>nd</sup> Alternate Skidmore, Attorney Gallina, Planner Bolan and Engineer Risse. **Excused:** Mr. Rich, Mr. Piasecki and Ms. Bleck.

Notice of this meeting was published in the "Annual Meeting Notice Schedule" adopted by this board on January 15, 2013, faxed to the Hunterdon Review, Hunterdon County Democrat, Express Times, Courier News, Star Ledger and posted on the bulletin board in the Municipal Building on February 27, 2013.

**The Chairman will announce that the Board will go into Executive Session at 7:07 p.m. and asked for a motion.**

Motion by Mr. Laul and seconded by Mr. Schmidt to close the public portion of the meeting and go into Executive Session. Unanimously approved. Mr. Gerlich & Mr. Weiler excused themselves due to a conflict of interest.

**WHEREAS,** Section 7(b) of the Open Public Meetings Act L. 1975 C .231 NJSA 10:4-12(b)(8) permits the exclusion of the public from Planning Board Meetings where certain matters are to be discussed; and

**WHEREAS,** the Lebanon Township Planning Board is desirous to meet to discuss litigation:

**NOW, THEREFORE BE IT RESOLVED,** by the Lebanon Township Planning Board of the Township of Lebanon, Hunterdon County, New Jersey that this Board met in Executive Session.

**The Chairman will announce that the board will return to the Regular Meeting of the Board with a motion.**

Motion by Mr. Milkowski and seconded by Mr. McKee to close the Executive Session and return to the Regular Meeting at 7:18 p.m. Unanimously approved. Mr. Gerlich & Mr. Weiler returned to the board for the Regular Meeting.

**PRESENTATION OF MINUTES:** January 15, 2013 Reorganization & Business Meeting

Motion by Mr. Gerlich and seconded by Mr. Weiler to approve the minutes as presented. Unanimously approved.

### **ADOPT PROFESSIONAL CONTRACTS:**

- a. James Kyle, PP (Alternate Planner)
- b. Jess Symonds, PE – Biggs Engineers (Alternate Engineer)

Ms. Glashoff reviewed for the board the contracts from Planner Kyle and Engineer Symonds. The rates are the same as the last couple of years. Motion by Mr. Gerlich and seconded by Mr. Laul to adopt both contracts as presented. Unanimously approved.

### **FYI:**

- a. Article "Fair Share Housing Center" 1/29/2013
- b. Affordable Housing "COAH" 1/28/2013

### **ITEMS FOR DISCUSSION:**

#### **a. Highlands Update/Memo – Planner Bolan**

Planner Bolan reviewed for the board his memo regarding the revised model Highlands Land Use Ordinance. Planner Bolan said he submitted a letter to the Highlands on May 15, 2012 outlining a dozen comments that the board had with the Ordinance. The Council responded on June 5, 2012. After that the Council revised the model in part because of the issues we had. The board discussed with Planner Bolan all the issues outlined in his report as follows:

Starting with "**Applicability, Section 2.1.1**" we had suggesting deleting a paragraph regarding exclusions, they agreed and deleted it. "**Exemptions Section 2.4**", some board members were under the impression that an exemption existed in the legislation/regulations for subdivisions for family members. The Council said there is no such exemption. "**Article 6 – Highlands Area resource Regulations**" the board felt that many of the regulations were burdensome to the property owner. The Council acknowledged their concerns and pointed out the limited applicability in the Township, The regulations dealt with large, new development applications. The Council indicated that many of the revisions in the new model were based on concerns raised by the Township. "**Section 6.1.5 – Forest Impact Reports**", requiring a Forest Impact Report & Forest Mitigation Plan for any disturbance was overly broad and burdensome and could lead to non-compliance. The model was revised to indicate that forest disturbance of less than ½ acre is

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exempt from this requirement. “**Section 6.1.6 Forest Mitigation Plans**” the Township felt that mitigation locations and description of mitigation technique should be more specific. The new model provides the flexibility for the Township to establish mitigation priorities and mitigation techniques if the Township chooses. “**Section 6.3.3 Steep Slopes Standards**” any disturbance required the applicant to make an effort to transfer development rights for the lot and to offer the lot for sale. These requirements were far too extreme for a simple driveway on a steep slope. These requirements have been eliminated. The requirements now apply only where there are 5,000 square feet or more of contiguous steep slope areas. “**Section 6.4.2 Disturbance Prohibited in Critical Habitat Area**” the Township felt a blanket prohibition was unreasonable. The prior ordinance deferred to the findings of a local Habitat Conservation & Management Plan, the Township requested funding for such a Plan. In the revised ordinance, the prohibition on disturbance has been eliminated in deference to a future Habitat Conservation & Management Plan. In our grant there is funding for the preparation of a Plan. “**Section 6.5.4 Geological Investigation in Carbonate Rock Drainage Area**” this includes all lands in a subwatershed draining to a Carbonate Rock Area is excessive. Some of the subwatersheds in the Township include lands 1.5 miles from the Carbonate Rock Area. Even though this standard is unchanged, the Council indicated it would consider a more specifically delineated area of potential impact. Planner Bolan said he suggested a limit on the distance from the Carbonate Rock Area in which the Phase I investigation would be required or leave it to the Township Engineer.

“**Section 6.7, Water Conservation & Deficit Mitigation**” in the new Model Ordinance it clarifies that the mitigation requirements are applicable only where a new use would require greater than 6,000 gallons per day. Planner Bolan said we objected to the Water Conservation & Deficit Mitigation because it required water use mitigation according to a “**Water Use & Conservation Management Plan**” in water deficit areas, there was no plan on which to base the mitigation. This will be developed by the Council & Township. **Section 6.8.3 “Prime Ground Water Recharge Areas**” it was suggested that the Council provide specific measures or techniques for mitigation. The Council indicated they would provide a listing of such measures for inclusion in the Ordinance. “**Section 6.10 Agricultural Resources**” this relates to the cluster provision for subdivision of 4 lots or more. The Township suggested that this be clearly stated in the **Applicability Section 6.10.2**. The Council agreed that our ordinance could incorporate the language. Planner Bolan said he suggested to the Council that they provide an inventory of measures and techniques that would accomplish the intent to ensure the protection of “**Section 6.12 Scenic Resources**”. The Council deferred implementation of these standards until a Scenic Resources Management Plan had been adopted by the Township and approved by the Council. It is up to the Township to decide whether they want to implement these standards.

Planner Bolan said in summary the revised model ordinance addresses some of the issues the Township raised. There are three quantitative issues that require further discussion which are:

- a. Forest Mitigation Plan, the ½ acre threshold is encouraging but the ½ acre threshold is still limiting. Regardless of any threshold, the issue of enforcement should be considered.
- b. Carbonate Rock Area, the Council has indicated it would not have objection to a more delineated area, except without further research it is difficult to suggest a specific distance. We can either suggest a number or suggest a standard putting the responsibility on the Township Engineer.
- c. Steep Slopes – have greatly been improved, the standards still only permit disturbance for linear development (driveways, utilities) on steep slopes. The feasibility of this limitation is questionable. Planner Bolan offered to talk to the Highlands Council.

Chairman MacQueen asked, what our options are and does this apply only to subdivisions or any driveway. Planner Bolan said existing lots are exempt. Mr. Schmidt asked about the section on clustering. Planner Bolan said clustering of 4 lots or more is mandatory in the RC zone. For totally cleared agricultural land you would need a 100 acre tract and if it were totally wooded you would need a 358 acre tract. Mr. Schmidt asked what would the lot sizes be for clustering. Planner Bolan said with the new septic standards, you would have 3 lots of 9 acres each and the fourth house would be on the remainder and would be on approximately 70 acres. Mr. Weiler asked if there was a document with answers to these many questions that municipalities have. Planner Bolan said no, no one has the answer until you ask the question. Then they make it up and it could be conflicting. Planner Bolan said it could be conflicting between the DEP and the Highlands. Chairman MacQueen said everything else we should leave alone, steep slopes we don't know what to do with at this point. Planner Bolan stated we will put in our own standards for the geological. Chairman MacQueen said the Scenic Resources can be implemented by the Township Committee if they choose to do a study. Planner Bolan said correct. Mr. Milkowski asked about the 5000 square foot disturbance. Planner Bolan said only if you go 5000 or greater then the standards apply. Chairman MacQueen asked what the next step would be. Planner Bolan said he will do a final version for the board to review.

At the conclusion of the board's lengthy discussion, Planner Bolan stated that if the board doesn't do the Checklist Ordinance, then any and all applications have to go through the Highlands Council first, otherwise if the board does their own ordinance, then the applicant comes to the board first and that the board always felt the applicant should come here first. The board agreed. Planner Bolan said if the board doesn't do any ordinance, the Council hasn't started to enforce this yet, and then it would revert to getting approval from DEP Highlands before coming to this board.

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**b. Update on Quarry**

Mr. Milkowski recused himself due to a conflict of interest and left the dais. Chairman MacQueen asked Engineer Risse for an update. Engineer Risse said the Quarry is shut down for the winter months and they start up again the end of March. Engineer Risse stated that he was told to call the end of March to schedule a tour. Chairman MacQueen asked Mr. Gerlich if he spoke to the Environmental Commission about this and Mr. Gerlich said no. Chairman MacQueen said he does not feel the board should spend anymore time or money on this issue at this time and wait until Engineer Risse sets up a date for the tour. Chairman MacQueen said he has had conversations with people from Glen Gardner and plans on sitting down with them with Engineer Risse to see what paperwork they have been given by the Quarry. We need to also have paperwork since a large portion of the Quarry is in Lebanon Township. Chairman MacQueen said he wants to see what Glen Gardner has regarding safety regulations and what they supplied Glen Gardner. Chairman MacQueen stated having a site tour and reviewing the paperwork for now is the direction to go in. The licensing is up to the Township Committee.

Mr. McKee referring to the paperwork and wanted to know if this is referring to the Ordinance that Glen Gardner will be working on. Chairman MacQueen said he was referring to the paperwork that the State requires of the Quarry. The ordinance is in limbo at this time. Planner Bolan asked Engineer Risse about what the State requires. Engineer Risse said the State deals with minor safety for the workers that is their main concern. The State has some minimal standards, like how close you can get to a property line when excavating. There aren't any Reclamation Plan requirements. There was compliance for when they do blasting and who is present during the blasting. Mr. Schmidt asked about the Highlands regarding the water table, if they had any involvement. The response was apparently not. The paperwork goes to the Quarry's Glen Gardner Office per Engineer Risse. Chairman MacQueen wanted to know if Glen Gardner was working on a Reclamation Plan and if so, we need to be involved. Mr. Skidmore asked what department at the State is involved. Planner Bolan said the Department of Labor/Mine & Safety.

Planner Bolan asked Attorney Gallina since the last meeting if he had any discussion with the Township Attorney. Attorney Gallina said he sent everything to Attorney Cushing per the Planning Board's request, memo, maps etc., back in February but has not heard anything from Attorney Cushing at this point. Planner Bolan said if they do the swap, we know how to handle that, but can we do anything with the existing property that is in the Township. There was concern by board members what would happen if the Quarry pulled out. Chairman MacQueen said he hoped within the next 2 weeks he will be sitting down with people of Glen Gardner to see what they are doing and then within the beginning of April have the tour. Chairman MacQueen asked if there were any more questions/comments. Mr. Gerlich said he will talk to Nancy Lawler at the next Environmental Commission Meeting which is next week regarding the Trust Regulations and the Land Swap.

**PRESENTATION OF BILLS & REPORT:**

a. John Gallina, Esq.	\$4,214.71
b. Michael Bolan, PP	\$3,341.40
c. Bayer/Risse Engrs.	\$1,125.00
<b>Sub-total:</b>	<b>\$8,681.11</b>
d. NJPO – Class/PB Experience Members	\$ 98.00
<b>Total:</b>	<b>\$8,779.11</b>

Motion by Mr. Gerlich and seconded by Mr. Laul to approve the bills as presented. Unanimously approved.

Mr. Milkowski returned to the board at this time.

**CORRESPONDENCE:**

- a. Ltr from Attorney Gallina - Confidential
- b. Law of the Land Article
- c. Article on Fracking in NJ
- d. Highlands Applicability Determination – Pelio (FYI)

**OPEN TO THE PUBLIC** – there was no public comment.

Mr. Milkowski asked to address the board. Mr. Milkowski said when the Cell Tower came before the Planning Board down on Route 513, there had been mentioned about the Lockheed Tower. That property is being sold to the Land Trust consisting of 22 acres and they have asked for the Township's blessing. Chairman MacQueen asked if it were sub-dividable or buildable. Mr. Gerlich thought it spanned the brook. Mr. Milkowski said the Four Seasons has already donated quite a few acres to the Land Trust. Since then they have come back and made a deal with Lockheed Martin to purchase that land. They do have a permanent lease on the Tower. Mr. Milkowski thought if the Tower became available could it be used for a

Cell Tower and wondered whether the Land Trust would entertain it or would it be a flat no. Mr. Milkowski said he didn't know if it were something we should look into. The Land Trust is buying the

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land but giving them a lifetime lease for the Tower. Mr. Milkowski said that anything to do with land whether the Planning Board has jurisdiction should at least come before the Planning Board as a formality. Mr. Milkowski said the Township Committee voted to support the acquisition. Chairman MacQueen asked Planner Bolan if a Cell Tower could go on that property. Planner Bolan said it is not a good location; it is block in, in too many directions.

At the conclusion of the discussion, Ms. Glashoff said she wanted to give the board an update on the Luster property down on Route 31. It will be a 1 year on May 1<sup>st</sup> since Mr. Luster came before the board informally. Since then he has made no effort to file a minor site plan, the Zoning Officer and the Construction Official have both issued violations. She went over the violations that exist on the property. Also, there might be a lot line adjustment filed before the end of this week and if it is deemed complete could be on the April 2<sup>nd</sup> agenda. If not, she will contact Chairman MacQueen if there isn't anything else for the agenda to cancel the meeting and wanted to know if that would be okay with everyone. If the meeting is cancelled she will send a memo to everyone. Everyone agreed. The next meeting would then be May 7<sup>th</sup>. The question was asked about Muller Toyota. Ms. Glashoff said they are working on the Site Plan and it will probably be filed soon. Ms. Glashoff asked Planner Bolan to let the board know about the COAH ordinance that is being amended. Planner Bolan briefly went over the reason why the ordinance was being amended.

Being no further business to come before the board, nor comments from the public, motion by Mr. Milkowski and seconded by Mr. Laul to adjourn the meeting at 8:26 p.m. Unanimously approved.

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**CHAIRMAN GARY MACQUEEN**

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**GAIL W. GLASHOFF, PLANNING BOARD CLERK**