

REGULAR MEETING

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

December 4, 2012

The 866th Regular Meeting of the Lebanon Township Planning Board was called to order at 7:02 p.m. by Chairman Gary MacQueen. Present were: Mr. Milkowski, Mr. Schmidt, Mr. Gerlich, Mr. Piasecki, Mr. Rich, Ms. Bleck, Mr. Weiler, Mr. Wunder, 1st Alternate Laul, 2nd Alternate Skidmore, Attorney Gallina, Planner Bolan and Engineer Risse.

Notice of this meeting was published in the "Annual Meeting Notice Schedule" adopted by this board on January 10, 2012, 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 November 27, 2012.

The Chairman will announce that the Board will go into Executive Session at this time and asked for a motion.

Motion by Ms. Bleck and seconded by Mr. Rich to go into Closed Executive Session at this time. Unanimously approved.

WHEREAS, Section 7(b) of the Open Public Meetings Act L. 1975 C.231 NJSA10:4-12(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 discussion 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 Ms. Bleck and seconded by Mr. Rich to return to the regular meeting of the Planning Board. Unanimously approved. Members of the board and public returned to the meeting room.

PRESENTATION OF MINUTES: October 16, 2012 Regular Meeting

Motion by Ms. Bleck and seconded by Mr. Laul to approve the minutes with a minor correction. Unanimously approved by those eligible to vote.

ITEMS FOR DISCUSSION:

a. 2013 Budget

The board discussed the proposed budget, it was noted that a large expense for the board this year was Gramco because of all the meetings at the school which included purchasing a system and paying our share of the cost. Ms. Bleck asked about the rental of the school for all the meetings held. Ms. Glashoff informed the board that we were not charged for maintenance and since we held meetings during the summer, maintenance worked the second shift so we didn't have to pay for them being at the school during those dates. Ms. Glashoff said working with Laurie Adrian was a pleasure and the maintenance crew was extremely helpful. It was through Laurie that the cost of maintenance wasn't an issue. Ms. Bleck suggested writing a letter to the school thanking them along with how nice it is when everyone works together. Ms. Glashoff said she will contact Laurie about sending the letter of thank you. Chairman MacQueen asked about the Gramco line item and if it included the rentals. Ms. Glashoff said yes and those 3 rentals of \$1250.00 each and the different was our share of the new equipment and the balance was split between the Township Committee and Board of Adjustment.

Mr. Rich referred to the litigation line item and why we were budgeting money. Ms. Glashoff said we have to pay the cost up front and then she sends in copies of the paid vouchers to the insurance company for reimbursement. Ms. Glashoff will add an additional line item showing a credit up to \$10,000.00. Mr. Milkowski informed the board that this rider to the insurance policy is still in affect. Mr. Milkowski said the Township Committee kept this addendum to the policy. Chairman MacQueen asked how much does it cost to have this rider on the policy. Mr. Milkowski said he didn't remember the exact cost of having this rider on the policy. Ms. Glashoff said she will add this language to both boards budget request. Chairman MacQueen asked for a motion to approve. Motion by Mr. Rich and seconded by Mr. Piasecki to approve the proposed budget as amended. Unanimously approved.

Chairman MacQueen thanked those board members who participated in the Gen Psych application public hearings. Especially for our two new members which was a real eye opener and was glad a letter was being sent to the school. Chairman MacQueen thanked Mr. Laul for all his help with the setting up and taking down of the equipment which included getting to the school early to set up everything. It was greatly appreciated. Also to Mr. Skidmore for helping with the sound system.

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b. Board terms to expire December 31, 2012:

1 Year Terms - Mayor-Class I, Committeeman-Class III, Art Gerlich-Class II

2 Year Term - Marc Laul-Class IV 1st Alternate

Chairman MacQueen asked if Mr. Gerlich and Mr. Laul wished to be reappointed. Both said yes.

c. Set Scheduled for 2013 Reorganization: Tuesday January 15, 2013

Chairman MacQueen asked what was scheduled. Ms. Glashoff said only the regular reorganization stuff. Nothing else at this point Mr. Rich said he had a conflict for the 15th. Chairman MacQueen asked about any other dates for January. Ms. Glashoff offered January 8th. After further discussion, the board decided to stay with the January 15th date for their Reorganization Meeting.

d. Highlands Update – Planner Bolan

Planner Bolan referred to the email he received from Highlands Planner Judy Thornton where she was referring to two items. In the email she refers to the 3 pdf's that the board adopted last year in order for the Township to get reimbursed for the Grant. Planner Bolan said he asked about the pdf's since they were sent 5 months ago which concerned our Land Use Ordinance. With the correspondence back and forth along with a meeting that was authorized and scheduled so he could go over a half dozen items that needed to be addressed. Planner Bolan said he got a message in June from Planner Thornton asked that they hold off on the meeting because they are revising the Land Use Ordinance that we were using as a model and should have it done in a few weeks. Planner Bolan said then 4 months went by and he asked about the revised ordinance and this email is her response apologizing for the long delay in getting back to him.

Planner Bolan said in reading the second paragraph of Planner Thornton email, it states that you can adopt a modified version of the Highlands Checklist Ordinance instead of adopting the lengthy and detailed Highlands Area Land Use Ordinance. Planner Bolan said that what this would do is an applicant would go before the Highlands for approval before coming to the Planning Board. Planner Bolan said he was surprised by two things, 1) if this was the route they were going to take, why didn't they discuss it with us considering all the work that was done last year, 2) there were changes in the ordinance that we had wanted and even things they didn't agree to we could put them in anyway. Planner Bolan said he just got by email a copy of the ordinance today and hasn't had a chance to totally review it. This is the way we have always done it, we condition any approval and now they want to see the application first before it comes here. Planner Bolan felt the way the Act was written applications would come to the board first. Attorney Gallina noted in the MLUL it would be a condition of approval.

Planner Bolan suggested we carry this over to the January meeting. In order to give this a complete and thorough evaluation, the new model will be out before the board has their meeting in January. There were modifications to this ordinance and if all those modifications are reflected in this revised model and once he's had a chance to review it, Planner Bolan said we can go from there. This includes the 6+ issues that we had. Planner Bolan said considering all the work that has gone into this ordinance, the board should adopt this ordinance. Planner Bolan asked if the board had any questions. Chairman MacQueen said first you send you application to the Highlands for their approval before sending it to the Planning Board. Planner Bolan said yes, even though the MLUL states outside agencies are conditions of any approval. Plus it was never portrayed that way, it doesn't make any sense. The Chairman commented that this was a waste of time. Applicants know before coming to the board what they are up against with the Highlands. Mr. Schmidt said what happens if the Highlands approves an application and the Planning Board denies it would there be a lawsuit. No response. Ms. Glashoff asked about Board of Adjustment applications. Planner Bolan said it depends on the thrush hold with disturbance and coverage. Ms. Glashoff asked if someone was coming before the Board of Adjustment for a setback variance would they need to go to the Highlands. Attorney Gallina said no.

Chairman MacQueen asked the board if they would like Planner Bolan to write a letter expressing their concerns before the next meeting. The board briefly discussed this option. Planner Bolan said he wants to wait until he hears from the Highlands before responding and hopefully it will all happen before the board's next meeting in January. During the discussion, Planner Bolan noted that we need to get reimbursed for the work that has been done to date. Ms. Glashoff informed the board that Herb August the Grant Administrator informed her that he would let her know when to send the vouchers for reimbursement. Ms. Glashoff said Mr. August contacted her recently and only asked for Task 2 & 3, which totaled just over \$4,000.00 and that she still has over \$10,000.00 outstanding. Ms. Glashoff said what is the point of sending in vouchers if they (Highlands) won't accept them. Mr. Schmidt asked Planner Bolan if this model is going to explain the list of grievances that we had. Planner Bolan said he didn't know. Planner Bolan said we had one response back from the Highlands that the board discussed. We then responded to that letter but we haven't heard from them since our last letter. Planner Bolan noted all this happened back in the spring and there has been nothing since then. Planner Bolan stated he will contact Planner Thornton and will get back to the board for the next meeting.

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e. Ordinance – Quarry Regulations per Township Committee

Chairman MacQueen asked if everyone has had a chance to read this ordinance. Chairman MacQueen noted this was another town's ordinance. Chairman MacQueen asked Mayor Wunder if he knew who's ordinance it was. Mayor said he thought it was Tewksbury Township. Some board members asked why it was brought to the Planning Board. Chairman MacQueen said Nancy Lawler from the Environmental Commission was here this evening and will speak on this ordinance.

Ms. Lawler said that Eastern Concrete applied to N.J. Natural Land Trust to swap 34 acres of preserved land on the Hagadorn Preserve for an unspecified number of acres up in Sussex County. The challenge to the environmental community 1) Lebanon Township, when Eileen Swan was on Township Committee she spent a lot of time working to preserving that land 2) we are trading preserved land in Hunterdon County for preserved land in Sussex County and it didn't seem like a reasonable solution and 3) our neighbors Glen Gardner Boro have problems with water supply and not paying attention to town regulations and there were objections to people who held property in the area in our Township. Ms. Lawler said what happened was it was brought to the attention of the Township because N.J. Natural Land Trust is supposed to hold land in perpetuity that is what their mission is and design. Ms. Lawler said they are not to allow land swaps. They were under a lot of pressure from various parties to do this land swap. Ms. Lawler said she brought this to the Township's attention and a letter was drafted with our objection. The discussion that was to take place regarding this issue was to take place in Trenton. We objected to the hearing being held in Trenton, because if people wanted to go an object they had to go to Trenton on a week day and felt that was totally not fair to any residences that wanted to object. N.J. Natural Land Trust looked at the property in question and felt it didn't meet their criteria for a land swap. Ms. Lawler said that is where it stands right now.

Ms. Lawler went on to say, at the Township level if there was anything they could do to protect it and the property is currently zoned residential and being a quarry it predates zoning and wanted to know if there was anything we could do to protect our interest. The Environmental Commission approached the Township Committee and the Township Attorney said maybe we should look at some ordinances to protect the Township's interest. Mr. Schmidt asked about the land they want to swap in Lebanon Township. Ms. Lawler said yes 34 acres. Mr. Schmidt said is the working quarry in the Boro of Glen Gardner. Ms. Lawler said yes. Engineer Risse said there is a large portion of the quarry in Lebanon Township. The quarry offices are in the Boro of Glen Gardner. Engineer Risse said where they are mining the rock is in Lebanon Township. Planner Bolan said the portion in Lebanon Township is zoned Industrial. What they are looking to do is expand in a Residential zone. Ms. Lawler said one of the problems that has happened with the quarry is that it actually came on to the preserved property owned by N.J. Natural Land Trust, so now the quarry wants to expand to have more land. Mr. Schmidt asked if they paid a fine. Ms. Lawler said yes.

Chairman MacQueen asked Engineer Risse if land they have expanded to can be quarried. Engineer Risse thought it could since there is rock. Ms. Lawler said the land they have quarried is grandfathered, but this new land may be a problem, this is a grey area. The question was asked regarding the Highlands, no one was sure since this land was in the Highlands. During the discussion it was noted by Chairman MacQueen that you need a Reclamation Plan. Ms. Lawler said they do not have Reclamation Plan. Planner Bolan said if they want to expand a non-conforming use, they will need to come to the Board of Adjustment for a Use Variance. Chairman MacQueen asked how long has the quarry been in existence. Ms. Lawler said since the 1930's and it was very small and since has expanded a lot during the 1950's-1960's. Mr. Milkowski said back in the '1930's it was referred to as the old cracker pit. Then in 1967 Hill Crest purchased the quarry and renovated it. Mr. Milkowski said in the late 1960's into the 1970's when it was actually functional again. Engineer Risse said if they want to expand having an ordinance would be a good thing. The question was asked if the quarry is maxed out at this point. Ms. Lawler said that was her suspicion and felt and that's why they are looking to expand.

Mr. Weiler asked if there has ever been a case in New Jersey where the National Land Trust has done a land swap before. Ms. Lawler said yes. Chairman MacQueen asked Engineer Risse if he has had a chance to review the ordinance. Engineer Risse said not recently, but he said there was concern over going to deep and getting into ground water and the other was geared towards Reclamation. Once they are done with areas those areas should be reclaimed and returned to its nature vegetated state. It was noted that they are below groundwater and they have lakes on the property. Planner Bolan said his main issue was with the Reclamation Plan. It states it has to be reclaimed for a use permitted in the zone. Planner Bolan noted he has never seen this quarry but asked if there are cliffs. The answer was yes. Chairman MacQueen asked Mr. Milkowski how tall those hills are. They are 50' benches. Mr. Milkowski said some time ago we had searches for lost people from the Geriatrics (Hagadorn). It is a 50' drop and it is a quarry. Planner Bolan said a lot of this falls on a Reclamation Plan with the State and asked the board if they were comfortable with the Reclamation Plan standards that they have in this. Planner Bolan stated his experience with the Bureau of Mine and Safety in New Jersey is they are a licensing adversary group. They don't do anything helpful for the Towns in terms of Reclamation Plans. Planner Bolan said they don't even require a Plan. Engineer Risse said with any Town they have worked with it was always the Town that had them do a Reclamation Plan. Planner Bolan said this is a zoning issue if they are going to have additional 34 acres. Planner Bolan said this will set up a mining district. Planner Bolan noted that to do this there will be rezoning evolved and a Reexamination Report. To do a rezoning, there will be noticing in the paper, noticing adjoining property owners within 200'. It is very involved and costly. Mr. Schmidt asked Mr. Milkowski if he knew how often they have to do blasting. Mr. Milkowski said the blaster lives in the

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Township and he explained to Mr. Milkowski what they do. He explained to the board the process regarding the blasting. Mr. Milkowski said he did not know how often the blasting took place. Chairman MacQueen referred to Tewksbury Township and a subdivision that took place across the road from a quarry that people didn't know existed until their china rattled and that created a lot of problems. Chairman MacQueen asked if we need a Reclamation Plan Ordinance. Planner Bolan said the ordinance talks about a Reclamation Plan on Page 8 of the ordinance. Chairman MacQueen asked Ms. Glashoff to check to see what kind of an ordinance Glen Gardner Boro has regarding the quarry because we would our ordinance to co-inside with Glen Gardner's. Ms. Lawler said to find out how often they blast because they seem to really have a handle on it. Ms. Glashoff will also get a copy of Harmony Township's ordinance.

Chairman MacQueen asked if the reason to have this ordinance is to keep them from touching that piece of land and going to deep and disturb the water aquifer. Chairman MacQueen asked how do we go about doing an ordinance and would it need to be a Licensing Ordinance. Planner Bolan said you want it to be a Licensing Ordinance but if you trade land then it will be in a Residential area. They will want to be able to mine the land otherwise there is no point in trading land. If you do the trade then you will be setting up a new zoning district to regulate the 34 acres. The board continued to discuss this issue. Chairman MacQueen asked the board what they want to do. Ms. Bleck said we need more information and getting a copy of Glen Gardner Boro's ordinance and the Land Trust. Ms. Lawler said the land swap is in limbo at this time. Ms. Lawler said she will get a copy of the minutes regarding the original proposal. One of the concerns was the encroaching that the quarry has already done. The board continued to discuss this issue at length including discussing taking pictures of the site and how to go about doing it. Chairman MacQueen suggested having Engineer Risse go out to the site and ask for an as built of the quarry site as it is now. Planner Bolan asked if the Land Trust owns it in fee simple. Ms. Lawler said yes. Engineer Risse said he printed out an aerial of the property which also shows the property lines for the Township Attorney. Chairman MacQueen asked Planner Bolan to look into this and see what would be best for the Township.

Mr. Skidmore asked Mr. Milkowski since he seems to know what they do, asked if Mr. Milkowski thinks if it is a going concern or an unconcern. Mr. Milkowski said he had a question for Attorney Gallina. Mr. Milkowski said they do business with the State property and their family farm borders the quarry and he didn't know how much he could say. Attorney Gallina told Mr. Milkowski if the Township gets involved then he would have a conflict. Mr. Milkowski asked if he could give any information regarding the quarry. Attorney Gallina said only if it is public information, but asked if he had any secret information regarding the quarry or any professional relationship with them. Mr. Milkowski said no, only from doing business and being in the area for a long time. Mr. Milkowski said he understands that this 34 acres will go around the outer portion of the property they have now where they do the excavation so what they do is taper from the top down, so if they move back so many feet, didn't know the exact amount, then can taper down to Reclamation in the end and that's why they need the extra land. Mr. Milkowski referred to the water permit and said that is a whole different issue. What they are doing is select fill and they need the water to wash the sand. Mr. Milkowski went on to say this is a different item and has nothing to do with the land. Mr. Skidmore said what prompted his question was in Bernardsville there is a quarry (the Millington Quarry). Chairman MacQueen said there is a quarry in Bernardsville and a quarry in Millington. Mr. Skidmore said the one off of Route 202 is shut down. Chairman MacQueen said that is the Bernardsville Quarry. Mr. Skidmore said he was curious as to why they shut down and what the procedure was. Chairman MacQueen said retirement and they couldn't mine anymore because of the high tension line towers. Mr. Skidmore said he was making a suggestion that maybe instead of expanding the quarry maybe they are looking into the possibility of shutting the quarry down. Along with the mitigation that they are not required to do, why would they do that unless they are looking to sell the land since it is in an Industrial Zone.

Mr. Skidmore said maybe we should keep that in mine as we explore options. Chairman MacQueen said eventually they will have to shut down. The Millington Quarry was shut down and the big pit at the Millington Quarry and the Bernardsville Quarry are now big ponds. Chairman MacQueen noted where the Millington Quarry is located they are going to build houses around it and have a big fancy development. The ponds at the site are about 400-500' deep. It has now come back to residential tax paying. Chairman MacQueen said if they need to cut down the slope and reclaim and possibly put houses there, maybe they have a long range plan. Chairman MacQueen said we need to start at A and go to Z instead of the other way around. During the discussion, Chairman MacQueen said we need to do what is good for Lebanon Township. Chairman MacQueen said Planner Bolan and Engineer Risse have items they will check into and Ms. Glashoff will check out ordinances. Chairman MacQueen thanked Ms. Lawler for coming before the board this evening to discuss the quarry.

PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$1,051.25
b. Michael Bolan, PP	\$ 260.00
c. Bayer/Risse Engrs.	\$ 500.00
Total:	\$1,811.25

Ms. Glashoff referred to the addendum to the Bill Report in the amount of **\$994.00** for services rendered by Planner Bolan which brings the grand total to **\$2,805.25**. Motion by Mr. Gerlich and seconded by Ms. Bleck to approve the bills as amended. Unanimously approved.

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CORRESPONDENCE:

- | | |
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| a. Legislative Update – Housing Trust Funds | b. Fair Share Housing Center Article |
| c. Supreme Court to End COAH Controversy Article | d. Law of the Land Article |
| e. NJPO Newsletter | |

OPEN TO THE PUBLIC

Ms. Lawler said Ms. Glashoff suggested that she come and talk to the Planning Board on what the Environmental Commission is doing. The Environmental Commission has spearheaded the effort for the Township to become certified as part of Sustainable New Jersey program. This program is for municipalities that want to go green and preserve the quality of life for the long term. Ms. Lawler went through the process for the board regarding this program. Ms. Lawler said there are documents that they need. Ms. Lawler said she has gotten copies of ordinances from Ms. Glashoff. Ms. Lawler said she needs the open space plan which has been readopted. Ms. Lawler asked if she can get these documents in electronic form. Planner Bolan said yes and asked for Ms. Lawler's email address. They will be sharing this information with the County Open Space Coordinator along with the Green Acres Program which will make it so we can apply for funds in the future. At the end of her presentation, there were no questions from the board. Mr. Milkowski thanked Ms. Lawler for doing a great job with a lot of work being done.

Chairman MacQueen asked if anyone else from the public had any questions or comments. Mr. Anthony Casale said he had a procedural question. He noted that those board members whose terms were up said they would like to be reappointed and is a memo sent to the Township Committee. Ms. Glashoff said she sends a memo every year regarding board terms. The other question has to do with the discussion at the beginning of the meeting regarding the lawsuit. It seems there are a lot of lawsuits between the Township Committee and the Boards and a lot of money is being spent which is a waste of time and money. Mr. Casale said the question that concerns him is the discussion on Quarry Ordinance and Mr. Milkowski involvement. Mr. Casale said he would not like to see Mr. Milkowski have to recuse himself regarding the Quarry and his input is valuable to the board. Attorney Gallina interjected and said any discussion regarding the Quarry Mr. Milkowski will have to recuse himself. Mr. Wunder said he thought Mr. Milkowski had recused himself from the Quarry discussion at the Township Committee Meeting. Mr. Milkowski said yes he did. Mr. Casale said he didn't want to see all the work that will go into this ordinance gets challenged. Attorney Gallina said that nothing has started yet with the ordinance it is in the discussion stage at this time.

Mr. Locker thanked the board for an enjoyable year. Mr. Milkowski informed Attorney Gallina so that we don't run into a problem, he will step down to avoid any conflict. Being no further business to come before the board, nor comments from the public, motion by Ms. Bleck and seconded by Mr. Piasecki to adjourn the meeting at 8:30 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK