

MINUTES

MAY 14, 2013

PLANNING BOARD

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Chairman, Mr. Connor, called the meeting to order at 8:00 P.M. He then read the following statement:
Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in January, 2012.

PLEDGE OF ALLEGIANCE

ROLL CALL

On a call of the roll, the following were present:
Christopher Connor, Chairman
Charles Arentowicz, Vice-Chairman
Brendan Rae, Mayor’s Designee
Suzanne Dapkins, Member
Ashish Moholkar, Member
J. Alan Pfeil, Member
Guy Roshto, Member

EXCUSED:

Barry Hoffman, Bd. Attorney
Dawn Wolfe, Planning & Zoning Administrator

Gregory Aroneo, 1st Alternate
Timothy Wallisch, 2nd Alternate

Kevin O’Brien, Twp. Planner
Thomas Lemanowicz, Bd. Engineer

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EXECUTIVE SESSION - It was determined that there was no need to hold an executive session.

APPROVAL OF MINUTES

The minutes of December 11, 2012 were approved as written on motion by Dr. Rae and seconded by Mr. Roshto. Mrs. Dapkins, Mr. Pfeil, Mr. Aroneo, and Mr. Wallisch abstained as they were not members of the Board at that time.

The minutes of March 12, 2013 were approved as written on motion by Mr. Wallisch and seconded by Mr. Pfeil. Mr. Roshto and Mr. Aroneo abstained as they were not present at that meeting. Mrs. Dapkins abstained as she was not a member of the Board at that time.

PUBLIC QUESTION OR COMMENT PERIOD

The meeting was opened to the public for questions or comments.

Mr. Dennis Sandow, Millington, said that he would like to bring to the Board’s attention a procedural matter with the agenda. He said that right now we are in an agenda item called comments about items *not* on the agenda and the presumption is that if an item *is* on the agenda, the public will have the opportunity at a later date to comment on that item when it is on the table. However, the problem that he was bringing to the Board’s attention is that at the last meeting, there was no opportunity for the public to make comments on any of the three items that were on the agenda. He said that the Board discussed the items and then breezed on to the next item without ever opening it up to the public in spite of the fact that there was one member of the public who was sitting there with his hand frantically waving. He said that the catch-22 is that if, at this point, you are not allowed to talk about items on the agenda and then, if later on in the agenda, the public isn’t offered the opportunity to make its comments, how is it supposed to work?

Mr. Connor said that there should be, at some point in the discussion before the Board makes any decision or goes on to the next agenda item, a time for the public to make comments.

Mr. Sandow replied that he was waving his hand frantically and he was the only person out there so it was not as if his hand was lost in the crowd.

Dr. Rae asked Mr. Sandow if he would like to make his comments now.

Mr. Sandow replied that he had no comments on the agenda items tonight.

Dr. Rae referred back to the comments he had from last week.

Mr. Sandow replied that the second item on that agenda was the Goals and Objectives, but since the public has not seen draft copies of the discussion items it is pretty hard to comment. He said that he would have liked to have

commented on some of the things that he heard during the discussion, but that is “water over the dam”. He said that the third item on the agenda last week was a draft of yet another Valley Road Ordinance and Mr. Roshto ultimately that the draft itself has some errors in it, errors which have been introduced since the last draft Valley Road Ordinance over a year ago. He said that there are some block and lot numbers that are wrong and some uses that seem to have snuck in, apparently either introduced by the Ordinance Review Committee or missed in review by the Ordinance Review Committee. At any rate, he said that he had those extensive notes and will hold onto them and the next time this comes up (perhaps in 2014), he will bring those comments to the table. He said that he would have liked to have brought them to the table now so they would have been a matter of record and he would not have to try to hold onto them for so long. He urged the Chairman and all of the members, at the end of your discussions, to look around to see if any members of the audience have any comments. He said that it does the Board no good to deny comments for agenda items at the front end and then not ask for them later on in the meeting.

Mr. O’Brien suggested that if Mr. Sandow has factual changes to make, he can feel free to send them to him and he will make a note of them for the next go around.

Mr. Sandow said that he would be glad to do that except first he would want to cross reference to prior versions and try to establish *how* these additions and changes and errors got introduced. He said that presumably the fact that there is an Ordinance Review Committee at work should reduce this sort of noise rather than add to it and he would really like to present these in the context of how did they get introduced – why weren’t they cleaned out and as you will recall, it was you who sent me (prior to the meeting) a copy of that Ordinance. He said that there was nothing for public review had he not asked specifically to see it. He thanked Mr. Roshto for tabling it so that we did not have to go through the nonsense of a large public discussion about the errors, but we do need better planning so that the public has an advance look at these sorts of things when then come up. Otherwise, the result is that the errors get brought up at the public hearing at the Township Committee and that is the wrong place at the last moment to be bringing up errors. He said that he would communicate with Mr. O’Brien.

Mr. Roshto said that Chairman Connor runs a great meeting and he respected that, however he did believe when talking about the Elements that we should be inviting the public to comment on those topics. He asked if the Board could open it up after there is discussion by the Planning Board for public comments regarding the Elements.

Mr. Connor agreed that that could be done.

Mr. Arentowicz said that when we were discussing the issue of the Valley Road Ordinance at the last meeting, there was discussion by the Board whether or not that Ordinance was going to be tabled for further discussion. He said that he was Chairman at the time and, based on the discussion with the Committee and the Planning Board that the Valley Road Ordinance was going to be (and got to be) deferred, so he made the decision not to take public comment at that time given the fact that it was going to be deferred. If that was not under the auspices of Robert’s Rules of Order and the rules of this Planning Board, he said that he apologized. However, he did not see a point to open the meeting up for discussion if, in fact, the Valley Road Ordinance was going to be deferred and that is, in fact, what happened. He apologized to the public if he offended anyone, including Mr. Sandow.

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ANNOUNCEMENT

Mr. Connor announced that the application of Classic Foods, Inc. (No. 13-03P) will be carried to the May 28, 2013 Planning Board meeting *with* further notice to be served.

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DISCUSSION

COPPER SPRINGS /INDOOR SOCCER REZONING REQUEST

Mr. William Harrison, attorney for the applicant, said that he and his client have appeared before the Board a couple of times. He said that he planned to recount how they got to where they are tonight and what they would like the Board to proceed with this evening. He said that there were approvals granted for the subject property for recreational uses dating back to 1959 and that both the former property owner and the current property owner were in discussions with the Township as to what was allowed under those prior approvals to the extent that additional facilities could be built on the property pursuant to those approvals. As a result of those discussions, he said that the Township Attorney recommended that they proceed to have the property rezoned to allow the existing use to be a permitted use to allow an expansion of the facility. He said that they appeared before this Board and it was felt that the best way to accomplish that was for the Master Plan to recommend a rezoning of the property to establish a Commercial Recreation Zone in which the existing use and the proposed expansion would be a permitted use. He said that they prepared a draft of a Master Plan amendment and a draft of the ensuing Ordinance amendments to enable that to occur. He said that they have had a couple of discussions before the Board and, at the last meeting, there were some questions with the Board concerning some of the language in the Ordinance and they have made some revisions to try and address that. There were also some questions concerning the wetlands LOI’s that were issued by the NJDEP and they have provided the mapping of those wetlands areas determined by the NJDEP. He said that there were two LOI’s and one of them received an extension by the NJDEP, so there are valid LOI’s delineating the wetlands on the property in effect now. He said that the Board also asked questions. He said that the property owner also owns a not dissimilar facility in Florham Park and the Board requested that he provide copies of the approvals that the Florham Park Board of Adjustment granted for that facility so that the Board had some sense of what was being done there and what conditions were imposed, and so copies were provided to this Board. He said

that the Board also requested that the property owner meet with the Great Swamp Watershed Association (GSWA) and also have discussions with the Township Environmental Commission and Recreation Committee. He said that all of that has transpired since they last met here and they are here at this point to request that the Board agree to move ahead with the Master Plan change and schedule it for a formal hearing on the change that they are recommending. He said that the property owner and his engineer and planner are present this evening to answer any questions the Board may have.

Mr. Arentowicz asked Mr. Harrison how their meeting went with the GSWA.

Mr. Steven Plofker, principal of the applicant, said that they met with the GSWA on 2 or 3 occasions and he thought it went great. He said that his engineer and their engineers were present and he was led to believe that he had their support. However, he said that he received a letter today in which they expressed concerns about several issues which was of great surprise to him. He said that his professionals provided them with all of the analyses of the environmental and engineering information. He said that they have been diligent about being the best neighbor they can be to them.

Mr. O'Brien said that Mr. Plofker seemed to be offering testimony and questioned if he should be sworn.

At the request of Mr. Connor, Mr. O'Brien swore in Mr. Plofker.

In response to Mr. Arentowicz, Mr. Plofker said that the letter he received today was a total surprise to him and he would let his engineer speak for himself. He said that he was really taken back by it because they did everything they asked for. He said that they even suggested that they speak to a local landscaper that has specialties in environmentally sensitive water retention plans and reconsider redesigning their parking lots in such a way to rechannel their rain water. He said that they were open to all of these suggestions, but he felt that the letter speaks for itself.

Mr. Connor said that, unfortunately, according to the letter, they have a meeting this evening of their entire organization and they said that that is the reason they could not attend.

Mr. Plofker said that he really thought he had their support when they asked him for a contribution to their organization. However, they have their own perspective and it is certainly an important job to do.

Mr. Arentowicz asked Mr. Plofker if, in the 2 or 3 meetings held with them, he provided anything in writing or did they provide anything to him in writing.

Mr. Plofker replied, "No" and said that it was much more informal than that and that they really just traded information. He said that at the last meeting they expressed their concerns and his team provided input as to how they propose to address it. He said that a lot of it had to do with more details that they would get into in a site plan. He said that they were worried about runoff and the way they would treat it both from roofs and from parking lots and the environmentally sensitive things that they suggested which they were open to. He said that they only provided a lot of input to them and gave them a lot of data.

Referring to the issue about the C-1 potential problem with the current facility with the pond, Mr. Arentowicz asked Mr. Plofker if that was a surprise to him in the letter today?

Mr. Plofker replied that it *was* a surprise. He said that he would let his engineer address the technical concerns and said that it was his understanding that, contrary to what they may feel about the open water, it's considered impervious by local Ordinance. He said that they certainly tried to be respectful in any way they could but in this particular instance you have to tell him which set of rules to follow.

Mr. Roshto said that we are asking questions about a letter that we haven't read into the record and so the public is not aware of what we are talking about.

Mr. Connor read the letter dated May 14, 2013 to the Long Hill Township Planning Board from the GSWA and NJ Conservation Foundation into the record. He said that the applicant has two parts of his proposal. The first is the revision to the Master Plan and the second being the creation of a Land Use Ordinance for commercial/recreational zoning. He requested Mr. O'Brien to provide a history of how we got here.

Mr. O'Brien said that Mr. Harrison has pointed out that the Copper Springs resort has been operating since the late 1950's at this location. In recent years, the Township was concerned because the uses that were on the site had expanded beyond those that had been approved in several zoning variances that were granted to the property owner. He said that discussions were held at the Township level with the former owner of the property and with the current owner concerning a possible rezoning and presenting information to this Board to see if the Board would be so inclined as to entertain the idea of rezoning the property and taking the uses that are on the site and either allowing them or disallowing them and coming to terms with what is there and what the Township will allow rather than go through zoning enforcement or through the use variance process. He said that this seemed like a cleaner way to do it and let the Planning Board make a decision as to what should be there and what shouldn't be there. Over the last two years, he said that the current owner has been before the Board a few times to discuss some of their ideas for the site and for adjoining properties and how to make this work for them and present the Board with the various alternatives.

Mr. Wallisch asked what uses have been approved and what uses are currently there?

Mr. O'Brien said that he prepared several memos on this. One is dated 10/10/11 which laid out the prior Resolutions. The first is dated 9/11/59 followed by 11/16/76; 3/27/84; and 10/7/08. Amongst them, they allowed the swim club to exist along with certain accessories such as the tennis courts, a refreshment stand, second floor apartment, and indoor tennis courts. He said that he could forward the memo to those who do not have it.

Mr. Plofker said that he is the current owner and purchased the site approximately 2 years ago. He said that at the time he bought it there was an indoor dome which consisted of 5 tennis courts, a parking lot that separated the dome from the outdoor club (which was mostly a seasonal club), a large pond with 4 or 5 tennis courts and some playing fields and assorted cabana like buildings. He said that the outdoor club was in disrepair so they discontinued that use and they converted the indoor tennis courts (which were also in a dilapidated condition) to field sports. He said that it is a synthetic grass field made of rubber pellets which was converted for soccer, lacrosse, and baseball (which are the current uses). He said that their intended site plan which they submitted involves keeping that indoor recreational use on the one side of the parking lot which is *mostly* winter use. The other side of the property is planned to be converted into a swim-type club getting rid of the pond and adding a pool big enough for swim clubs for children's swim teams to compete and adding a series of tennis courts that would potentially be domed in the off season. He said that he owns some 5 or 6 of these clubs throughout the State, some of which are larger and some of which are smaller.

Mr. Wallisch asked for the intent of the house that is currently on the site.

Mr. Plofker said that he is proposing to leave it as a house probably for the employee use of the facility. He said that the Board expressed interest in possibly limiting the number of people that lived in the house and they are certainly hoping to do whatever the Board directs them to do in that regard. He said that there was also an interest on the Board's behalf that they acquire a property to the north. He said that they have reached a verbal agreement with the owner's of that property and he is just awaiting signatures. He noted that it is also subject to some soil testing regarding an oil tank that was removed many years ago.

Mr. Roshto asked if the property to the north (which they reached a verbal agreement on) is included in the Element.

Mr. Plofker replied, "Yes".

Mr. Roshto asked if those property owners support the proposal.

Mr. Plofker replied that he did not know if they support it or not. He said that one of the property owners is present. He said that the house is really close to the indoor dome that exists and occasionally noise emanates from it and he felt it was really important to the Board that that property be incorporated into the larger scheme so there wouldn't be an interference with anybody living there in the future. He said that their intent is to renovate the house and leave it as a residence.

Mr. Connor said that the letter from the GSWA states that their position is that the retention of a 15% lot coverage maximum increased to a 40% maximum would be unrealistic and inappropriate, however he said that he would like to hear Mr. Plofker's response or his engineer's response.

Mr. J. Michael Petry, licensed professional engineer, was sworn.

Mr. Connor referred to the second paragraph of the GSWA letter which suggests that we retain a 15% maximum lot coverage and also suggests that 40% is unrealistic and inappropriate. He asked Mr. Petry for his comments on that.

Mr. Petry said that the Township Ordinance is interesting in that it asks the applicant to calculate impervious coverage based upon the areas that are not environmentally sensitive. In the particular instance of this property, he said that the entire property would be considered environmentally sensitive because the flood hazard area (as they attempted to determine through a letter of applicability with the NJDEP) established that the NJDEP will consider this property in the flood hazard area unless they do a study of the Black Brook and prove otherwise and, therefore, they will have to go to them for a permit. He said that they are assuming that the entire property is inundated in the 100 Year Storm based upon the approximation method which would mean that they would have 3' of water over the whole property. He said that he understood that the approximation method is excessively conservative but he also understood that without studying the Black Brook it is the only alternative to consider. Therefore, he said that they are willing to move forward with an application to the NJDEP based upon that understanding, however, when they calculate their impervious coverage on the property, they are calculating including the entirety of the parcel because they have no other way to calculate it and provide a percentage number. He said that when they look at the existing impervious on the property, and he did believe that the existing swimming pond meets the definition of impervious that is contained within the Township Ordinance and it also meets the definition that is contained in the NJDEP's Ordinance. He said that the existing impervious on-site is 25.63% and they have provided that in a calculation with the breakdowns as requested the last time the applicant appeared before the Board. He said that it was provided to Mr. Lemanowicz and Mr. O'Brien as part of the preparation for this hearing. In their proposed condition, he said that they have impervious coverage as was shown on their plan of 27.08% and that anticipates calculating all of the domes as impervious understanding that the tennis courts that are under those domes and exposed for 9 months out of the year are, in fact, pervious. So in their worse case situation with the domes up, they are only increasing the

impervious coverage on the property by 1.5%. He said that the proposed Ordinance asks for 40% and the plan they prepared and showed to the Board shows 27.08% in the worse case scenario – an increase of 1.5%.

Mr. Connor asked for the numbers again.

Mr. Petry replied that in the existing condition they have 25.63%. In the proposed condition, when you consider the domes impervious, they have 27.08% and when you exclude the domes (when they are down) the courts are pervious and they are 17.48%.

In response to Mr. Plofker, Mr. Petry said that the pond shows in his calculations to be 81,391 S.F. (almost 2 acres). According to the Ordinance, he said that he believed the pond to be considered to be impervious.

In response to Mr. Arentowicz, Mr. Petry said that there are two separate issues. He said that their position is that the pond is not impervious because it is not full and when it rains, it can take more water, so it doesn't generate additional runoff. He said that it is no different than a swimming pool. He noted that the pond has a clay liner, so it holds water and does not allow it to perc into the ground. He said that its whole purpose is to hold water so people can swim in it. He said that the NJDEP says the exact same thing – that ponds and streams are considered to be impervious surfaces. He said that they contend that in terms of the impervious, they are right. In terms of the C-1 designation, he said that it is a different animal. With the C-1 designation, he said that they are indicating that there is a connection between the watershed and the pond and that is true. There is a pipe that actually drains the pond. There is a valve and you can open it up and close it and it allows the pond to drain into the Great Swamp. He said that the NJDEP has already established, and it is in their LOI, that this is a man-made pond. It is not open waters, so the hydrologic connection is irrelevant because it doesn't have transitions on it and they can fill it tomorrow based upon the LOI that is in their hands.

Mr. Lemanowicz said that he and Mr. Petry have been talking about this issue and, based upon the permits, it seemed that that is what the NJDEP is saying. He said that if this pond was formed by a dam that would have that pond behave much more like an impervious surface because the water is always flowing out and it increases when it starts to rain. In this case, the water is trapped until they let it out. It is not like a flow that is constantly going through the pond. He said that it seemed that it is not really acting as impervious surface until the pond fills to the point where it overflows and, at that point, he was not sure what kind of storm it would take to have that happen.

Mr. Petry said that he had not done a calculation as to at what storm it overtops. He said that we don't know what the condition would be in a 50 Year Storm. As the contours indicate, he said that there is probably about 2'-2.5' of freeboard between what was normally the swim surface and the highest elevations surrounding it. He said that you would have about 2'-2.5' of water that would continue to fill up before it would run off. He said that it is more than the 6"-8" of freeboard that you would have in a pool, but it certainly is not generating runoff. He felt that it meets the criteria for impervious that is in the Township Ordinance.

Mr. Connor asked if there is runoff from the associated property into the pond? He said that the collection surface might be 4 acres which would allow the pond to fill up much faster.

Mr. Petry replied that there is certainly some area around it that would drain to it.

In response to Mr. Arentowicz, Mr. Plofker confirmed that it is their hope to fill in the pond. He said that he was really surprised that the Great Swamp was not in favor of filling it in because the amount of chemicals that the former owner put into the pond on an annual basis was staggering to him just to get the water to a swimmable quality. He said that all of those chemicals have to go somewhere. He said that he shared that with the Great Swamp. It seemed to him that a pool that is self-contained and where we don't dump the water on an annual basis has to be preferable to hundreds and hundreds of gallons of chemicals that must seep into the ground somehow.

In response to Mr. Arentowicz, Mr. Plofker said that he has not had any subsequent conversations with the GSWA since receiving the letter today. He said that he picked up the phone and dialed the number but decided that there is nothing positive that would result from that conversation, so he put it back down.

Mr. Connor said that the letter was hand-delivered to the Planning Board and was not copied to anyone else. He said that Mrs. Wolfe contacted him after receiving it and asked what she should do with it and he advised her to send it out to the Board and the applicant, so he suspected that Mr. Plofker got it somewhere around 3:00 PM this afternoon, so there was very little time to respond.

Mr. Roshto asked if he was correct to assume that the NJDEP considers natural ponds to be impervious.

Mr. Lemanowicz replied that this is not a natural pond, it is man-made.

Mr. Roshto replied that he thought he heard a statement that he wanted clarified. He asked if the NJDEP considers natural ponds to be impervious.

Mr. Lemanowicz replied that he believed that they consider natural ponds to be impervious also, but he had not specifically looked at it.

In response to Mr. Roshto, Mr. Petry said that this specific pond would be considered impervious surface under NJDEP regulations.

Mr. Lemanowicz said that going from 25.63% to 27.08% is about 1.5 percentage points, but going from 25.63% to 27.08% is actually an increase of 5.6%.

Mr. Plofker said that their analysis is contingent upon the pond being treated as impervious, if it is not, then all of the numbers are shot. He said that the 40% was a made up number to give them flexibility but they would have no problem reducing that number closer to what their actual plans are.

Further discussion of the GSWA letter followed.

Mr. Wallisch said that their concern was that it was going from 15% to 40% and asked where the 15% came from.

Mr. Harrison replied that that is what is allowed under the current Ordinance.

Mr. Petry said that if you back out the pond, the existing condition is 13.4%. If you consider the pond to be pervious, then the existing impervious is 13.4%.

Mr. Connor said that there is a question about additional expansions of any septic system. He asked Mr. Petry if any expansions of the septic system are proposed.

Mr. Petry replied that they are not at a point yet where they know what the existing septic system capacities are that are there today. He said that they know that there are several of them on the property but they do not know if they will have to expand them or not.

Mr. Plofker said that their current thought is to use the existing lavatory and kitchen facilities during longer periods during the year and not build new ones.

Mr. Lemanowicz asked Mr. Petry if he knew what the total septic flow is for the property that they are proposing.

Mr. Petry replied that they do not have those numbers yet.

Mr. Wallisch asked Mr. Lemanowicz if the tennis court surface is considered pervious.

Mr. Lemanowicz replied that it depends on the surface. There are surfaces that *are* pervious, although the existing surface is probably considered to be impervious according to our Ordinance because we consider decks and gravel driveways to be impervious. Although the surface may take water, he felt it will be considered to be impervious during review.

Mr. O'Brien said that, depending upon the nature of the surface, our Ordinance does allow credit to be given for the perviousness of a particular surface and a ratio to be used.

Mr. Lemanowicz said that he believed that is only for purposes of designing the drainage – it is not impervious cover. He said that you use impervious coverage for two things – to determine the impervious cover and to calculate stormwater. He said that there are a lot of new surfaces out there such as pervious concrete and pervious pavement and, for the purposes of designing a stormwater system, an allowance is made. But from a bulk standpoint, he believed that it stays.

Mr. Pfeil asked if the applicant's testimony that when it is domed it is 27.03% and when it is not domed it is 17.48% it is wrong because the courts are considered impervious?

Mr. Lemanowicz replied that regardless of the fact that they are discussing with and without the domes, we take the worst case anyway so it really doesn't matter what the courts are made of. He said that we would take the worst case with the domes up.

Mr. Roshto asked Mr. Lemanowicz if he had arrived at any numbers that are comparable as far as impervious surface percentages.

Mr. Lemanowicz said that he had not measured everything and independently checked. He said that when we get to a review stage he would do some spot checking.

Mr. Petry said that what they did do at Mr. Lemanowicz's request at the last meeting was that they provided a breakdown where they literally have a chart on the plan that says the house is this many square feet which will make his review time a little easier. He said that the numbers that he provided are based upon their calculations – literally running them in the computer. In terms of the surfaces that they intend to use for the tennis courts, they may be a Hard-Tru which absorbs water but he did not know by definition if that is going to be considered impervious under the Ordinance, but he knew that the NJDEP has not considered it impervious in the past and they may actually be using a field turf court as well and they are probably more pervious than the soil that is there today. He said that it is

an unnatural surface that is being introduced and they will discuss it with the Board's professionals to make that determination.

Mr. Wallisch asked Mr. Petry if they were planning on filling in the pond and replacing it with a pool.

Mr. Petry replied that the plan has a pool, a kiddie pool, and a series of tennis courts along the front of the property. There will be 4 tennis courts at each location and those would each be domed in the winter months.

Mr. Plofker said that they will *potentially* be domed and that it is really based on demand.

Mrs. Dapkis asked how many people the existing septic system will service.

Mr. Petry replied that he did not think he could answer that question since he had not tested the system.

Mr. Arentowicz asked Mr. Petry, based upon his analysis of his views and no one else's, in filling the pond in or whatever they are going to do, will flooding increase, decrease, or stay the same in this area?

Mr. Petry replied that, in his opinion, they will not be able to increase flooding because they have to take an application to the NJDEP for *anything* that they do here and the NJDEP is going to require them to mitigate any increase that they propose and that will have to be done on site. In order to meet their stormwater management criteria, he said that they *cannot* increase flooding.

Mr. Lemanowicz said that, if the pond is 80,000+ S.F., it is more than an acre of disturbance, so that the stormwater management regulations will require them to *reduce* the runoff and not just keep it the same.

Mr. Arentowicz asked, "By how much"?

Mr. Lemanowicz replied that it varies with the storm. It is a percentage of the storm which goes from 50% of the smaller storms and you are allowed to let go 75% of the larger storms.

Mr. Petry added that they evaluate both stormwater runoff and flooding because they are separate. He said that in areas like this they are different animals.

Mr. Lemanowicz agreed and said that, even if it wasn't in a flood zone, you would still have that issue. But now that you've got the flood on top of that, there is more protection to be reviewed at that level.

Mr. Arentowicz asked Mr. Petry if he was confident that he could achieve that?

Mr. Petry replied that he has done hundreds of sites.

Mr. Arentowicz said that in their other sites, for example in Florham Park, he did not believe that the site is in a flood plain.

Mr. Petry replied that a portion of that property is, "Yes".

Mr. Plofker said that Mr. Petry has convinced him that they have a likelihood of success in order to get him to spend all this money to get all these studies. He said that there is no guarantee but they have gotten a pretty good indication from the NJDEP and they understand that anything from the Township will certainly be contingent upon the NJDEP's approval, but they are willing to continue down this process because they *think* they have a good chance of success.

Mr. Harrison added that the reality is that if they can't meet the NJDEP's requirements, they aren't going to be able to build. However, they are sufficiently confident and he said that he has seen sites equivalent when he has represented clients where they have been able to meet *both* the flood hazard and stormwater rules which, as Mr. Petry said, are two different issues. He said that that is the risk that the property owner is taking so that the Township is assured that both your stormwater requirements and the NJDEP's stormwater requirements, as well as the NJDEP's flood hazard requirements have to be complied with.

Mr. Plofker said that there appears to be a conflict between the Township Ordinance and the NJDEP. He said that, if they were able to get a permit from the NJDEP to permit their proposed development, the Township Ordinance would still prohibit it.

Mr. Petry said that they are proposing that, if the NJDEP approves it and it meets their requirements, it would pass muster under the Township Critical Areas Ordinance. In response to Mr. Arentowicz, he said that the Township Ordinance precludes the applicant from building anything in a critically sensitive area which means the whole site and they could not do a thing – they could not add a parking space, take one out, or put up a shed at all. It is precluded by the Township Ordinance.

In response to Mr. Roshto, Mr. Petry said that he was familiar with the conditions in Long Hill Township. He said that he lives in Fairfield, so he knows what Long Hill Township is going through.

Mr. Roshto said that this is a significant issue for us in this town and that flooding is a regular occurrence to us and we take it very seriously, so when we are talking about going from what it was originally zoned for at 15% to up to a potential of over 27%, he was concerned about that. He said that the way Mr. Petry talks about it makes it sound like we are too conservative and the reality is that he did not think we are conservation enough.

Mr. Harrison said that the applicant is proposing a very limited amendment to the Critical Areas Ordinance, just addressing the flood hazard area. He said that there are several criteria in the Ordinance and they are proposing to only change the one relating to flood hazard if the NJDEP gives a permit to develop in a flood hazard area. He said that they understand the significance and are trying to address that. He said that they were asked to and wanted to provide the Township with a sample of the Ordinance. They did not want the Board moving ahead with the Master Plan and getting a surprise with all of the things they are asking for. He said that, at this point, they are asking the Board to move ahead with the Master Plan which *does* address the impervious cover issue but a lot of the details you are looking at are really details of the Ordinance and some of the requirements (meaning stormwater for example) is really the site plan. He said that they will have to comply with the Township's stormwater requirements and the NJDEP stormwater requirements. He said that the Board is really getting three bites at the apple. It is getting a Master Plan bite at the apple, the Township Committee will record the Zoning Ordinance to you and the third bit is when they return for site plan approval.

The meeting was opened to the public for comments.

Mrs. Cecelia Cilli, Gillette, said that she had a question about the whole procedure this evening. She said that this particular property (it's existence) is because of a variance and that the whole club was set up with variances over the years.

Mr. O'Brien replied that the first variance was granted in 1959.

Mrs. Cilli agreed and said that there were then subsequent ones. She said that most of the variances were very specific in stating that it was supposed to be a swim club and tennis club. and, at some point, it then became an indoor soccer facility. She said that there is letter that the Township Attorney wrote at one point telling the owner that they were not supposed to have anything except tennis or swimming and then the Township just let them have a soccer facility. She said now you are letting them come in and say if you want something else, we'll have to change the zoning and you can help write the zoning. She questioned if she was not getting this? She said that she had a piece of property and would like to have a movie theater on it and the Ordinance says she cannot do that. She asked, if she appeared before the Board, would it let her rewrite the zoning so that she could have a movie theater on her property? She did not think so. She asked why we are even doing this. She also asked why we have these poor people in here, stringing them along that we could possibly do this type of thing here? She said that we, as citizens of Long Hill Township, have a responsibility to the Great Swamp. She said that we have a national treasure at our doorstep and questioned why we are even *thinking* about doing something that could possibility jeopardize it? She felt that there is something wrong and something that we have to really think about. She said that there are only two of us here tonight, but you know Meyersville and you do know Long Hill Township. If it is something that is going to jeopardize the Great Swamp in any way, it is not going to be something that is very easy to do. She said that she would like to tell the applicant that as well. She said that we have a responsibility to be custodians of that national treasure and God knows that here in New Jersey if the past year hasn't taught us a few lessons.... we really should have learned them.

There being no further comments, the meeting was closed to the public.

Mr. Connor said that we need to see how we proceed and what the next steps are.

Mr. O'Brien said that Mr. Harrison has suggested that the Board review the Master Plan amendment and make a decision on that and should the Board consider that favorably, then to proceed to review a draft ordinance. He said that probably the threshold question for the Board (before doing anything) is whether or not it is appropriate, from its point of view, to rezone a property based upon what has happened in the past and the material that has been presented to it as part of this go around and whether or not it is appropriate to rezone the property to a commercial/recreation use. He said that the property has been in existence in *some* recreational form since 1959. The Township has granted approvals along the years to continue that use and to expand it in certain ways. Whether this is appropriately in the Conservation Zone and operating by variance or, more appropriately, should it be in a recreation zone of its own doing and operate according to those specific rules is the question before the Board.

Mr. Arentowicz said that, based upon the 12/11/12 Planning Board meeting and receipt of this letter, whether it be at 2:30 PM or 3:00 PM this afternoon, he too was floored that it appears that we are so far away from this applicant in the Great Swamp in coming to any agreement.

Mr. Connor said that his comment is that it has been some sort of recreational use for 54 years and they are looking at a change in the recreational use. He also felt that the pond with all of its chemicals may have been more detrimental to the Great Swamp than what is proposed, or at least there is the possibility that that is the case. Outside of that, the other thing he knew that is in the general Meyersville/Great Swamp area we are looking for things that do not have a great impact on the Swamp, which they would clearly have to show, but do support recreational activities since they are needed in the Township. He said that their Florham Park facility is certainly a good example of what you can do. He felt that it is really a top flight facility, so this isn't a company that is coming in lightly and is going

to do something cheap. They will do something that brings in what some of us might think is a reasonable use. He asked what the option is if we don't have continued recreational use there, and said that the Great Swamp could take it over to become a part of the Great Swamp. He said that he would like to talk more about how it relates to the Master Plan and he also said that he would like to have the GSWA as part of those discussions.

Mr. Wallisch said that he had similar comments regarding the chemicals that are currently used to fill 2 acres worth of a pool that consistently on some periodic basis drains into the Great Swamp versus a contained facility in the same amount of space. It is still recreation and there is a dome with a tennis court or a dome with something else, and we have to agree that we want a recreational facility. He said that without the GSWA defending the letter, it is difficult to think where they are coming from and what their interpretation was. He said that we need to follow up with them because it is hard to defend or not defend them.

Mrs. Dapkins asked why it would make a difference between a Conservation Zone and why couldn't they continue to plan for their improvements even though still in a Conservation Zone? She asked why the property would have to be rezoned.

Mr. O'Brien replied that any additional improvement would require a use variance.

Mrs. Dapkins replied that they have gotten them in the past.

Mr. Plofker said that, in discussions with the Township Attorney, he said that they expressed their desire of what their plans were for the property and explained to him that they thought that they could do it via a use variance - either just continue the existing use (of which there was some controversy of what the old variances said or didn't say). He said that they had an honest disagreement about that and they said that they could come in on a use variance to the Board of Adjustment and he suggested that to clear everything up and clarify the existing uses, that they do this on a rezoning. He said that following his instruction is the reason that they started the process.

In response to Mrs. Dapkins, Mr. Plofker said that he was talking about Mr. Pidgeon. He said that he proceeded in this way only because that is the suggestion he made as to the avenue to take.

Mr. Connor said that it seemed to him that the next step is to get the GSWA involved in this in more than just a letter basis. He said that we can do it either through a public hearing or some additional off site discussions but he was fairly sure that the Board wants to listen to their side of it and ask them questions. Therefore, he felt it appropriate to carry the application to a fairly quick future date when the GSWA is available. He said that we need to identify the specific areas that we want to have addressed. He asked Mr. Lemanowicz if he had some idea of the questions raised as to the septic system.

Mr. Lemanowicz replied that it would seem that in determining if the property is viable for what they want to do, there must have been some concept of the size of the restaurant, the number of people, etc. He said that somebody had to do some kind of business model for that and, from that, you could use standard flow rates and determine what kind of septic flow you are going to generate and what size system you need, so it would seem that that could be at least be approximated.

Mr. Roshto said that we have heard from the owner of the property what they would like to see in an Element. He said that he would like to see what the GSWA would want in an Element. He felt that this is a little bit backwards and that Mrs. Cilli said it right. He said that we have been doing this for 2 years – talking about something that, in his opinion, is *way* out of character for that area – on the extreme side. He said that we are talking about an expansion in this Element allowing 40% coverage from 15% today. He said that variance after variance went through and were allowed. He asked why we aren't talking about an Element that makes sense for that area and makes sense for the GSWA and our great wildlife refuge that we have – a trust that we have responsibility for. He asked why we aren't writing that kind of an Element as opposed to letting an applicant or owner of a property come in and write one for us. It did not make sense to him.

Mr. Connor said that he believed that regarding the question of doing the Element, this is sort of the Element for a very specific area which is, in fact, that particular recreation facility and what recreational activities are there or do we want recreational activities that have been in place over 50 years to disappear? He said that that is certainly a different issue that we would have to develop.

Mr. Roshto said that this Planning Board in 1996 passed a Master Plan and an Element to make this area conservation. He said that, if you look at that Master Plan, it is *extraordinarily* well done with a lot of background material. He imagined that they spent many, many hours deliberating and coming up with the concept that that be zoned conservation. He said that the fact that we are talking now and letting an applicant and owner come in and describe what *their* vision is and that we are not taking ownership ourselves of driving what the Planning Board's vision is for that area and talking with our residents that we heard from tonight (one of them), he could not understand why we would be even entertaining such a thing. He said that he wouldn't pass this proposed Element in a second.

In response to Mr. Connor, Mrs. Dapkins said that she was very instrumental in pushing the Conservation Zone and also was chairing the Board of Adjustment for years. She said that they were almost involved in litigation with either the prior owner or two owners back and there were some very serious problems and many violations that were never granted through variances. She said that maybe some of these things have been accepted now to be something that

was approved, but we really never approved them. She said that we have all of the paperwork which is available to review to see exactly what was approved and what wasn't. She said that she did not know where the soccer came from as it was never part of any approval. She did not know if the current or prior owners just took it upon themselves to do it – it just came up.

Looking at the commercial/recreational facility and some of the listed items, Mr. Wallisch asked Mr. Roshto which ones are so egregiously what we want that area to be used for when we are trying to increase the outdoor activities there.

Mr. Roshto replied that he felt expanding and increasing the outdoor activities in that area is a mistake. He said that he asked that question the last time this owner came before the Board. He said that he asked what additional increase in capacity in terms of traffic would occur on this site and he did not get a straight answer. It was talked around in very loose terms. He said that what he was hearing was all kinds of activities that they were proposing that they would do – parties, birthday events, bringing in soccer camps in the summertime and, in the wintertime, having additional domes that they would use for additional soccer camps. In his mind, what he was seeing from that was expansion, more traffic, more impervious coverage – everything was bigger uses and more uses – 40%. He said that they are asking for 40% impervious coverage and you have to imagine that, in their minds, when they wrote that 40% that that is what they were thinking. Why else would you put 40% in? He said that, if you understand our Township, there is no way our Township would accept 40% coverage. So what we heard tonight was quite the opposite – an understanding that they are really very close to what they actually are today. He said that maybe they are, but they are not close to 15% which is what that area was originally zoned for. He said that we are continually, year after year, passing variance after variance to let them do more and more in that area and until we get to a point where we are actually letting them what appeared to him to be actually doubling what is actually there. He said that, to him, it is not about the uses, it is about the *expansion*.

Mr. Moholkar felt that this ties into bringing in the GSWA for a conversation at a bare minimum. He said that we cannot move ahead without their direct input and there must be a lot more than just the letter they delivered today.

Mr. Roshto said that he was proposing that we allow them to come in and be constructive and explain to us what they would like to see in this area as opposed to trying to argue against this.

Mr. Connor said that, under any circumstances, we want to consider how the property will be developed, and it certainly goes along with the work we are doing with the Land Use Element under any circumstances. He said that they apparently had some discussions with the applicant that they were agreeable that something might be developed there that makes sense and it might be interesting to ask them what *would* you see as appropriate and at least we would get that input to get some idea. He suggested setting another hearing on the use of this particular area and whether or not a Recreational Element makes any sense at all but certainly how they suggest that this land and other land like this surrounding the Great Swamp might be developed that is both an asset to the Township and not a detriment to the Great Swamp. He said that we need to get back to the GSWA and set something up as quickly as we can. He said that the applicant deserves an answer from the Board as expeditiously as we can give it. He said that he has prepared some plans which in some way is an attractive alternative but we need to see if it fits and we need to get a better idea of what does fit. He thanked the applicant for appearing and presenting his options to the Board. He said that the Board will consider them.

Mr. Harrison thanked Mr. Connor.

Mr. Connor said that Mrs. Wolfe will make the necessary contacts and be in touch as to a future hearing date.

Mr. O'Brien said that both the Master Plan Element proposal and the Ordinance proposal have the original dates going back to October 2011 and they have been updated. He asked if they could please be updated with an appropriate date so that we know which version we are dealing with.

Mr. Harrison said that they would do that.

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DISCUSSION
OPEN SPACE MASTER PLAN ELEMENT

Mr. Connor asked if there was a representative of the Open Space Committee present and, if so, he invited them to provide comments on what we have.

Mr. O'Brien said that the revised Open Space Element was distributed to the Board last week. It is based upon a number of past documents which is why it is not a tract change document which he regretted he was unable to do given the various resources he used for it. He said that the first resource he used was the Open Space Committee revision which was done last summer. He said that Mr. O'Neil had sent it to us and his revision was based upon a document that this Board prepared previously which is a combination Open Space and Recreation document. Following Mr. O'Neill's and the Open Space Committee's revisions, he said that he revised the document to include more of the open space materials that he thought had been left out of the most recent version as well as making sure that any non-germane recreation reference was removed from the document. In addition to sending that document out to the Board, he said that he also sent out a resource paper prepared by the NJ Association of Environmental Commissions ANJAC called Open Space Plan and he wanted the Board members to be aware of what is in a typical

Open Space Plan, how it is prepared, what it consists of, and where we go with it so that the Board would know what our document could look like compared to “norm”. Given that, he said that he has already received from Mr.

O’Neill a couple of comments on the draft which he felt are minor and more in terms of technical and editing comments rather than substantive comments, which he said he would incorporate. He opened the meeting for Board discussion.

To be clear, Mr. Connor repeated that Mr. O’Neill has seen the document, reviewed it and sent some comments back to Mr. O’Brien. He asked for any comments from the Board on the draft Element.

Mr. Moholkar said that he had a comment as it refers to the previous discussion. He said that under “recommendations” one says expand open space within environmentally sensitive areas which is what was discussed just 10 minutes ago.

Mrs. Dapkins said that open space is not necessarily developed, it can just be open space.

Mr. Moholkar said that this is saying to expand the open space and we are actually looking at developing on the open space in the previous conversation.

Mrs. Dapkins said that that was not the way she saw this recommendation. She saw it as just expanding open space for walking trails or whatever – just open space.

Mr. Roshto asked Mr. Moholkar if he was drawing the comparison that the previous discussion that we had is actually going against this – if we all agreed that we wanted this, that that is going against it.

Mr. Moholkar said that because it came out right after the discussion, “Yes”, that is how he was reading it. He said that if he was reading it all by itself, probably not.

Mr. Roshto said that that was a great point so that, if we are going to pass another Element, one of the responsibilities we have is to make sure that all of the Elements agree with each other.

Mrs. Dapkins said that she thought Mr. Moholkar was looking at it in the opposite direction. If he is confirming it, then she agreed with him.

Mr. Moholkar said he was confirming what is there.

Mr. O’Brien suggested that the Board go through the Element section by section. He said that getting the Resolution is the tail which will be addressed at the end to make sure that we are actually correct. He referred to Item No. 1 “Executive Summary” on Pg. 4 and asked if anyone had any comments or corrections.

Mr. Arentowicz said that he had a problem with the fact that we don’t have a representative here from the Open Space Committee. He said that it is no reflection on Mr. O’Brien, but he would have hoped that we would have had a representative present.

Mr. Connor said that the Open Space Committee was invited to this meeting.

Mr. O’Brien said that their response was a number of revisions to the document.

Mr. Arentowicz said that his recommendation is that the Board not discuss this unless someone is here to represent the Open Space Committee.

Mr. Connor said that Mr. O’Brien had considerable discussions with Mr. O’Neill and he knew that he said that he was satisfied with the document and said to proceed as recommended. He said that he knew that he said that he was satisfied with the document and to proceed as recommended. He said that he felt that he sees the document as something that ought to be put in place as written.

Mr. O’Brien said that Mr. O’Neill, in an e-mail dated 5/9/13 said that it looked good to him except for Pg. 20 and he corrected a misspelling.

Mrs. Dapkins said that, according to the paperwork in front of her, Mr. Richard Pfluger is the Vice Chairman of the Open Space Committee and he is here this evening.

Mr. Pfluger said that he was present to hear the Copper Springs/Indoor Soccer rezoning request. He said that the position of the Open Space Committee is that they took the recreation portion out of it. He said that it was written by Mr. Mazzucco’s group several years ago. He said that they also took a list of the properties that they might want to buy for open space and they are gone. Other than that, he said that it is what was originally done by Mr. O’Brien and Mr. Mazzucco and his committee. He said that the point that was made before about the acquisition or expansion of open space – that means that the Township will buy private property and declare it open space and the property that the prior applicant owns is not open space, but if we bought it, then it would become open space.

Mr. Connor said that Mr. Pfluger had presented the original draft which was put together with Recreation and Open Space and that is when it got into the request that it be separated. He said that he knew that the Recreation Committee is working on a Recreation Element off of the same document. He said that the things that Mr. Pfluger had just mentioned are things that a previous Board had discussed and recommended. He said that he may be the only member of the Board that was part of that activity about 2 years ago and now we have little or no history of anyone seeing it but him.

Mr. Pfluger said that the version that was reviewed by the Planning Board (and generally accepted) has had the Recreation Element portion removed as well as the proposed real estate because they don't want people speculating. He said that nothing else was changed.

Mr. Roshto said that it talks about the Passaic River Greenway and the proposed Central Greenway which he thought was fantastic. He asked if we have any background material such as maps or anything that describes that in more detail. He knew that parts of it were concepts that he had seen before, but he did not think he had ever seen the whole thing.

Mr. Pfluger replied that Walter Carell has been working on this forever with regard to the paths, interconnections, the properties that we are trying to acquire, and the whole network. He asked if anyone knew where they were.

Dr. Rae thought that Mr. Carell had taken them back.

Mr. Pfluger said that it would be helpful to read versus looking at the concept. He said that if you had those maps and Mr. Carell to make a presentation, then you would understand what the words mean. He suggested postponing the matter until Mr. Carell can make such a presentation. He believed that the Township Committee has seen the plans and what they want to do and when the Planning Board members see it, he felt they would be more comfortable.

Dr. Rae said that we have a document in front of us and Mr. Arentowicz has made a comment that perhaps we shouldn't look at it without a representative of the Open Space Committee being here. He asked the Board if it wanted to move forward with it tonight. If "yes", then we should and provide comments and perhaps then have a dialogue with the Open Space Committee, or the Board may feel that we just can't move forward in which case we can postpone it. He suggested polling the Board.

Mr. Pfluger said that Mr. O'Brien is very familiar with the document and what the wording means and he felt he could answer questions as well as anybody on the Open Space Committee.

Dr. Rae said that he would like it if the Board had the voice to say "yes" or "no" and, if it is "yes" then we move forward. Given the collective background that we have on the document, he said that we can certainly provide comments. He suggested moving forward with the document.

Mr. Arentowicz said that, given the fact that Mr. Pfluger is present and he did not know the background that Mr. O'Brien had, he suggested proceeding.

Mr. Roshto agreed. He said that he would like to see the kinds of material that he was asking about. He said that when we are talking about the Passaic River and Greenway, it makes it hard to pass something.

Mr. Connor said that the goal this evening is not to pass it, but find information that we need to pass it the next time it gets in front of the Board.

The remaining Board members agreed to move forward.

Mr. O'Brien said that, from a technical perspective, this is not a public hearing on a Master Plan Element. He said that our protocol in the past has been for the Board to review elements at successive stages of their development and, then when the Board is completely comfortable with them, to approve or adopt the language and then at a subsequent meeting, hold the noticed required public open hearing and allow for all of the statutory requirements to be met. He said that it is strictly advisory at this point.

Mr. Connor asked Mr. O'Brien to take the Board through it.

Mr. O'Brien said that, based upon the comments he has heard, it was going to be his recommendation at some point this evening that we do include mapping because it is so very important for people to get a concept as to what we are talking about. He said that no mapping has been done in connection with this up until now. Also based upon comments, he said that there have been a number of iterations of this document dating back to 2006. He said that he could put together a package of what those are for the Board members so that they could take a look at what has been done in the past by prior Boards and that may provide a flavor as to which way they were going. He said that this document has shifted like the sands of the Sahara, so you may see certain things that would continue from document to document and a log of things that appear then disappear, then reappear again based upon the Board and its leanings at the time it was discussed. He said that none have ever been adopted by the Board and some of them have been reviewed by the Open Space Committee and the one in front of the Board currently has, according to Mr. Pfluger and Mr. O'Neill, been accepted in its current condition.

Referring to Pg. 4 “Executive Summary”, Mr. O’Brien asked if there were any suggestions, comments, or questions. There were none.

Mr. Connor referred to Pg. 5 under “Findings” and said that since findings is data, he assumed that it is correct.

Mr. O’Brien said that Mr. Sandow had corrected him over time on some of the numbers. He said that they are his numbers and said that, if he was listening from home, if there are any changes to please get them to him and he would take care of them.

He then referred to Item IB “Recommendations”.

Mr. Connor referred to Item No. 1 and said that the expansion of open space was actually the acquisition of property which was the intent. He said that there could be a consistency between what we saw and what we had.

Mr. Roshto referred to Item No. 4 of Item 1A “Findings” and asked if we were saying that the Township owns those 6 parks. He wanted to be sure we were talking about Township parks or all parks, including the Great Swamp and County Park.

Mr. O’Brien replied that the prior version of this document concluded inventories of land. He said that the Township owns Poplar Dr., Riverside Park, Stirling Lake, Turtle Rock Park, the Meyersville Field, and the bike route that runs from Millington to Stirling comprising the 6 properties that are referred to.

Mr. Roshto said that we are then excluding Federal and County owned parks.

Mr. O’Brien added, “Including Board of Education lands in that statement”. He said that, because this Board has decided to separate recreation from open space, anything that is dealing directly with (and solely with) recreation was excluded. He said that the Board of Education lands are considered recreational because of the ballfields and other improvements that are on them.

Mr. Roshto referred to Item 4 and asked if it could be expanded to get a complete inventory count of the parks in our Township.

Mrs. Dapkins asked Mr. O’Brien if we are counting that as part of the open space.

Mr. O’Brien replied, “Not the school, no, just the Township land”.

Mrs. Dapkins asked if we want to include the schools in the Open Space Element.

Mr. O’Brien said that up until recently that had been excluded because they were for recreational purposes. He said that there is, further down the road on Pg. 13 in Sec. 4E a listing for Township lands that does discuss in a very general way what properties are being referred to. He asked if it would help if we were to expand that or he could take that inventory of Township lands that had been in previous editions and reinsert that here.

Dr. Rae suggested coming up with a definition of what open space is for the purposes of the element and that would make it easier to go through the determinations, so we would define it up front.

Mr. O’Brien asked for any further comments.

Mr. Wallisch pointed out a typo in the word “acres” which is written as “aces” in line 6 of Sec. 1A.

Mr. Roshto asked if in the “Findings” in Sec. 1A we are adding in the Morris County Park, or not.

Mr. Wallisch replied, not according to the table. He said that the table on Pgs. 10-11 references Long Hill Township as 267 acres and contains 2 asterisks which indicate “Township open space includes parks”. He said that there is also a Morris County listing for 695 acres, one for New Jersey at 95 acres, and one for the U.S. Government (Great Swamp) at 2,476 acres, so that would seem that it is not County.

Mr. Roshto said that this is the beginning of this document and it seemed to him that we should be talking about (in the “Findings”) all of the open space that we have available.

Mr. Wallisch added, or put it in more detail in this table.

Others replied, “Or both”.

Mr. O’Brien said that you could certainly do that and noted that other previous Boards removed the recreational discussion and those numbers and references.

Mr. Roshto felt it was important that it be added. He said that he would like to capitalize on the Morris County Park going forward and work with the County to make it more accessible to our residents.

Mr. O'Brien replied to Pg. 12, Item 4C "Morris County Lands" and said that it contains a discussion of Morris County lands.

Mr. Roshto referred to Sec. 1A "Findings" and said that he would like to see something jumping out there.

Mr. Wallisch asked where the Morris County Park is.

Mr. O'Brien replied that it is mainly along the Passaic River.

Mr. Connor noted that they are undeveloped and often wet.

Mr. O'Brien confirmed that the Board is looking for a reference to the Morris County lands and asked if there was anything else.

Mrs. Dapkins said that there is something regarding that on Pg. 12.

Mr. Arentowicz felt that what Mr. Roshto was saying was that up front we need to just cover how much open space we have, not on Pg. 12, but on the first few pages and then detail it that it is the Township open space as opposed to the whole open space concept. He felt that it is all here, but it is a matter of how you want to present it up front.

Mr. Wallisch suggested in Sec. 1A to expand Item 2 to define all of the elements of the total 3,787 acres.

Mr. Roshto said that he just wanted to recognize that we have that Morris County Parks resource.

Mr. O'Brien agreed to Mr. Roshto's request and asked if there were any comments as to Item 1B "Recommendations".

Mr. Roshto said that the reason he asked about the Passaic River Greenway is that it might be solving what he hoped to have happen. He said that he would like to see the Township better utilize the Passaic River. He felt that by having residents have better access to the Passaic River, there is more visibility to it and it means that people are going to ask about fallen trees and get reports back to us as opposed to us having to go down the river or have a Boy Scout Troop go down the river. He wanted it to be accessible and part of the culture and environment of our Township. He did not know if just saying that we are creating a Passaic River Greenway goes that far and he wanted to know how the other members felt about the concept of utilizing the river more.

Mr. Connor felt that, in the past, there was an interest to take advantage of the fact that we had the river in such a way that it benefitted the Township. He said that every Planning Board that he has served on, when we got to that discussion, wanted to make better use of it and wanted to figure out how we might use the Morris County property in a more productive way. He said that it is pretty much open space where you can do hiking and maybe develop some canoe outlets.

Mr. O'Brien said that a passive open space like hiking or canoeing will lean on the open space side and should also be mentioned as recreation.

It was suggested to add something to Item 2 to specifically talk about recreation activities along the river.

Mr. Connor felt that some definition of passive recreation should be included that says it is not anything that has a lot of impact on the environment.

Mr. Roshto added, or it could be something that ties into why we are creating a network of greenways/corridors to encourage more passive recreation.

Mr. O'Brien said that he was hearing that he should add some language to Item 2 to add some language about why the Passaic River Greenway and encouraging more passive recreation as well as possibly an additional point about making the river more accessible to the Township/community. He then moved on to "Introduction" on Pgs. 6-7.

Mr. Wallisch asked what it meant by Long Hill Township is a *stable* municipality.

Mr. O'Brien replied that it meant stable in population, which has remained stable since 2000. He said that between 1990 and 2000, the population went up in the *teens* percentage wise. However, between 2000 and 2010, it went up by only a dozen or two people.

It was suggested to clarify the statement by saying that we are a largely residential municipality with a stable population.

Mr. O'Brien agreed to make the change and suggested moving on to Item 3 "Goals and Policies" on Pgs. 8-9.

Mr. Wallisch referred to Item 1 – to provide adequate active and passive recreational facilities. He asked what that meant to everybody.

Mr. O'Brien replied that there are actually metrics that are available that tell you whether or not you have enough park land and there are 2 or 3 different ways of calculating that. In prior versions of this document, he said that we used those calculations and found that there was a deficit of active recreation land. Through more recent iterations, he said that a decision was made to not refer to those metrics and rather leave it to the Township as to whether or not it was felt that there was enough or adequate space.

Mr. Wallisch asked that Board what it felt was adequate. He asked what the metrics were that Mr. O'Brien referred to. He said that he was trying to use the ballfield the other day but had to wait 3 hours.

Mr. Connor said that he would think that on the open space we are not going to have active recreation, we are going to have passive recreation.

Mr. O'Brien agreed and said that he felt that the active "sloshed" over here because it is part of the overall goals and objectives but it can certainly be taken out it is too much of a "slosh".

Mr. Connor said that we had a problem before and the open space got inundated by the recreation and most of the open space talked about needing ballfields and soccer fields which is fine, but it is really a recreation issue rather than an open space issue. He said that he saw active recreation as ballfields and things of that order.

Mr. Roshto said that when the Open Space Committee meets, active recreation is *always* on their agenda – finding open space for the purpose of active recreation, whereas the Recreation Committee doesn't have that responsibility, it falls to our Open Space Committee. He said he was not sure why we would move it to recreation.

Mr. O'Brien said that we could take out the active language in those two points (No. 1 and 1A).

Mr. Connor said that he knew that the Open Space Committee has made recommendations for acquisition of property for active recreation and not just for passive recreation.

Mr. O'Brien said that there will also be a Recreation Element that will address the active recreation questions.

Mr. Connor suggesting leaving it in for now. He said that he knew that that is the source of purchasing property and some of that property has clearly been for active recreation.

Mr. Roshto said that what was bothersome to him is not the word *active* but the word *facilities*. He said that, to him, *facilities* is something that falls to the recreation or some other element. He felt that the Board should be looking for active and passive recreation open space – identifying open space for those purposes.

After further discussion, Mrs. Dapkins said that she felt that the Board is nitpicking. She said that she felt that it is fine the way it is.

Mr. Connor agreed that if the Board does this for each item, it will be doing this until 2014.

Mr. Wallisch said that he needed to understand the vision of the group. He asked if we need to double or triple the amount of open space, or cut it in half.

Mr. O'Brien said to remember that half of this community is open space.

Mrs. Dapkins added, "42%, although it is not necessarily usable.

Mr. Connor agreed that the usable space is less than 50% and we are not going to do anything about it because it is flood plain.

Mr. O'Brien said that that addresses the open space aspect of what this is about which is to preserve as much land as possible for conservation, flood plain, and occasionally to take a suitable piece of property and convert that to active recreational use.

Mr. Connor said that the charter of the Open Space Committee is to look for and recommend grants for taking open spaces and purchasing them for recreational activity and we need to be consistent with their charter and talk about some level of recreation.

Mr. Roshto said that he did not know if we know what our residents really want. He said that he did not know if we know truly if we want to find *one* more passive recreation facility or ten more active facilities. He felt that Mr. Wallisch's point is, what is adequate and this is "kind of lip service", it's really not identifying the root thing. What do we as a Planning Board want and how do we get in touch with our residents?

Mr. Connor said that there were statements in the previous version that indicated that there was not enough active recreational facilities and he assumed they will come back with them. As far as a need for active recreation, he said that that is the responsibility of the Recreation Committee, however the actual implementation seems to fall to some extent to the Open Space Subcommittee, the Planning Board, and the Township Committee.

Mrs. Dapkins said that when the Open Space Tax was passed, a survey was printed in the Echoes-Sentinel and the residents could either buy the paper or come to Town Hall and obtain a survey questionnaire to complete and mail in. She said that Mr. Connor is right, most of it was for fields, playgrounds, and that type of thing. She recalled that it was in 1997-1998.

Mr. Connor opened the meeting to the public for comments.

Ms. Deborah Schmidt, Meyersville, referred to Item 4 of the Goals and Policies on Pg. 8 which states “Preserve and protect environmentally sensitive/critical natural features including areas with wetlands, floodway/floodplain, steep slopes and woodlands”. She said that someone on the Board pointed out, it would be very much against that particular goal to consider increasing *any* kind of development at the prior discussed Copper Springs location. She said that she was very involved in the Master Plan in years gone by and used to be on the Open Space Subcommittee. She said that she owns a property on Meyersville Rd. which used to be zoned residential (minimum lot size of about ¼ acre) and she consented to her property being rezoned as conservation (minimum lot size of 3 acres) at that time for the sake of the community, the refuge and the preservation of our State. She felt that any increased development in that area flies in the face of everything we have been working for for the past 20 years in this community in trying to preserve the refuge. She said that, if you are new to this Board, know that that 1996 Master Plan was worked on for years and was duly considered in allowing variances on a property in the past doesn’t mean that we should now say that we let you have variances so now you can have whatever you want and we can rezone your property to make the variances no longer a variance. She said that it is insanity in her opinion. She urged the Board to support the draft Open Space Element of the Master Plan. She said that this is what we need – a coherent community plan that says no more development where we are going to increase flooding and we just keep going around and around for decades on the same topic. She said that it is quite sad and quite embarrassing.

Mr. Richard Pfluger, Meyersville, said that the Board members have probably all read the Governor’s report on flooding and what he said was to take care of your flood problems before you develop. He said that New Vernon Rd. , near the Copper Springs swim and tennis club, floods and if you allow more impervious coverage, it will flood more. He said that it is probably a piece of property that we should purchase and remove everything on it. He said that along the south side of Valley Rd., near the Shop-Rite and Valley Mall, all of that property floods and probably if it was vacant land we would not allow them to build on it. He said that the Walgreen’s is being built on the north side of Valley Rd. which does not have a flood exposure, although it contains wetlands. He felt that this town needs to do what the Governor’s committee said – before you develop, take care of your wetlands. He said that we should be taking properties off of the wetlands and having more pervious property. He felt that it is ridiculous having an applicant come before us who wants to increase the flood area/problems there when we should probably acquire it, knock it down, and use it for passive recreation. He said that it is a swamp and the Great Swamp wouldn’t build on it, they are buying properties and knocking dwellings down on White Bridge Rd. He said that the Copper Springs property should probably be bought by the Great Swamp. He said that we have to look at the Passaic River and the runoff upstream is getting worse and worse. He said that we talked about the flood wall and it was voted down. He said that the Open Space Subcommittee also talked about everything that is south of Valley Rd. and that we should really acquire it and make it into open space which would reduce the flood problems in the Township. He said that Morris County owns most of the land along the river and has said that it will buy anything along the river. He said that, if we buy land that is adjacent to that along Valley Rd., we’ll just have a big field to absorb all of this runoff when the river rises. He said that he felt that we ought to be thinking that way and not just try to squeeze Copper Springs into some big development there. He also noted that Copper Springs only has approval for 71 parking spaces and what they are doing is renting it out to people to use. He noted that County playoffs were held there with about 300 cars on the street and they occupied the Meyersville ballfield. He said that, if they expand it, they do not have the sewerage treatment facilities, or the parking and will have to build more parking lots that are impervious and it will just make things worse. He suggested that the Board members read the Governor’s plan and adopt it.

There being no further comments, the meeting was closed to the public.

The Board continued its discussion on Goals and Policies.

Mr. Moholkar asked the members if they felt that Item 2 which states “Provide adequate open space, especially in contiguous tracts” is okay or if it had to be qualified in any level.

Mr. Connor suggested taking the word “adequate” out as he did not feel that it will be defined and just have it provide active and passive recreation and open space, especially in contiguous tracts and not try to define what adequate is.

Mrs. Dapkins agreed.

Mr. Moholkar said that you then run into the difficulty of how you write an ordinance to support it because, at the end of the day, you have an element that goes into the Master Plan and we then write ordinances that support it.

Mr. Connor felt that the Board can write the ordinances to the extent that they need to be written and the ordinances can provide the details. He just felt that the Board could never sit here and define “adequate” given its time.

Mr. O’Brien confirmed that he will remove the word “adequate” from Items 1 and 2 in Sec. 3 under Goals and Policies.

Mr. Connor also felt that recreational facilities is probably not right and that it should be “properties or” “potential recreational properties” because, obviously, “facilities” gives you the impression that it is a thing and it is actually a property.

Mr. Wallisch suggested that it just say “provide active open space for active and passive recreation for the benefit of residents” or something along that line.

Mr. O’Brien agreed to do so.

Dr. Rae referred to Item 9 which states “Protect historic building sites and districts in the Township” and asked if that is really what the Open Space Subcommittee is doing now.

Mr. O’Brien replied that, because it is part of the open space tax, that was language that was inserted as part of that, but it doesn’t *have* to be, because the open space tax also allows historic preservation.

Dr. Rae said that it seemed out of place to him compared to the other goals and policies.

Mr. Connor agreed and felt that the Historic Element of the Master Plan is probably where that belongs.

Dr. Rae said that it seemed to him that policies and goals are all kind of mixed through one another. He said that over the next number of years we have certain goals and the Open Space Subcommittee has some very well developed goals and perhaps they could be incorporated here with the overall policies of what we will do if a piece of open space comes up. He said that we will certainly take it as much as we can within the general framework, but we have specific goals.

Mr. O’Brien felt that policies refer more to how things get done, and suggested removing the word “Policies” here and just list them as “Goals”.

Dr. Rae agreed.

Mr. O’Brien said that, if there were no objections, he would remove Item 9.

For future elements that come before us, Mr. Roshto said that if we could standardize using just Goals in all of the elements rather than Goals and Objectives or Goals and Policies. Along the same vein of “Protect historic building sites and districts in the Township”, he said that Item 10 “Protect and preserve wildlife habitat consistent with sound management practices” is also covered in another element and questioned why it would be here.

Mr. O’Brien replied that it was a wide net and it could certainly be kept narrow.

Mr. Roshto referred to Item 11 which states “Coordinate open space and community facilities planning with adjacent municipalities, Morris County, the State of New Jersey, U.S. Fish and Wildlife Service and non-profit organizations” and said that we have a different element for that.

Mr. O’Brien suggested perhaps another word for “facilities”.

Mrs. Dapkins recommended “community planning” instead.

Mr. O’Brien referred to Item 4 on Pg. 10 “Inventory of Existing Open Space & Recreational Land” and said that it goes on to discuss the inventory of existing open space.

Mr. Roshto said that his only question was when was it inventoried?

Mr. O’Brien replied that his last numbers on this go back to 2009 and he could certainly update it.

Mr. Connor said that the Open Space Subcommittee has met recently and he assumed that, if there are new numbers, they inserted them. He suggesting confirming that they are current numbers.

Mr. Roshto said that when the inventory took place should be added to the document so that it is clear.

Mr. Wallisch read the ending of the opening paragraph which states that “The Township acreage totals, however, should be used with caution because many parcels have been dedicated to the municipality as a result of density modification subdivision activity” and asked what that means.

Mr. O’Brien explained that our Township allows cluster development which means that, for instance, if you had a 10 acre tract and you were able to concentrate all of the houses on 3 acres, that would allow 7 acres of open space and, if you go a quarter of a mile away, another development might have a similar open acreage and yet another may have similar open acreage at various spots throughout the Township.

Mr. Connor said that this occurred during the development of the Township where there was an interest to get more open space and we allowed such cluster zoning.

Mr. O'Brien added that a portion of the land is dedicated to stormwater management.

Mr. Wallisch asked if that would be some of the 53 acres included in the table that says "Private (deed restriction)"?

Mr. O'Brien replied, "No, because they are dedicated to the Township".

Mr. Lemanowicz added that the private (deed restriction) would be a conservation easement that somebody may have on their property.

Mr. Connor said that an interesting number would be the Total Open Space number of 3,594 and relate it to the total acreage of the Township.

Mr. Arentowicz said that that number can be found under Item 1A on Pg. 5 (7,760 acres).

Mr. O'Brien confirmed that a date to the inventory will be added to Item 4 on Pg. 10 and on Pgs. 11-13 discuss the various lands by ownership.

Addressing Mr. Roshto, Mr. Connor said that this would be the place if you want to add some additional words on the use of Morris County lands. He said that it basically says that we should continue to work cooperatively with the County in managing these issues. He asked if he had a more proactive statement.

Mr. Roshto replied that he felt there is, although he did not think he could come up with it tonight.

Mr. Wallisch questioned why we have recommendations in a section that is dedicated to an inventory. He felt that all of the recommendations should come out and become part of the objectives.

Mr. Connor agreed.

Mr. Roshto felt that that was a great idea.

Mr. Connor felt that Mr. O'Brien should look at each of the conclusions and decide if there needs to be a recommendation and, if they are not recommendations, he could just strip them out without any loss.

Mrs. Dapkins noted that on Pg. 18 there is a listed Action Plan.

Mr. Wallisch felt that the recommendations and inventory should be in the Action Plan.

Mr. O'Brien confirmed that the Board is saying that in Items 4A-E, he should take the summary statements out at the end of each of those sentences and move them over to the Action Plan on Pg. 18.

Mr. Connor noted that Items 4D & E don't have those summary statements.

Mr. O'Brien added that, in addition to that, we wanted to put in a somewhat more proactive statement on the Morris County lands about the Township taking the lead to manage these lands in a manner that benefits the Township and its residents.

Dr. Rae noted a discrepancy between Table 1 Morris County lands (noted as 695 acres) and Sec. 4C (noted as 706 acres).

Mr. O'Brien thanked Dr. Rae and said that he would check the numbers. He then referred to Table 2 "Preserved Township Open Space" on Pg. 14.

Mr. Connor said that he assumed that it has been updated.

Mr. O'Brien said that he would double check that. He then referred to Item 5 on Pg. 16 entitled "Planned Park and Recreation Facilities".

Dr. Rae did not feel that the first sentence made sense. He said that the first sentence reads that the existing parks and opens paces within the Township have been able to meet the needs of the community for many years and the third sentence reads that the Township has recognized a demand for additional recreational areas and has planned to develop new facilities in response to this need.

Mr. Wallisch asked if there is data to support the future projections as far as the youth utilizing the fields to make sure that the need will continue versus drop off based on the demographics of the Township.

Mr. O'Brien asked if Dr. Rae, former member of the Board of Education, would like to answer that question.

Dr. Rae said that there is data surrounding that which should probably be pulled.

Mr. O'Brien said that the Superintendent provided us with the most recent demographic data and the projections for future enrollment which showed a very small increase foreseen in the future.

Dr. Rae said that historically there have been highs and lows and right now it seems that we are in a low, however he has seen it on the upswing as well.

Mr. O'Brien said that going out several years it seems fairly stable with a possible small increase. He said that there are a lot of assumptions in the data based upon the population and growth so that you can predict today based upon births how many will be in kindergarten in 5 or 6 years but that does not include the influx or turnover of homes and given this market and what is going on – there are a lot of variables.

Mr. Connor agreed that the last sentence of the opening statement seems to conflict with the first couple of sentences. He said that he was not sure that the first sentence indicating that the existing parks and open spaces within the Township have been able to meet the needs of the community for many years is true.

Mrs. Dapkins said that it is *not* true.

Mr. Wallisch suggesting scratching the first paragraph and rewriting it.

Mr. O'Brien agreed to do so. There were no comments as to Pg. 16 & 17 "Planned Park and Recreation Facilities". As to Item 6 "Action Plan" on Pg. 18, he said that the Board had asked him to take the summary statements in Item 5 and put them into the Action Plan or not use them if they have already been addressed.

Mr. Connor suggested that the Board members look at what is contained in Item 6 to be sure that they agree with what is there. He said that The Ten Towns can be excluded from No. 4 because it no longer exists.

As to No. 7 which states "Review the zoning ordinance and revise as necessary to encourage land stewardship, open space, and sustainability", Dr. Rae suggested that it be revised to say "recommend revisions as necessary".

Mr. Roshto said that he was curious as to how other elements are written. He said that this document will live for 10 years, give or take a year or two. He asked if we are reviewing it once, twice, or yearly. He asked what we are trying to say here.

Mr. Connor said that some plans do that based on the Master Plan. He said that the other times that we review the zoning ordinances is when there seems to be a problem and they are not working properly. He did not think that there would be any active revision that this Board has done in the past.

Mr. Roshto said that he did not see any action happening here. He said that the action occurs when we do the element and the next step is that we review our ordinances to support that element.

Mr. O'Brien felt that the intent was to say something a little different than what actually came out and that was to have an ongoing process that when things happen you realize that a revision needs to be made or some action needs to be taken. He said that the Master Plan lays out goals for the community and we are not going to take a specific action on each one of them but, instead, they guide our actions in our general business in our granting of variances and site plan relief and writing our ordinances. He felt that the intent here was a little bit different in what it says in that it is just to keep them in mind on an ongoing basis and consider revisions if necessary.

Mr. Wallisch suggested that the term of No. 6 "Action Plan" be changed as in the Meyersville Element where it is called "Planned Recommendations".

Other members agreed.

Mr. O'Brien said that he would take the comments of the Board this evening and put them in the document. He said that he could run it by the Board for its review and, following that, send it over to the Open Space Subcommittee and explain that the Board has gone through the document and these are our recommendations, or the opposite. He said that he could correct it with the Board's comments and let the Open Space Subcommittee take a look at it and give it back to us for further review.

Mr. Wallisch said that since we just reviewed it, he would recommend that the suggestions made be incorporated and that the Board get the response of the Open Space Subcommittee.

Mr. Connor suggested modifying it and making the changes and, if the Board is in agreement, he felt it is done because there will be a discussion along with the Conservation Element. He said that we might be able to have a public hearing on both elements at the same time.

Mr. O'Brien said that if we are discussing a public hearing, we must discuss maps for this and how they are going to be included. He said that we will need that before we can say we are going to have a noticed public hearing.

Mr. Connor said that he knew that Mr. Carell had some maps and the maps are an appendix.

Mr. Lemanowicz said that he could get a hold of Mr. O'Neill or Mr. Carell and make copies of the maps so that we have them here and then we can pick through what we want on them, with input from the Open Space Subcommittee, and create the maps for this element. He said that once we create a base, we can work them into the other elements.

Mr. Connor agreed.

Mr. Wallisch said that we could ask the Open Space Subcommittee to rewrite the paragraph under No. 5 “Planned Park and Recreation Facilities”.

Mr. O’Brien proposed rewriting it and making the draft to provide to the Open Space Subcommittee for their contributions because he knew what the Board said and they may not.

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Mr. Connor said that the next items on the agenda concern Ordinances 311-13 and 312-13. With 5 minutes left, he did not think the Board would get through them both. He suggested beginning with Ordinance 311-13 – Adding equine activities as a permitted use in the C-Conservation Zone since he did not believe that there will be a significant discussion. He said that the ordinance came back from the Township Committee and he did not think they made any revisions to it.

Mr. Roshto did not think that there was anything to discuss. He said that the Planning Board approved it and sent it to the Township Committee where it had its first reading and, as a matter of practice, sent it back to the Planning Board to either agree or disagree with it, but there is nothing to disagree with since no changes were made to it.

Mr. O’Brien explained that the M.L.U.L. requires that all land use ordinances be reviewed by the Planning Board after they are introduced at the Township Committee level and the Planning Board make a finding that the proposal is consistent with the Master Plan or, conversely, is inconsistent with the Master Plan.

Mr. Pfeil made a motion concerning Ordinance 311-13 adding equine activities as a permitted use in the Conservation Zone and said that the Planning Board finds that the ordinance is consistent with the Master Plan. Dr. Rae seconded the motion.

The meeting was opened to the public for comments. There being none, the meeting was closed to the public.

A roll call vote was taken. Those in favor Mr. Arentowicz, Mr. Moholkar, Mr. Pfeil, Dr. Rae, Mr. Roshto, Mr. Aroneo, and Mr. Connor. Mrs. Dapkins abstained.

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With regard to Ordinance 312-13 (revising Development Fees and Escrow Deposits) Mr. Connor said that a meeting was held with input from Mrs. Wolfe, Dr. Behr, and the Township Administrator, Neil Henry and it was noted that there are some inconsistencies in the recommendation and some recommendations that are modestly different than in the draft ordinance. He said that Mr. Arentowicz took part in subcommittee formed to study the proposed fee and escrow revisions and he had sent him copies of some suggested changes and the current wording appears to need some revision.

Dr. Rae asked Mr. Connor if this was the first time that Dr. Behr, Mrs. Wolfe and he had seen this. He said that the Planning Board had passed this and sent it to the Township Committee.

Dr. Connor replied that Dr. Behr and Mrs. Wolfe, and Mr. Henry had not seen it and Mr. Henry also saw some flaws in it. He pointed out the fact that some of the persons referred to, such as the Township Clerk, had nothing to do with the process and names needed to be changed for administrative control. He said that there is also a difficulty with requiring escrow replenishment when the balance reaches 50%.

Mr. Arentowicz said that it was specifically drafted to require escrow replenishment at 50% so that it would not be on the shoulder of any Township employee to do that calculation.

Mr. Connor said that the point was that if you have a low required escrow (such as \$500.00), you may need another \$500.00 very quickly and the proper way to handle it would be to get an estimate of the additional costs and ask for that amount rather than have to repeatedly ask for small amounts of money.

Mr. Roshto asked if the entire Planning Board was aware of what we are talking about here.

Mr. Connor said that it the Board is going to discuss this, the meeting will need to be extended.

Dr. Rae made a motion to extend the meeting for an additional 10 minutes. All Board members were in favor.

Mr. Roshto summarized by saying that this Board sent the proposed fee ordinance to the Township Committee for first reading on April 24, 2013 and it made very minor changes to the text at the top with the expectation that it would come back to the Planning Board for its review with the expectation that at the very next Township Committee meeting the 2nd reading would take place. He said that it was always a thing that the people who have been pushing for it have been pushing hard to get it done because of a lot of risk to the Township. He said that what has occurred is that some individuals had fully read it or have said that they had not fully seen the final copy, then saw the final copy and wanted to make additional changes. He said that substantive changes are being proposed that

need to be discussed and, if it goes back to the Township Committee with these changes in tact, it will delay it further.

Dr. Rae said that this was an effort that was undertaken probably at this time last year and the idea was that it was going to be moved through in September for all of the reasons that Mr. Roshto had mentioned. He said that the Fee Subcommittee spent a lot of time in making something that would be workable and it seems that some of the changes that have now been brought into it fly in the face of our mission at the 11th hour.

Mr. Connor said that, unfortunately, because Mrs. Wolfe was not available, she had not read the final copy of the draft ordinance. He said that, during the recent meeting, they went through a number of things mostly having to do with the administrative ways of handling escrows and some recommendations that the Township Administrator had to develop something that solved the problem. He said that he felt that the administrative changes will solve the problems. He added that after Mrs. Wolfe reviewed the draft, she noted that there were some mistakes in that this is not the way the process works such as the fact that escrows have not been going through the Township Clerk. He said that, more importantly, what was in the ordinance was inconsistent with the way the current process is being done. He said that it is a relatively small change which would not be a difficulty. He said that the two things that were the most difficult included the 50% escrow replenishment trigger which Mrs. Wolfe felt would be extremely hard to manage because in some instances only one voucher being received would trigger the automatic need for a replenishment. Receiving several vouchers periodically over the course of a month could then trigger multiple requests for replenishment within the same month. He said that if we properly manage 25%, that particular problem should be solved. He said that the Twp. Administrator said that we had two options. One is to pass the ordinance as it went for first reading *or* to try to get a revision to make it consistent or to pass it on the second reading and then reintroduce another amendment to it at a later date that corrects the language in it.

Dr. Rae asked if we had the option of leaving it as is for the second reading and then for he and Mr. Roshto to represent the comments of the Planning Board to the Township Committee in order to move this forward. He said that he believed that there are certain parts that are not substantive at all. Regarding the 25% part of it, he said that he was okay with that if that is what the Administrator believes to be the right number. He said that he was not sure he agreed with the other part but is something that could be brought to the Township Committee to have a discussion.

Mr. Connor asked if the Board could adopt this and attach a letter that could be considered by them before a final revision.

Mr. O'Brien asked Dr. Rae and Mr. Roshto, if a revision is made at this stage between your first and second readings, what does that do to your process – can you still adopt it at second reading with those revisions?

Mr. Roshto said that it depends on whether it is considered to be a substantive change and he believed it *would* be a substantive change and, because it is, the law says that we would have to extend it one additional week but the reality is that they will not meet for one additional month. Assuming it passes its second reading, he said that they would then have an adoption of an amendment at their next meeting which would be one month later, but the entire thing would not go into effect until the amendment was passed.

Mr. Connor felt that that is a reasonable solution.

Mr. O'Brien asked, if the initial version is passed at second reading, what would prevent it from taking affect until the amendment.

Mrs. Dapkins replied, "Nothing".

Mr. Roshto said that, if at their next meeting, we make a motion to amend this for this, then we will vote on the second reading and will be done with that but it will not take effect until they vote on the amendment which they will have to wait until their next meeting. He said that by law they must wait a week but in reality it will be a month.

Mrs. Dapkins said that they would still have to notice the newspaper.

Mr. Roshto agreed but said that they have already noticed.

Mrs. Dapkins disagreed and said that they had not noticed the amendment in the newspaper.

Mr. Roshto agreed. He then suggested passing it as it is and then and he and Dr. Rae will add the new ordinance that addresses this issue. He said that it will not be an amendment, it will be a new ordinance.

Mrs. Dapkins said that that would allow time to notice the public.

Mr. Roshto agreed that it will solve two problems. Assuming that it passes, he said that this would take immediate effect. Secondly, when we make this change, that piece of it will take effect.

Dr. Rae said that the initial ordinance will be in effect and the Township will be protected as far as escrows and fees are concerned.

Mr. Roshto said that, in speaking with Mr. Pidgeon, this ordinance did not necessarily have to come back to the Planning Board and the Township Committee did it as a courtesy. It is not a Zoning Ordinance.

Mr. O'Brien said the fact that this one has already been sent would set a precedent and whether you are consistent or not with that is up to you.

Mr. Connor asked for another 5 minute extension.

Dr. Rae made a motion to extend the meeting for an additional 5 minutes. No Board members objected.

Mr. Connor called for a motion to adopt Ordinance 312-13.

Mr. O'Brien apologized for interrupting and said that he had 3 language changes based upon the prior ordinance. He said that we missed two typos and one word that has to be put in. He said that on Pg. 5 under Use Variances we have added a 3 & more family residential section. He said that on the right hand column there is an escrow of \$10,000 for the first ten units and \$40.00 for each additional unit and that language for the first ten units plus \$40.00 for each additional unit is a crossover language. It is supposed to go across both columns, so we have missed it on the application fee side and it just has to be extended over. He did not feel it is substantive but rather a correction. He said that the second change is a suggestion under Sec. 182.6 "Billing Procedures". He said that it says that funds not expended shall be refunded to the applicant within 30 days after the approving authority has taken action on the application. He said that the approving authority has 45 days to pass a Resolution after taking action to approve it and then there is a considerable period of time, depending upon the applicant, that your staff has got to go through the revisions to make sure that they are consistent with the Resolution before we can close out. He suggested that the 30 days become 60, or even 90 days.

Mr. Lemanowicz said that it depends upon the applicant. He said that we just had one applicant that took 5 submissions to get the conditions straightened out. He said that he almost hated to put any kind of date on it.

Mr. Roshto disagreed. He said that we need to be able to respond to our residents/applicants in a reasonable amount of time. In his opinion, 30 days is reasonable and, if there is an exception to that, they can come to the Township Committee.

Mr. O'Brien said that you have 45 days to prepare a Resolution after the approval, so this is even before you pass a Resolution. He said that this has got to be well after your Resolution is adopted.

Mr. Lemanowicz said that perhaps, rather than have it tied to the approval, have it tied to the satisfaction of the conditions.

Dr. Rae felt that that makes sense.

Mr. Connor said that we have two levels of changes – substantive and not substantive. He felt that we need to allow the not substantive changes to be introduced in the original Resolution.

Mr. Roshto did not feel this is substantive.

Mr. Connor felt that we need to work with Mr. O'Brien to make sure that that is correct and make as many changes as we can that are not substantive.

Mr. Roshto asked what language should go in here.

Mr. O'Brien replied, "All escrow funds not expended shall be refunded to the applicant within 30 days after the satisfaction of conditions of approval of the application".

Mr. Roshto asked Mr. O'Brien to e-mail that wording to him.

Mr. O'Brien said that there was one other change under Sec. 182.9, second paragraph, which states that "An applicant for a use variance may be permitted to withdraw their application". He said that that is if there are fewer members before the Zoning Board than they need. He said that Zoning Board use applications require 5 affirmative votes, so if there are less than 7 members many applicants go away and say that they will come back when you are all here. He said that the property language should be "An applicant for a use variance may be permitted to withdraw or continue their application".

No one objected to Mr. O'Brien's suggested wording change. He said that those are the 3 changes he had which he did not feel are substantive and, if the Board approves, he will correct them in language in the transmittal to the Township Committee. He added that he would be happy to send that out to the entire Planning Board for its review.

Referring to Sec. 182.9 "Cancelled Meeting Fee", Mr. Wallisch noted a typo in the word "refenced" which instead read "referenced".

Under Sec. 182.5 "Additional Escrow Funds Required", Mr. Lemanowicz said that it says that additional escrow funds shall be required when the original escrow has been depleted to 50% of the original escrow amount. He said

that that could become an issue if it is a \$5,000.00 escrow and it is at \$2,450.00 but there is only one more item that has to get taken care of which is only going to cost a couple of hundred dollars.

Mr. Connor said that that is the reason for the recommendation of the changes in that language.

Mr. Lemanowicz replied that it shows it being changed to *shall* at 50% and the bump is to be 50%.

Mr. Connor said that if the Board passes this, and that is a substantive change, we would have to revise it back to 25%.

Dr. Rae asked how many times this has been reviewed?

Mr. Connor said that the difficulty is that Mrs. Wolfe did not see the final copy....

Dr. Rae replied that what he was hearing tonight did not have anything to do with Mrs. Wolfe. He said that it is a “shambles”. He said that we all went through this, passed it, and sent it up to the Township Committee and now we are making a lot of substantive and not substantive changes to it and the people making the substantive changes reviewed it right here and are making them. He said that we can’t continue like this.

Mr. Roshto agreed and said that he was hearing a lot of changes. He felt that we need to regroup and take this away from the Township Committee and the Planning Board needs to put this together as another package. He said that he knew that this would cause a delay of another month or so but he did not see another alternative because there are just too many changes and it is nearly 11:30 P.M. now.

Mr. Wallisch and Mr. Connor agreed. Mr. Connor also suggested running it through Mr. Henry as he was part of the discussion. He said that we have all the recommendations but the problem is that there are too many to add on to the second reading.

To sum up, Mr. O’Brien said that the Board is going to ask the Township Committee not to take action on a proposed ordinance and the Board will retain this for further review.

Mr. Connor added that the Board will get it back as absolutely soon as we can.

Mr. Roshto said that he was hoping that the Board will not have another 2 – 3 hour discussion and that he will see the recommended changes in one document.

Mr. O’Brien said that his changes are less than a dozen words.

Mr. Connor predicted that the Board should be able to pass the ordinance at the next meeting.

Dr. Rae said that we do have to have a discussion around some of the changes that were made. It was his understanding it was a short meeting and a lot of ideas were passed by fast and furious and some of them fly in the face of months of deliberation by a subcommittee from both Boards and he felt that is deserving of further discussion.

He said that the Board must agree on the final form.

Mr. Roshto noted that 4 people got together and came up with something that they thought was right, but the subcommittee worked tirelessly on this. He asked if it will go back to the subcommittee to let them iron it out.

Dr. Rae said that, if this Board is okay with doing that, he felt that that would be the most time efficient way.

Mr. Arentowicz said that the problem with that is that nobody on the subcommittee has been involved with these last sets of changes except for Dr. Behr (who was not there in the beginning).

Dr. Rae said that he was ex-officio.

In response to Mr. O’Brien, Mr. Connor said that he was the author of the most recent changes. He added that Mrs. Wolfe probably has a version that shows what the changes are, but they were not red-lined. He said that the Board is currently working from a page that he himself provided.

Mr. Roshto suggested 2 or 3 volunteers from the Planning Board to work with Mr. Henry and Mrs. Wolfe and then at least he would feel comfortable that the Planning Board has had an opportunity to review Sec. 182.5.

Mr. Connor and Dr. Rae volunteered.

Due to the lateness of the hour, the meeting adjourned at 11:30 P.M.

