

Mayor Short and Chairman DiSalvo opened the Special Township Committee Meeting and the Washington Township Planning Board regular meeting of October 12, 2009 to order at 7:35 p.m.

MEMBERS PRESENT

TOWNSHIP COMMITTEE:

Mayor Ken Short, Committeeman Kevin Walsh, Committeeman Howard Popper, Committeeman James Harmon

Absent: None

PLANNING BOARD:

CLASS IV: Charles DiSalvo, William Leavens, Kathleen McGroarty, Lou Mont, Eric Trevena

ALTERNATES: Sam Akin,

CLASS I: Ken Short

CLASS II:

CLASS III: James Harmon

ABSENT: William Beute, Mark Bauerlein, Patrick Monahan

STAFF PRESENT: Clerk Kesper, Engineer Hall, Planner Banisch, Attorney Cofoni

Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 18, 2009 and October 1, 2009 posted on the Bulletin Board on the same date. Notices were mailed, as there were requests.

****NO NEW CASES OR WITNESSES SHALL BE HEARD SUBSEQUENT TO 10:30 PM****

Pledge of Allegiance

MINUTES

1. Minutes from the September 23, 2009 Regular Meeting

Mr. Leavens made a motion to approve the minutes, seconded by Mr. Trevena. A voice was taken; Mr. Short abstained, all others were in favor and the motion carried.

RESOLUTIONS

09-14 Toll – Estates at Long Valley – Sections 2– Bartley Road – Block 18 lots 6, 8, 10, 21 and 44 and Block 18.01 lot 1 –Approval of Request for extension

OCTOBER 12, 2009

of time for final subdivision approvals granted under resolution 06-19 of June 28, 2009

The resolution was reviewed. Mr. Mont made a motion to approve resolution 09-14, seconded by Mr. Trevena. A roll call vote was taken:

Ayes: DiSalvo, Leavens, Mont, Akin, Harmon

Nays: None Abstentions: Absent: Beute, Bauerlein, Monahan,

Ineligible: Short, McGroarty, Trevena

09-15 Toll – Estates at Long Valley – Sections 3 – Bartley Road – Block 18 lots 6, 8, 10, 21 and 44 and Block 18.01 lot 1 –Approval of Request for extension of time for final subdivision approvals granted under resolution 06-18 of June 28, 2006

The resolution was reviewed. Mr. Mont made a motion to approve resolution 09-14, seconded by Mr. Trevena. A roll call vote was taken

Ayes: DiSalvo, Leavens, Mont, Akin, Harmon

Nays: None Abstentions: Absent: Beute, Bauerlein, Monahan

Ineligible: Short, McGroarty, Trevena

09-16 Health Alliance for Care, Inc. (Formerly US Homes) – Block 19, Lots 5, 6 and 7 – Approval of Request for amendment to Resolutions of Approval and Preliminary and Final Site plan to demolish the existing farm house

The resolution was reviewed.

Ms. Cofoni stated that she did not receive any comments on the resolution from the applicant.

Mr. DiSalvo stated that their has been correspondence received from Historic Preservation together with the Land Trust and Historic Society regarding the minimal access to the farmhouse on the weekends. The correspondence stated that Heath Village is allowing access only during the week.

Mr. Short stated that the intent of the board was to allow access to the building for historic documentation. He noted that the Historic Preservation Commission is made up of volunteers who can not get into the building during the week. He noted that if the resolution it is not passed Heath Village would not be able to take the building down.

Mr. DiSalvo stated that the issue is whether or not the resolution was consistent with the meeting and a further review of the recording should be made to determine that it is consistent. He agreed with Mr. Short that the resolution should be table to a subsequent meeting.

Mr. Walsh state that during the original hearings the Planning Board insisted that the building remain.

Mr. DiSalvo stated that after the public hearing and the testimony on the deterioration of the building the Board concluded that the prudent thing to do was to allow the applicant to take down the building. He explained that there was no intent to reopen the public hearing but to review the record of the hearing. He reviewed the previous hearing.

Mr. Leavens suggested changing the wording of condition F to allow access at the convenience of historic preservation.

Mr. Short stated that Heath Village should be advised to secure the property.

Mr. Walsh asked that he be kept advised of anything going on with the farmhouse.

Ms. Cofoni stated that she needed to review the record to determine the consistency with the resolution.

The adoption resolution was tabled until October 28, 2009.

The meeting was opened to the public for items not on the agenda. There were no questions or comments from the public and the meeting was closed to the public.

PUBLIC HEARING/APPLICATIONS -

1. Draft Regional Master Plan Element (Module 5) to Washington Township Master Plan and Draft Highland Ordinances (Module 6)

Ms. Kesper stated that this meeting had been noticed in the Observer Tribune as required by the Highlands Council.

Mr. Banisch stated that there are three phases to Highlands Conformance, first basic plan conformance(adoption of the master plan amendments and associated zoning ordinances of the Highland's Council). Second full plan conformance, which will be a comprehensive planning effort and a number of other plan elements beside the land use, conservation and module 4 (natural resource inventory). He explained that this is mandatory for the preservation area and optional for the planning area.

Mr. Banisch explained that for the basic plan conformance procedure, the Regional Master Plan element and highlands required ordinances which are part of the Petition for Plan conformance which must be submitted to the Highlands Council by December 8, 2009 for at least the preservation area.

Mr. Banisch reviewed schedule of review broken up into modules by the Highlands Council. He stated that modules 1 and 2 (build out analysis) have been completed. The 3rd module is the Housing Element. He stated that as the Township has Third Round Certification we would not be required to do new housing and fair share plan. He stated that he and Attorney DeBona are reviewing the numbers on the Township obligation regarding our current 3rd Round Certification vs. the obligation using the Highlands. He would have this information for the board at the next meeting. Module four has been submitted to the Highlands Council. Module 5 is what we are doing this evening, the Highlands Element for Municipal Master Plans. Module 6 is the ordinances which he will have for the next meeting. Module 7 is self assessment and the actual petition for Plan Conformance.

Ms. Kesper reviewed the meeting schedule for the board as October 28 and November 9 and that the last meeting of the Township Committee for the Committee to adopt a resolution adopting the Petition for Plan Conformance prior to our December 8 deadline is November 16, 2009.

Mr. Banisch reviewed the 17 exemptions to the Highlands Act and Regional Master Plan as outlined in the Highlands Act. He stated that the open farmland areas are where development can occur whether in the planning or preservation area. He stated that the Highlands RMP favors agricultural activities to the exclusion of other activities where it has been previously farmed.

Mr. Banisch reviewed the different Highland land designations: protection (forested areas of the Township), conservation (farmland within the Township) and existing community zone (existing neighborhoods). He stated that when he initially reviewed the maps what they initially found was that many of the existing neighborhoods were not designated existing community but were designated protection zones because of the mature forest growth in the area and this discrepancy was noted in the initial assessment report sent to the Highlands council. He explained that it is important to note that the action in a going forward basis will be on a cluster basis in the conservation zone and redevelopment basis in the existing community zone. He answered Mr. Walsh that changes to the land use designations would be by petition of the governing body to request the change by the Highlands Council. He explained that the forest designation was based on forest density. He answered Mr. Harmon that exempt properties are not affected by the land use categories, that these categories would impact subdivisions and density of development. He explained that the septic densities are different in the preservation (88/25 acres per septic system) area vs. the planning area (12/25 acres per septic system depending upon the land designation).

Mr. Banisch reviewed the policy questions in the plan. One option is whether the Township wanted to encourage mixed use development projects and center – based planning initiatives and also whether the Township wanted to encourage multifamily development. These are policy decisions that the board will need to make. He stated that clustering is an important part of the plan and is encouraged.

Mr. Banisch reviewed Section B of the Highlands Element – Land Uses. He stated that land uses in effect now in the preservation area stay in effect until zoning amendments come into affect. There will be some negotiations as to some of the land uses that will be permitted in the preservation area but that any development, commercial or residential is subject to the nitrate dilution models. Some of this will happen after the Township petitions for plan conformance and when He explained that after the petition for plan conformance is submitted to the Highlands Council is when the type of development is discussed with the Highlands Council staff. He answered Mr. Popper that the Highlands Council will be looking at areas for development that adjacent to infrastructure such as water, sewer and roads. They will be looking at clustering and non-contiguous clustering with transfer of development rights.

Mr. Popper stated that the Township has been the lead in the County at preserving land for open space/agriculture and that the Highlands Council objective seems to be opposite of this policy.

Mr. Walsh stated that he say Cleveland Industrial as an area where cluster and mixed use development should be encouraged once the area has been cleaned up.

Mr. Banisch stated that the Highlands Council will be looking at cluster in combination with transfer of development credits and that farmlands and open space that is not preserved are target areas for cluster development. He explained the agriculture resource area and the permitted uses and encouraged uses of agriculture and horticulture as well as cluster developments where the minimum threshold of 80% open land can be met. He explained Township cluster ordinance which required a 50% open lands. He referred to the agriculture lands map and pointed out the cross hatched area and noted that they are extensive in Washington Township.

The board expressed their concerns with being forced to put development in current open space.

Mr. Banisch stated that it was his opinion that the Highlands Council would not be asking for or requiring a lifting of deed restrictions on preserved land. He explained that farmland preservation projects that deed restrictions cannot be removed. On Green Acres and publicly funded land it can be but it has to be replaced with twice as much land of equal or greater value, they are known as diversions in the Green Acres rules and they are very difficult to get. He

would not expect it to happen for COAH, but possibly for things like fire departments, community centers, libraries, etc.

Mr. Short stated that the Township has not used green acres money on any of the land purchases in at least the last 15 years so that the Green Acres diversions could not be used.

Mr. Banisch reviewed that the prohibitions on Carbonate Rock area similar to the Township's ordinances. He noted that the Township lead the way on this issue by making it part of the Township Ordinances many years ago. He showed the Carbonate Rock map.

Mr. Banisch reviewed the prime groundwater recharge areas and displayed the map and the concerns of major and minor groundwater contaminations. Prime recharge areas are shown throughout the Township. He explained the three tiers of the wellhead protection areas and displayed the map of the identified wellhead protection areas. He explained the way the tiers are developed. He explained that the approval agency for these areas will be the Board of Health.

Mr. Akin answered Mr. Popper that the new wells on Schooley's Mountain are not part of this map as they were drilled within the last six months.

Mr. Banisch reviewed the special environmental zones which are essentially lands owned by the federal government/NJDEP and reviewed the map. These lands can be used for recreational and open space activity which is compatible with the purpose of the acquisition of the land which was natural resource protection.

Mr. Banisch reviewed the waiver requirements of the act and RMP. Waivers are given on a case by case basis by the Highlands Council for of health, safety and welfare and redevelopment. It was his opinion that waivers will be granted to prevent a taking without just compensation. Individual property owners will have to bring their request to the Highlands Council. He stated that in the Pinelands this happened a lot and the developed a plan for development credits, which they will do in the Highlands as well.

Mr. Banisch reviewed the density and intensity of development standards. He stated that this will be based on ground water availability and the capacity of the soils to recharge septic effluent. The amended standards will not apply to existing development but will apply to modifications and improvements that will increase the septic flow of an existing system. He answered Mr. Short that he did not think that bedroom additions would be applicable under this, but an additional dwelling would be subject to the rules. He explained that throughout the build out analysis the Highlands Council has identified the number of units that the land can sustained by HUC 14 throughout the Township. He stated that he would have these numbers for the board at the next meeting. He explained that this new density will be the area for local planning. The Highlands Council will want the Township, after basic plan

conformance, to decide in consultation with the Highlands Council, where they would want to see development. He stated that the Highlands Council will want to see this development done by clustering. He explained that these numbers do not include the exemptions, the lots created prior to August 10, 2004. He explained that when the Highlands calculated these numbers it took into account the open undeveloped lands in each of the sub-watersheds and calculated the capacity of the sub-watershed, deducted the amount of development in each sub-watershed in Washington Township and the result was the number.

Mr. Banisch answered Mr. Walsh that where the development is going to go will be a Township planning decision in consultation with the Highlands Council. The Highlands Council will not be dictating to the Township where the development must go.

Mr. Popper stated that it is the capacity that he sees as an issue. He noted the new wells being drilled on Schooley's Mountain and the fact that no matter how much water they have, the WTMUA is only allowed to draw out a pre-determined amount of water each day. The capacity is not negotiable with the DEP and the director has stated that this number is probably not going to change.

Mr. Banisch stated that at some point there will be a water use and conservation plan element to the master plan that will have use of different technologies. This will be part of full conformance and new master plan elements that will be developed in the future to bring up capacity. He explained that until the analysis can be completed for the number of units for each of the HUC14's and sub-watersheds and the Township figures out where the development is to be located and new ordinances are adopted, until that time the existing preservation area rules and the planning area nitrate /nitrogen dilution standards apply and applications for development will require project by project review by the Highlands Council.

Mr. Banisch stated that there will be no new public water or sewer systems in the preservation area (except for health welfare and safety) and in the planning area it will have to be approved by the Highlands Council. The build out areas will be based on net water availability, public water systems, additional capacity in the sewer system and septic water yield, etc.

Mr. Banisch answered Mr. Hall that it is hard to say what will happen if the Township does not opt into the plan for the Planning Area. He explained that if a permit is needed the DEP will refer to the RMP and if the proposed development is inconsistent with the RMP applications may not be approved. It was his opinion that not opting into the plan does not mean that the Township gets to proceed under the old rules and the RMP not be taken into consideration.

Mr. Banisch answered Mr. Walsh that the golf course is in the plan, under the preservation area.

Mr. Banisch stated that during the plan conformance process the Highlands will get to know the Township better and work with the Township on developments that are important to Washington Township, such as the golf course.

Mr. Short informed the board about a recent meeting with the Highlands Council on sewers for areas with failing systems both on the mountain and Bartley Road and the procedures necessary to resolve these problems. He stated that he has met with the golf course and expressed the Township's willingness to help them with obtaining sewer service.

Ms. Kesper stated that during the meeting with the DEP and the Highlands Council it became clear that the Township has to get approvals from both the DEP and the Highlands Council. The DEP will, with the proper documentation, allow failing systems to hook up to the sewers, if the sewer lines are in the ground, but it is also necessary to obtain Highland's waivers for the hook up, under health, safety and welfare issues. It was explained that in emergency situations the sewer hook ups can be done prior to the Highlands waiver being received, but it still needs to be applied for.

Mr. Short started that we have a contact at the DEP and things are working now.

Mr. Banisch stated that all of the development will be in the existing community zone, the Highlands Council will be encouraging extend of existing infrastructure where it is available, will be encouragement of TDR, infill development and redevelopment. He reviewed that most of the Township's existing community zones have neighborhood character developed at low density of one to five acres the areas are well settled, existing neighborhoods. A drawback of designating an area a community development area is that this is the area that the Highland Council encourages where in-fill and redevelopment with higher density could be called for. He answered Mr. Akin that the trend to combine lots to knock down a small home or homes and build a larger home (McMansion) my reverse and lots would be combined to enable greater density. He explained that the region of the state in which Washington Township lies was the fastest growing region in the state until the Highlands Act. He answered Mr. Mont that TDR would be between municipalities as well as within (non-contiguous clustering) relying on where sewer and water was available within a sub-watershed. TDR will be used to encourage to create new population centers, to move development from environmentally sensitive or undeveloped area to a community developed area. He explained that mixed use development is also being encouraged in the Highlands Element.

Mr. Akin explained that the MUA has only one permit to withdraw water for both the Mountain and the Valley area and the Township is just about to their limit now.

Mr. Banisch answered Mr. Walsh that Washington Township could transfer development rights as a sending zone to another Township.

Mr. Banisch stated that waste water extensions will be in the planning area, approved by the Highlands Council or if in the preservation it will be for exempt development or waiver for health and safety or existing community areas. He explained that the development would be if infrastructure is extended would be half acre lots and new multi family standards of six dwelling units per area. The Highlands Council wants to encourage efficient use of land for new non-residential development, there a standard of not less than/or more than .84 FAR. He stated that the FAR does not override the existing township maximum building height restrictions. He stated that new mixed use development is encouraged and the standards for nitrate. He stated that the nitrate standard yields a minimum lot size of 10 to 12 acres for the planning areas but that the preservation area remains the 25/88 acres per septic. In the protection zone within the planning area is approximately 25 acres. He answered Mr. Leavens that the Highlands Council states that they have the science for the 25/88 acre septic rules in the technical reports and stated he would get this information for the board. The densities will vary in the different HUC areas and land conservation types. Some of the HUC 14's are fully developed and are in deficit for water capacity, so therefore no growth capacity. He noted that HUC 14's cross Township boundaries so an adjoining municipality could be very developed which would deplete the development capacity in Washington Township. He will have the HUC 14 numbers for the board to review at the next meeting.

Mr. Banisch reviewed the notes on what the Highlands map is based on; a single family structure generating 300 gallons of flow for a four person household. He stated that 2400 sf of office/commercial and 18,182 sf of industrial translates into one dwelling unit. This is how the Township can encourage non-residential development

Mr. Banisch reviewed the cluster development requirement and the 80% set aside for open space. He noted that Washington Township has a lot of experience with cluster development and that this is basically the same as the Township has done in the past. He answered Mr. Mont that the open space may not be able to be used for recreation as the RMP states the open space should be used for resource protection. He answered Mr. Harmon that Washington Township's mandatory cluster ordinance was challenged and survived the challenge and explained the difference between the Washington Township ordinance and the Jackson Township ordinance that was invalidated.

Mr. Banisch reiterated the Highlands will require cluster development in conjunction with any new use the agriculture resource area is the long term intent.

Mr. Banisch stated that redevelopment is another component of the plan. He reviewed the Township possible redevelopment sites as: The Cleveland Industrial Park, Mine Brook Golf Course and Route 46 properties between East Avenue and Hackettstown. He stated that the Route 46 is a logical in-fill development area. He explained the highlands requirement for redevelopment must be currently covered with at least 70% impervious coverage to be designated a redevelopment site and must be reoccupied with 70% of the covered site.

Mr. Short suggested that the Combe Fill South site be included in the redevelopment plan.

Mr. Banisch reviewed the historic and cultural resources section of the Highlands Element. He stated that the Highlands Element does not include the Beattystown and Stephensburg sections of the Township. He reviewed the Highlands Scenic Resources Inventory and the areas that should be especially emphasized; Washington Valley, Schooley's Mountain County Park, Hacklebarney State Park, South Branch of the Raritan River, Musconetcong River Corridor, Beattystown and Stephensburg. He stated that the Township should capitalize on to designate the scenic resources in the township including scenic corridors and scenic views and vistas that the Township has worked hard over time to preserve.

Mr. Banisch answered Mr. Akin that the build out report reflects the Highland's analysis. He stated that he would e-mail the HUC 14 numbers which are conservative. He stated that the HUC report will show the board the HUC number, HUC boundary and capacity for each of the HUC 14 sub-watersheds. It doesn't take into account all the levels in the RMP what the levels will do will affect the goal of the Highlands plan to take all possible development and make it as compact as possible. They do not want trees taken down, on farmland they want the development in a small corner of the farm. In the existing community zone is where the real possibilities are. He stated that if the Township wanted to do non-residential development they still could do it as a cluster leaving 80% open space. He answered Mr. Mont that a farm could be subdivided under the underlying zoning.

Mr. Banisch answered Mr. Short that he had not reviewed the open lands that could be built out under the 80/20 scenario. He stated that he could review the maps for this information if the board wanted it. He stated that the build out report would help identify areas where cluster development could be put.

Mr. Banisch answered Mr. Akin that wells on land that is exempt does not need Highlands approval, but if it is major highlands development or non-exempt it would.

Mr. Banisch state that the 113 build out number does not include the land that is exempt from the Highlands Act. He stated that he has not assessed this number at this time either.

Ms. Kesper explained exemptions one and two for residential development.

Mr. Banisch answered Mr. Hall that the set aside could be as done under our previous ordinance or the remaining farmstead. The plan talks about 80% set aside and how the Township gets there the Highlands Council will work with the Township, through cluster, lot averaging and other avenues.

Mr. Banisch answered Mr. Leavens that he was not aware of any evaluation of what the net affect of this legislation has been on large lot values.

Mr. Banisch answered Mr. Popper it was his opinion that the Township would be in a better position to control its' destiny if it works with the Highlands Council in developing the required ordinances to design the roadmap of where development is going to go and where there is flexibility.

Mr. Banisch answered Mr. Popper that the Highlands Council has given Washington Township Grant of \$50,000 for the basic conformance process and that if more funds are required the grant can go up to a maximum of \$100,000.

Mr. Banisch answered Mr. Popper that the downside of not conforming for the planning area may be that local land use decisions may not be made at the Township level.

Ms. Kesper answered the Board that the Highlands Council has stated that they would not be looking for funds to returned if we do not opt into the plan. Te work being done on the highlands since last year has been under a grant and so far all the invoices that have been submitted for reimbursement have been paid.

Mr. Banisch reviewed that the petitions will be submitted in December and the Highlands Council will review and issue a conditional certification with conditions. Then at that point a schedule of full conformance will be set by the Township Council. He stated that the amount of funding for this process has not been announced.

Ms. Kesper stated that she would distribute the Module 7 information for the Board. She stated that the information received so far indicates that if we opt into the plan at this time for basic plan conformance, we are still not obligated to opt in at the end of full conformance if during the plan conformance process the Township decides it is not in the best interest of the Township.

Mr. Banisch stated that the Township is not obligated to conform until the Township passes ordinances conforming to the regional master plan. He answered the board that dialog during full conformance the Township will be

the looking at land designations with the Highlands Council and this when it may be possible for the land designations to be changed (not planning or preservation, but the classifications within those areas). If we don't opt into the plan for the planning area there may be less flexibility by the Highlands Council to change land use classifications. It was his opinion that the Township should keep going along with opting in as it is dependent on the final adoption of the ordinances and if the ordinances are not adopted for the planning area, then we are not conforming.

Mr. Banisch explained that even after becoming a conforming municipality if the Highlands Council changes ordinances or the RMP the township can opt out at that time.

Mr. Banisch answered Mr. Akin that if we do not opt into the plan for the planning area we will essentially have two master plans and sets of ordinances.

The meeting was opened to the public for questions and comments. There were none and the meeting was closed to the public.

The joint meeting on the Highlands Element for Municipal Master Plans and ordinances was adjourned to October 28, 2009.

***DISCUSSION /
CORRESPONDENCE***

1. Vouchers

The vouchers were reviewed. Mr. Mont made a motion to approve the vouchers reviewed by the Chairman and found in order and send them on for payments. Seconded by Mr. Akin. A voice vote was taken; all were in favor and the motion carried.

Mr. Mont made a motion to adjourn the planning board meeting, seconded by Mr. Trevena. A voice vote was taken; all were in favor and the meeting was adjourned at 9:30 p.m.

Mr. Popper made a motion to adjourn the Township Committee meeting, seconded by Mr. Walsh. A voice vote was taken; all were in favor the meeting was adjourned at 9:30 p.m.

Virginia R. Kesper, Clerk