

ORGANIZATIONAL MEETING MINUTES

Tuesday, January 11, 2011

PLANNING BOARD

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

In the absence of Dawn Wolfe, Planning & Zoning Administrator, Mr. Kevin O'Brien, Township Planner, called the meeting to order at 8:00 P.M. He then made a statement that adequate notice of this meeting had been made by e-mail to the Echoes-Sentinel and Courier News and was posted at Town Hall and filed with the Municipal Clerk on December 15, 2010.

PLEDGE OF ALLEGIANCE

OATH OF OFFICE

Mr. Hoffman administered the Oath of Office to new and reappointed members Mayor Nanette Harrington, Donald Butterworth, Guy Piserchia, and newly appointed 1st Alternate A. J. Batista, and newly appointed 2nd Alternate Thomas Vetter.

ROLL CALL

On a call of the roll, the following were present:

Mayor Nanette Harrington, Member	A. J. Batista, 1 st Alternate	<u>Excused:</u>
Christopher Connor, Member	Thomas Vetter, 2 nd Alternate	Brendan Rae, Member
E. Thomas Behr, Member		
Mead Briggs, Member	Barry Hoffman, Board Attorney	Dawn Wolfe, Planning &
Donald Butterworth, Member	Thomas Lemanowicz, Bd. Engineer	Zoning Administrator
Kevin Dempsey, Member	Kevin O'Brien, Twp. Planner	
Guy Piserchia, Member		
Michael Smargiassi, Member		

ELECTION OF CHAIRMAN

Nominations were opened by Mr. O'Brien for Planning Board Chairman for the year 2011. Mr. Batista nominated Mr. Connor. Mr. Dempsey seconded the nomination and the Board unanimously appointed Mr. Connor to the Chairmanship.

ELECTION OF VICE CHAIRMAN

The Chairman, Mr. Connor, requested nominations for Vice Chairman for the year 2011. Mr. Piserchia nominated Mr. Briggs. Dr. Behr seconded the nomination and the Board unanimously appointed Mr. Briggs to the Vice-Chairmanship.

APPLICATION REVIEW COMMITTEE APPOINTMENTS

Mr. Connor will serve as Application Review Committee Chairman. He appointed Mr. Briggs and Mr. Dempsey to serve on the Committee to provide nonbinding reviews and recommendations on all applications submitted to it, prior to the filing of a formal application before an approving authority.

ADMINISTRATIVE SITE PLAN WAIVER SUBCOMMITTEE

Mr. Connor appointed the Administrative Site Plan Waive Subcommittee (ASPWS) consisting of Mr. Butterworth and Dr. Behr and Mr. Vetter as alternate member; and the Planning and Zoning Administrator or designee, and the Construction Official or designee, to serve as non-voting members in an advisory capacity, when needed. The ASPWS shall review all site plan waiver applications for a change in use or occupancy.

ORDINANCE REVIEW SUBCOMMITTEE

Mr. Connor will serve as the Ordinance Review Subcommittee (ORS) Chairman. He appointed Mr. Batista, Mr. Butterworth, and Dr. Behr as members. The ORS will meet on an as needed basis, usually with the Township Planner, to discuss proposed Ordinance changes for recommendation to the Planning Board and, ultimately, the Township Committee.

LAND USE ELEMENT SUBCOMMITTEE

In the summer of 2009, a Land Use Element Subcommittee was first appointed by (former) Planning Board Chairman Richard Albers. Since then discussions have centered on land use classifications and new designations for zoning districts that were more descriptive of the various zones. Mr. O'Brien has suggested that the committee be reconstituted for 2011 to finalize the matter.

Mr. Connor appointed Mr. Batista and Dr. Behr to the Land Use Element Subcommittee in 2011.

Mr. Butterworth made a motion to adopt and to waive the reading of the following items up to and including “Membership” which was seconded by Dr. Behr.

A roll call vote was taken. Those in favor: Mayor Harrington, Dr. Behr, Mr. Briggs, Mr. Butterworth, Mr. Dempsey, Mr. Piserchia, Mr. Smargiassi, Mr. Batista and Mr. Connor. Those opposed: none.

PLANNING & ZONING ADMINISTRATOR’S APPOINTMENT

BE IT RESOLVED by the Planning Board of Long Hill Township that Dawn V. Wolfe is reappointed Planning & Zoning Administrator of the Planning Board until the Organizational Meeting of January 2012. The Planning & Zoning Administrator will hold office hours at Town Hall, 915 Valley Road, Gillette, N.J., Monday through Friday, 8:30 A.M. to 4:30 P.M.

ATTORNEY’S APPOINTMENT

WHEREAS, the Long Hill Township Planning Board requires professional legal services which shall include but not be limited to attendance at meetings, preparation of administrative documents and correspondence, legal research, consultation with the Board Members, Administrator, Secretary and other municipal personnel, as well as with legal representatives of applicants, and miscellaneous legal services (except for litigation and certain other types of services such as (a) Any litigation handled for the Board; (b) Any extensive or major redrafting of Township ordinances; (c) Drafting of resolutions; (d) Review of easements, deeds, agreements or documentation pertaining to formation of a planned development, condominium, homeowners’ association, or the like; (e) Other matters requiring attendance at conferences, work sessions, etc., out of the office; and providing advice as a non-fair open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5); and

WHEREAS, the anticipated term of this contract is (1) year; and

WHEREAS, the Law Firm of Bernstein & Hoffman has submitted a proposal dated October 25, 2010 indicating that they will provide the legal services at a rate of Five Hundred and Fifty (\$550.00) Dollars per meeting and an hourly rate of \$158.00 for legal services not embraced within the basic arrangement as outlined above in Items (a) – (e); and

WHEREAS, the Law Firm of Bernstein & Hoffman has completed and submitted a Business Entity Disclosure Certification which certifies that the Law Firm of Bernstein & Hoffman has not made any reportable contributions to a political or candidate committee in the Township of Long Hill in the previous one year, and the contract will prohibit the Law Firm of Bernstein & Hoffman from making any reportable contributions through the term of the contract; and

WHEREAS, in addition, this contract is for professional services and may be awarded without public bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, the Township Chief Financial Officer, in accordance with N.J.A.C. 5:34-5.1, has certified in writing to the Township Committee the availability of adequate funds to pay the maximum amount of the contract;

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Township of Long Hill, in the County of Morris, State of New Jersey as follows:

1. A professional services contract with Bernstein & Hoffman, Attorneys at Law, 2253 South Avenue, Suite 7A, Scotch Plains, N.J. 07076 is hereby authorized.
2. The Board Chairman and Planning & Zoning Administrator are authorized to sign a professional service contract with Bernstein & Hoffman, in accordance with the following terms and conditions:
 - A. Term: A period not to exceed 12 months
 - B. Rate: \$550.00 per meeting and \$158.00 per hour for other legal services as stated in Items (a) – (e) above.
 - C. Services: The firm shall provide professional legal services.
3. The Planning & Zoning Administrator, in accordance with the provisions of N.J.S.A. 40:11-5(1)(a)(i), is directed to publish a notice once in the Echoes-Sentinel stating the nature, duration, service and amount of this contract.
4. The Planning & Zoning Administrator shall make copies of this resolution available for public inspection at the Municipal Building, 915 Valley Road, Gillette, New Jersey, during regular business hours.
5. This contract shall be charged to 11-01-21-180-180-236. The certification of available funds by the Township Chief Financial Officer shall be attached to the original resolution and shall be maintained in the files of the Planning & Zoning Administrator.
6. The Business Disclosure Entity Certification and the Determination of Value shall be

placed on file with this Resolution.

Mr. Hoffman said that it was his pleasure to serve the Board for 2011.

PLANNING CONSULTANT'S APPOINTMENT

WHEREAS, the Long Hill Township Planning Board requires professional planning services which shall include but not be limited to attendance at Checklist Review Committee Meetings and Application Review Committee Meetings prior to regularly scheduled Board meetings, attendance at Board Meetings; field work, research and writing; and any other task assigned by the Planning Board; and providing advice as a non-fair open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the anticipated term of this contract is (1) year; and

WHEREAS, the firm of Shamrock Enterprises, Ltd. has submitted a proposal dated October 28, 2010 indicating they will provide the planning services at a rate of Five Hundred and fifty (\$550.00) Dollars per meeting; and an hourly rate of \$125.00 for all other planning services, including field work, research and writing; and any other task assigned by the Board; and

WHEREAS, the firm of Shamrock Enterprises, Ltd. has completed and submitted a Business Entity Disclosure Certification which certifies that the firm of Shamrock Enterprises, Ltd. has not made any reportable contributions to a political or candidate committee in the Township of Long Hill in the previous one year, and that the contract will prohibit the Firm of Shamrock Enterprises, Ltd. from making any reportable contributions through the term of the contract; and

WHEREAS, in addition, this contract is for professional services and may be awarded without public bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, the Township Chief Financial Officer, in accordance with N.J.A.C. 5:34-5, has certified in writing to the Township Committee the availability of adequate funds to pay the maximum amount of the contract;

NOW, THEREFORE BE IT RESOLVED by the Planning Board of the Township of Long Hill, in the County of Morris, State of New Jersey, as follows:

1. A professional services contract with Shamrock Enterprises, Ltd., Madison House, 866 Madison Ave., Rahway, N.J. 07065 is hereby authorized.
2. The Board Chairman and Planning & Zoning Administrator are authorized to sign a professional service contract with Shamrock Enterprises, Ltd., in accordance with the following terms and conditions:
 - A. Term: A period not to exceed 12 months
 - B. Rate: \$550.00 per Board meeting; and \$125.00 per hour for all other work including field work, research and writing and any other task assigned by the Board.
 - C. Services: The firm shall provide professional planning services.
3. The Planning & Zoning Administrator, in accordance with the provisions of N.J.S.A. 40A:11-5(1)(a)(i), is directed to publish a notice once in the Echoes-Sentinel stating the nature, duration, service and amount of this contract.
4. The Planning & Zoning Administrator shall make copies of this resolution available for public inspection at the Municipal Building, 915 Valley Road, Gillette, New Jersey, during regular business hours.
5. This contract shall be charged to 11-01-21-180-180-221. This certification of available funds by the Chief Financial Officer shall be attached to the original resolution and shall be maintained in the files of the Planning & Zoning Administrator.

Mr. O'Brien expressed appreciation for his reappointment and said that he is looking forward to working with the Board in 2011.

ENGINEER'S APPOINTMENT

WHEREAS, the Long Hill Township Planning Board requires certain technical and/or professional services hereinafter described as Engineering Consulting Services which shall include but not be limited to the following: serve as the general engineering consultant to the Planning Board; attend all meetings of the Planning Board as requested; advise the Planning Board on all engineering matters under their jurisdiction; the Consultant shall be

available for consultation by telephone at all reasonable times; represent the Planning Board as its Professional Engineer pursuant to N.J.S.A. 40:55D-24; review site and subdivision plans, as requested; prepare special reports, plans, studies, applications, and similar work, as requested; testify on behalf of the Planning Board before Commissions, Agencies, or Courts of the State of New Jersey, as requested; and perform any other related engineering work, as requested; and

WHEREAS, the anticipated term of this contract is (1) one year; and

WHEREAS, Maser Consulting, P.A., has submitted a proposal dated November 23, 2010 indicating they will provide engineering services at a rate of Five Hundred Fifty (\$550.00) Dollars per night meeting. Night meetings will be billed at the rate of One Hundred Eighty Three Dollars and Thirty Three Cents (\$183.33) per hour for the time actually spent on a given topic. An hourly rate of One Hundred Thirty Three (\$133.00) Dollars will be billed for engineering services for all other work including field work, research writing, and any other task assigned by the Board; and

WHEREAS, the firm of Maser Consulting, P.A. has completed and submitted a Business Entity Disclosure Certification which certifies that the Firm of Maser Consulting has not made any reportable contributions to a political or candidate committee in the Township of Long Hill in the previous one year, and that the contract will prohibit the Firm of Maser Consulting, P.A., from making any reportable contributions throughout the term of the contract; and

WHEREAS, in addition, this contract is for professional services and may be awarded without public bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, the Township Chief Financial Officer in accordance with N.J.A.C. 5:34-5.1 has certified in writing to the Township Committee the availability of adequate funds to pay the maximum amount of the contract;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Long Hill, in the County of Morris, State of New Jersey as follows:

1. A professional services contract with Maser Consulting, P.A., 200 Valley Road, Suite 400, Mt. Arlington, N.J. 07856 is hereby authorized.
2. The Board Chairman and Planning & Zoning Administrator are authorized to sign a professional service contract with Maser Consulting, P.A., in accordance with the following terms and conditions:
 - A. Term: A period not to exceed 12 months.
 - B. Rate: \$550.00 per night meeting; and \$133.00 per hour for other engineering services as stated above.
 - C. Services: The Firm shall provide professional engineering services.
3. The Planning & Zoning Administrator in accordance with the provisions of N.J.S.A. 40A:11-5(1)(a)(i), is directed to publish a notice once in the Echoes-Sentinel stating the nature, duration, service and amount of this contract.
4. The Planning & Zoning Administrator shall make copies of this Resolution available for public inspection at the Municipal Building, 915 Valley Road, Gillette, New Jersey during regular business hours.
4. This contract shall be charged to 11-01-21-180-180-237. The certification of available funds by the Township Chief Financial Officer shall be attached to the original Resolution and shall be maintained in the files of the Planning & Zoning Administrator.
5. The Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this Resolution.

Mr. Lemanowicz expressed his appreciation for the support of the board and also said that he looked forward to working with everyone in 2011.

MEETINGS

BE IT RESOLVED by the Planning Board of Long Hill Township that meetings, in general, will be held on the second and fourth Tuesdays of each month with the following exceptions: in July, August and December, the Board will only meet on the second Tuesdays. Unless otherwise scheduled, all regular meetings will begin at 8:00 P.M. (or immediately following an executive session if deemed necessary) in Town Hall, 915 Valley Rd., Gillette, N.J. Following is the Regular Meeting Schedule. If deemed necessary, Executive Session meetings of the Planning Board will be held in Town Hall, 915 Valley Rd., Gillette, N.J. on the same dates as listed below at 8:00 P.M. *prior* to the regular meeting.

2011 PLANNING BOARD CALENDAR

January 11, 2011 – Organizational Meeting – 8:00 P.M.
January 25
February 8
February 22
March 8

March 22
April 12
April 26
May 10
May 24
June 14
June 28
July 12
August 9
September 13
September 27
October 11
October 25
November 8
November 22
December 13

ROBERT’S RULES OF ORDER

BE IT RESOLVED by the Planning Board of Long Hill Township that Robert’s Rules of Order shall govern the deliberations of the Planning Board except when they conflict with any of the established rules of the Planning Board. Special committees and commissions may be created from time to time as directed by the Chairman or a majority of the Planning Board. Any or all standing committees shall be appointed by the Chairman and approved by a majority of the Board. It shall be considered unlawful for any person to disturb any meeting of the Planning Board or any committee thereof; any person violating the provisions of the rule may be summarily ejected from Town Hall, committee room or other meeting place. No person other than the Chairman of the Board shall address that body at any regular or special meeting except upon recognition of the Chairman or a majority of the members present at the meeting.

CALENDAR ORDER OF BUSINESS

BE IT RESOLVED by the Planning Board of Long Hill Township that the Calendar Order of Business shall be mailed or given to each member of the Board on or before the Friday before each designated meeting. The Chairman and any member of the Board shall have the right to place any item on the agenda.

NOTICE OF PUBLICATION

BE IT RESOLVED by the Planning Board of Long Hill Township that the following newspapers are designated to receive Notices as required by the Open Public Meetings Law:

- 1) Courier News
- 2) Echoes-Sentinel

All notices required by the provisions of the Open Public Meetings Law shall be furnished the newspapers designated for such purposes.

NOTICES OF MEETINGS

BE IT RESOLVED by the Planning Board of Long Hill Township, pursuant to the authority of the Open Public Meetings Law that the sum of \$20.00 annually is hereby fixed as a reasonable sum to be prepaid the Planning & Zoning Administrator of the Planning Board by any person desiring notice of all Meetings to cover the cost of providing said notice. All requests are to be made to the Planning & Zoning Administrator.

MINUTES

BE IT RESOLVED by the Planning Board of Long Hill Township that the minutes of the regular public meetings shall be sent to the Planning Board members and that a copy of said minutes be posted at the Town Hall. By this procedure and/or the unanimous agreement of the Board Members, the reading of said minutes shall be waived. Copies shall also be sent to the Planning Board Attorney, the Township Engineer, the Township Planning Consultant, and the Long Hill Township Library. The recordings of all public meetings of the Planning Board shall be retained for two years from the date of said meeting or until after the conclusion of the appeal time or the conclusion of any litigation, whichever is later.

The cost of providing copies of audio recordings of meetings to any person desiring the same shall be in accordance with the annual fees established by the Township Committee for copies of public records.

MEMBERSHIP

BE IT RESOLVED by the Planning Board of Long Hill Township that the Board approves the application for membership for 2011 in the New Jersey Planning Officials at the established annual fee for 2011.

2011 BUDGET

Mr. Connor said that most of the figures in the proposed 2011 Budget have remained the same or haven't changed significantly, with one exception which is the Planning Consultant line item. The proposed increase in that line item was due to the significant work that needs to be done during the first part of 2011. There are a number of projects to be completed such as the Land Use Element, the Valley Road Business District Element, and an analysis of the current ordinances that we may want to change prior to May 5th when the Time of Decision rule will change.

The proposed 2011 Planning Board Budget is as follows:

<u>ACCT. NO.</u>	<u>ITEM</u>	<u>BUDGETED 2010</u>	<u>BUDGETED 2011</u>
21-180-180-201	Miscellaneous	\$ 100.00	\$ 100.00
21-180-180-203	Office Supplies	750.00	750.00
21-180-180-205	Postage	- 0 -	- 0 -
21-180-180-206	Printing	-0-	300.00
21-180-180-209	Conventions/Conferences	150.00	150.00
21-180-180-211	Equip./Service Agreements	400.00	500.00
21-180-180-213	Legal Advertising	500.00	500.00
21-180-180-214	Publications	350.00	350.00
21-180-180-219	Dues & Membership	250.00	250.00
21-180-180-221	Planning Consultant	14,800.00	18,000.00
21-180-180-236	Legal	2,000.00	2,000.00
21-180-180-237	Engineering	10,300.00	11,000.00
21-180-180-271	Education/Training	<u>300.00</u>	<u>300.00</u>
	TOTALS	\$ 29,900.00	\$ 34,200.00
21-180-180-101	Salary & Wages	\$34,552.00	\$ 35,243.00

Mr. Briggs made a motion to adopt the proposed 2011 Planning Board Budget which was seconded by Mr. Butterworth.

A roll call vote was taken. Those in favor: Mayor Harrington, Dr. Behr, Mr. Briggs, Mr. Butterworth, Mr. Dempsey, Mr. Piserchia, Mr. Smargiassi, Mr. Batista and Mr. Connor. Those opposed: None.

MEETING CUT-OFF

BE IT RESOLVED by the Planning Board of Long Hill Township that, as a matter of procedure, it is the intention of the Planning Board not to continue any matter past 11:00 P.M. at any regular or special meeting of this Board unless a motion is passed by the members then present to extend the meeting to a later specified cut-off time. Further, that this notice shall be made part of published operating procedures for applications to this Board and shall be announced at the opening of each regular and special meeting.

Mr. Briggs made a motion to continue the meeting cut-off as proposed which was seconded by Mr. Smargiassi. All were in favor.

PUBLIC QUESTIONS OR COMMENTS

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

DISCUSSION – LOCAL BEST MANAGEMENT PRACTICES MANUAL

Mr. Lemanowicz said work has been done in creating a local Best Management Practices Manual so that we can help applicants address stormwater issues more effectively and understand them better. He distributed copies to the Board members and explained that the Best Management Practices Manual prepared by the State was basically prepared for large developments and does not include some of the smaller things that people do to address stormwater such as rain gardens and permeable pavers which are more suitable to a single family house.

He said that Dr. Leonard Hamilton, former Board member and Environmental Commission Chairman, had started work on the local manual and he added to it and changed some things and the only thing not filled out in one section is the permeable pavement. He said that there are two types of permeable pavement systems. One is a paver where water goes between the blocks and the other is pervious pavement which is actually either concrete or asphalt which is kind of like a Rice Krispies treat. He said that it is solid and yet there are voids in it and the whole thing is actually porous. He said that it is expensive to have installed because it has to be put down in a much thicker layer because, structurally, it is not as good as a solid pavement, but it does have its applications and is something that is available. He said that he wanted to look at more information on the product before going into so of the design parameters of it. He asked the Board to review the first draft and be ready to discuss it in more detail at an upcoming meeting. By that point, he said that he will add a little more to it.

In response to Mr. Connor, Mr. Lemanowicz agreed that when it is finished, that will put us in a position to have the proposed Environmental Ordinance reviewed by the Township Committee. He said that the Ordinance currently addressed porous pavements but it leaves somewhat up in the air. One thing we will need to be a little careful of is when we start dealing with the porous/permeable pavements, there is actually 3 potential areas that it will affect. The first is when you are computing lot coverage. He questioned if the Board will want to give a credit for permeable pavers? When you are determining if a project is a major development (over ¼ acre of new impervious coverage), is there a credit to be given there? Plus, when you are dealing with drainage, we are obviously going to count it there. He said that you have to go to extreme a little bit to see what would happen. For instance, if you count permeable pavers as 60% of what normally would be lot coverage, you could wind up with some large paver areas that you really don't want. When reviewing the draft, he asked the Board to think about the whole issue of coverage for the purposes of stormwater management, major development determination with respect to lot coverage and with respect to how we are going to adjust the runoff and how we will apply this to meet the no net increase criteria in the ordinance.

Mr. O'Brien said that, currently, the Ordinance does allow permeable pavers for commercial applications. He said that it is up to Mr. Lemanowicz and the applicant's engineer to determine the degree of permeability. He said that the last time we allowed this was at the PNC Bank on Valley Rd. which has permeable paving in the parking lot to the rear of the bank. He said that the bank was given credit for that permeability and he believed that it was somewhere in the range of 20%-30%.

Mr. Lemanowicz said that the only issue is that this is still evolving. With respect to the pavers, he said that he put a minimum dimension on the opening. He said that he has seen pavers flood and has seen puddles on pavers because, if they put in a ¼" gap and it is filled with sand, it is no longer permeable and it will pond. Therefore, he said that he put in a minimum of 5/8" and said that it had to be filled with a pea gravel because sand does clog.

In response to Dr. Behr, Mr. Lemanowicz said that design standards are included for everything except for pervious pavement and he is looking into recommendations for that, however he cautioned that it is evolving as to what someone will come up with next. It is something that we will just have to deal with.

Dr. Behr asked if it was possible to make parameters that say here is the baseline that we insist on and then include a disclaimer, unless there is a process that would represent an improvement over the intent of this?

Mr. Lemanowicz replied that something could be included in the opening remarks to the effect that these guidelines are provided based upon current technologies and leave a sentence in that an applicant would know that, if they do have something that is innovative and not included in the document, they could bring it in for consideration.

In response to Mr. Hoffman, Mr. Lemanowicz said that RSIS goes to the State BMP Manual. He said that this is simply an addition to that. Obviously if it is a major development and they want to try to use some this to meet the guidelines of a major development, then the Board is going to have to decide. He said that one of the items that is a concern to him is green roofs because there is a limit as to how much they can handle, particularly in the winter. If you have a good cold snap followed by a rain, the rain will run off the green roof as if it was asphalt. He said that those types of things are the ones that we've got to start thinking about. Although we want to use some of this new technology, there are some inherent issues with some of it. He said that the draft manual is supposed to help have systems that are not cumbersome, expensive, and ugly.

Mr. O'Brien said to remember that these are targeted to small projects on existing homes such as expansions, new decks, or additions to driveways, not things that the RSIS kicks in for new buildings.

DISCUSSIONS – STATUS UPDATE AND 2011 PLANNING PRIORITIES

Mr. O'Brien had distributed his Status Report dated 1/6/11. The first 9 pages are an updating of the status of where we are and where we have been in all of the initiatives that the Board has undertaken over the last few years. He felt that what is most important appears on Pg. 10 which is the Priority List which indicates what we are doing and what we need to do because of upcoming deadlines. He said that the biggest deadline in front of us is the change in the Time of Decision Rule. When a decision is made by a Board and a vote is taken, he said that currently the rules that are in effect when that vote is taken are the rules that apply to that application. If an application came in that was of concern to the Township, the ordinances could be changed so long as they are changed prior to the day of decision. The new rule is that the rules that are in effect on the day an application is made are the rules that govern that application no matter how long that application may take to work its way through the system. So, in order to protect ourselves is to go through the Land Use Element and make whatever changes are necessary and go through our Ordinance and make whatever changes are necessary there in order to protect the Township from any unwanted harm. The purpose of the Ordinance is to protect the Township, its citizens, and property values. Up until now, unanticipated applications have been dealt with during the application process by changing the Ordinance, if necessary. He said that we will no longer have that opportunity, therefore we need to look at the Land Use Element of the Master Plan and the Land Use Ordinances very carefully and we need to get any changes into effect by May.

Mr. Piserchia asked if the time of application has been clarified?

Mr. O'Brien replied, "No". He said that right now no one knows whether it refers to a *complete* application. He said that Stuart Koenig, Esq. wrote an article in the League of Municipalities magazine a few months ago, which he distributed to the Board, in which he states that we really don't know and someone will go to court and that is what will make the rule. But until it goes to court and a decision is made, we will all flounder. He said that we would like to define what a complete application is in the Ordinance so that we know what we are dealing with and we will make our rules and somebody may wish to challenge them. He said that, hopefully, somebody else will challenge another municipality and we will find out vicariously through them. He said that he did not see developers sitting on our doorstep waiting at this point.

He said that Building and Design Standards should also be included in the Land Use Element and accompanying Ordinances.

Dr. Behr said that he has been working with Patrick Jones on Building and Design Standards and he has a draft now which he is going through and will provide his comments. He projected that the Board should see a draft by the beginning of February.

Mr. O'Brien said that the other things that are underway and which will remain a priority over the beginning of the current year are: the Planning & Zoning Process reform that was undertaken by Mayor Harrington; the Transfer of Development Rights; the Morristown Road rezoning; Checklists; and Best Management Practices which he and Mr. Lemanowicz are currently working on which will be referred back to the Board.

With regard to the Planning/Zoning Process, Mayor Harrington said that, after receiving the comments of those who worked on the process, she is just about ready to present the results and begin implementing whatever changes that apply. She asked for the Board's direction on how they would like to do that. She said that the next step may be for her to present to this Board first, followed by the Board of Adjustment, and then to the Township Committee.

Dr. Behr said that a lot of things have been covered in the meetings that Mayor Harrington has conducted that directly impact the Board of Adjustment and, one of the reasons why this was necessary in the first place, is that the current process that we had been following had a horrific impact on the Board's productivity. In response to Mr. Hoffman, he said that we are talking about the internal process that is what results in the cost to applicants being much higher than it used to be.

Mayor Harrington agreed.

Mr. O'Brien said that, if necessary to be codified in the Ordinance, that would come through this Board and the Township Committee.

Mayor Harrington said that, *possibly* there are such things such as the checklists that will be revised.

Mr. Dempsey said that it sounded to him like the Planning/Zoning Process reform should go to the Zoning Board, then the Planning Board, for recommendation to the Township Committee.

Mr. Connor said that there are a couple of ways to do it. One would be to try to have a joint meeting, however it might not be productive to have that many people all trying to comment on the same thing. His concern was that we clearly want to meet the needs of both Boards. In some cases they may be similar and in some cases they may be different. He said that, perhaps, we will have to trust Mayor Harrington to figure it out.

Dr. Behr said that a tremendous amount of work has gone into the document and the likelihood that you are going to find members of either Board with *significant* issues with what has been done, he felt is pretty slim, simply because of the quality of the document itself and the thinking that went into it. He did not see an arduous or lengthy process.

Mr. Piserchia said that, because of staffing constraints, sometimes it is not clear what happens. He said that we know something needs to be reviewed or signed but, because staffing has changed, he questioned what the document will do to address that?

Mayor Harrington replied that the document defines the process by which applications are reviewed and the appropriate Board hears those applications, as well as the follow-up. She said that it defines who is responsible for various steps during the process and what reviews/steps need to happen. She felt that it is a pretty comprehensive document. She said that there was quite a broad spectrum of people who participated in the discussions, helped design the process, and who have commented on the document in its draft form.

Mr. O'Brien said that the process actually identifies titles, rather than people, and officers who are responsible for different parts of the process. Even though staff may be short, he said that all those hats are worn by someone and that someone has to fulfill their part in the process.

In light of everything the Board has heard that has to be done so quickly this year, Mr. Dempsey said that we need to have this process in place as quickly as possible. He proposed that, at the next meeting, it gets presented by the Mayor or someone from that committee.

Mr. Batista asked if it will be necessary to have the Application Checklists and Guides completed by then as well?

Mayor Harrington replied, “No”. She said that the other thing that the document includes are some action items and next steps, one of which is the Checklist, another of which is the Brochure, so they are identified as part of this.

Mr. Briggs asked Dr. Behr if the Zoning Board had an open calendar?

Dr. Behr replied that they have a pretty full calendar. However, he said that if the discussion of the proposed process occupied more than an hour of time, he would be surprised because it is logical and thoughtful and the Zoning Board is very well aware of the problems that we are trying to solve. He felt that a case could be made that it will solve the problems that have been plaguing us. He felt that the Board of Adjustment could get through it in very rapid fashion. He said that he would look at the calendar to see where the discussion could be squeezed in. He said that the Board of Adjustment should not be an impediment to moving forward on this because it has had input into the formation of the process.

Mr. Connor agreed and said that he did not feel that the order makes a lot of difference. He felt that the Planning Board could set aside some time at its next meeting.

Mr. Hoffman said that, if a joint meeting is scheduled, he felt that it should be done on a night that the Planning Board regularly meets.

Mr. Connor agreed that that is an alternative.

Dr. Behr said that he would be very comfortable with that idea.

Mr. O’Brien said that, for the most part, what is being suggested is policy on behalf of the Township so that any action that would be taken would be in the form of an Ordinance by the Township Committee along with the recommendation of the Planning Board. From the Board of Adjustment’s point of view, he said that this is more of a policy implementation that they follow, rather than direct. He felt that this should be an information session for the Board of Adjustment. He said that there is only one new application scheduled for 2/1/11 and he did not see why the Board couldn’t take 20-45 minutes of that evening and just do an update. He reminded that the Zoning Board doesn’t make policies, with the exception of adopting their own by-laws, which runs their meetings. They have to follow the rules that are in the MLUL and the Township Ordinance that govern the processes.

Dr. Behr felt that the 2/1/11 date would work fine.

Mr. Connor said that, in that case, the Planning Board will discuss it at its next meeting.

With regard to where the Planning Board is going after that, Mr. Batista said that the Land Use Element seems to have been taking top priority. He said that Mr. O’Brien also noted on Pg. 5 of his update that the Millington and Stirling Elements need to be done, along with the Land Use Element.

Mr. O’Brien replied that it is not going to be done as part of the Land Use Element. He said that he should have changed his language (which was leftover from last year). He said that they will have to go *after* the Land Use Element because there just is not enough time. He felt that the Millington and Stirling Elements will be part of the tail that wags the dog with TDR because that is where we are thinking that our receiving areas are going to be. So, while the TDR Study is underway, Millington and Stirling come up towards the end of that and, in the meantime, we are working on the Land Use Element. He said that he will change the language in his report.

In response to Mr. Connor, Mr. O’Brien said that he had a discussion with Mr. Sheola last week concerning the sewers which is also what is driving the TDR and what we are going to be allowed to do and where. The Township Committee is currently making decisions as is the Wastewater Management Committee. He said that currently the proposal being considered is an expansion of an overflow tank which would allow the sewer plant to enlarge capacity. If we enlarge capacity, then that allows development to occur in the Township. The TDR Study requires sewer expansion in order to locate that new development which we anticipate to go in Millington and/or Stirling because they both have the attributes of being transit oriented, being compact centers, and having an ability to be redeveloped.

Mr. Connor said that the process seemed to slow down to a crawl.

Mr. O’Brien replied that that was because of the wait for sewer capacity.

The meeting was opened to the public for comments.

Mr. Dennis Sandow, Millington, said that he was confused about the relationship between the Planning/Zoning Process procedural effort and the matter of the Zoning Permit which has been on and off discussed by the Township Committee for about 4-5 months now and never brought to a vote. If, in fact, a Zoning Permit versus a Construction Permit and/or a Development Permit is a part of the *process*, he asked if the process discussion leads to a formalization of the Zoning Permit or does the Zoning Permit have to be formalized in order to provide a foundation for the process?

Mayor Harrington replied that the process includes the Zoning Permit. She said that Mr. Pidgeon was brought into the process so that he could make sure that the Zoning Permit Ordinance is consistent with the process.

Until the process discussion is completed with the Boards, Mr. Sandow asked if we will remain in limbo with regard to the Zoning Permit and any applicant who comes within the next 4-7 months while we are talking about this will not know what kind of a permit to apply for and which side of the aisle or counter he/she should apply for it at?

Mr. Connor said that he felt Mr. Sandow's 4-7 months is not a proper estimate.

Mr. Sandow said that the Zoning Permit was fairly elemental. It is specified in the Statute and we haven't been able to move that in the 4-5 months that it has been on and off the table at the Township Committee and now we are finding another reason to continue to operate, apparently, using either the Construction Permit process, which doesn't work and isn't supposed to work, or a Zoning Permit which isn't endorsed in Ordinance. He asked how much longer we will drag this out?

Mayor Harrington replied that, hopefully, it can be resolved fairly quickly. She said that we are going to resolve the process by the 1st of February and, when the Zoning Permit Ordinance is consistent with the process, hopefully the Township Committee will be able to move a little faster on it too.

Mr. Sandow asked what about the applicant who comes in? Is he still going to have to hire a lawyer to figure out which unlawful process he's supposed to use?

Mr. Batista replied, "Until May".

Dr. Behr said that the law is pretty clear on what needs to happen and the process that we followed has not been "illegal", it just has not been as efficient as it needs to be. He said that Mayor Harrington has said that her belief is that the Township Committee can move forward on this in a far more expeditious way and he felt that she should be given an opportunity to prove that that will happen.

Mr. O'Brien said that, apparently staff has been handling this between Construction and Zoning now.

Mr. Sandow said that that is fine for them to have a well choreographed game of ping-pong across the aisle, but what about the poor applicant who walks in out of the cold and is attempting to rely on something that he reads in writing? He said that if he tries to pay his sewer bill based on the Ordinance, he is going to wind up entirely wrong. He said that this is another case where we have no certainty for the applicant.

Mr. Dempsey replied to Mr. Sandow that he just heard that the Planning and Zoning Boards will hear about this at their very next meetings. He said that he did not know how much faster we can go. He agreed that it will be hard for an applicant, but they (and Mr. Sandow) have to know that it is being moved forward now.

With regard to the Land Use Element, Mr. Sandow said that he was terrified by the discussion he heard that said that the Land Use Element must precede the Millington and Stirling Elements. He said that a Master Plan is only efficient and effective if it hangs together. Going back to the 1996 Master Plan, which is all we have right now, he said that there are so many inconsistencies between the elements that you could drive a truck through the gaps. He said that is because the elements are done piecemeal and there is no rational attempt to make a plan that is truly a plan, rather than a salmagundi. He said that the Housing Element is a perfect example. He said that we say that the Housing Element was passed, however he did not know what the Housing Element is. Is it the 400 units that included the senior development across the street which was put into the plan even though it had never been approved? Is it the 1,600 units that we sent to the County for the County Wastewater Plan? And yet, when it comes time to talk about a Land Use Plan, he said that we will say that the Housing Plan has already been approved and so, therefore, we can't tamper with it. What terrified him was that we are going to get to the Millington plan sooner or later in 2012 or 2013 and we are going to say that we can't do that because we approved the Land Use Plan before May of 2011 because we had a gun to our head. It seemed to him that if we are going to make radical changes in Millington, and we all know that we have to do that if for no other reason than to clean up the inconsistencies in the existing Millington Plan.....we know that there have got to be changes to be made in Stirling, and they are going to be very, very hard choices because we've got to deal with the fact that the Stirling Village Business District is 50% residence and 50% commercial. He said that we've got to decide which way we want to move it because it certainly isn't effective being split 50/50 the way it is. And yet those elements are the foundation on which you have to make the Land Use Plan work. In addition, he said that you've got the problem that he pointed out almost 2 years ago which is 41% of the residences in this town are on undersized lots. Therefore, 41% of the residences in this town are non-conforming and the only way you are going to get improvement or a larger house or anything else on those lots is to apply for a variance because they are zoned too big. He felt that that is key to the Land Use Plan – to address the fact that the lot sizes in this town don't work for 41% of the existing housing. He did not know how we are going to do that between now and May. He said that he did know that, if we focus on that, we may very well miss the boat on leaving gaps for plugging in Stirling and Millington later. So when we do get around to Stirling and Millington, we may find that our hands are tied because we were rushed into a Land Use Plan.

Mr. Connor asked Mr. O'Brien to comment. He said that, obviously, Stirling and Millington will be scheduled in the latter part of the year and the Land Use Element will be scheduled in the former part of the year and the need to have the Land Use Element goes first.

Mr. O'Brien replied that before a wholesale change in the Ordinance, the Master Plan has got to call for it. So, any type of changes that will be made to the Ordinance in anticipation of the Time of Decision Rule being changed have to be reflected in a Land Use Element. He said that the Land Use Element would look at the Township town-wide

and take into account any changes we would like to make. He understood Mr. Sandow's concerns about Millington and Stirling and said that they are good concerns. The way that Millington and Stirling should be written should be pinpointed to those particular areas in and of themselves and they will not be referred to in the Land Use Element because we will be dealing with the rest of the Township that hasn't already been dealt with, including Valley Road, as part of that Land Use Element.

Mr. Sandow said that, obviously, we need to move forward, but he was concerned that we do *not* have a focus on thoroughness and we do not have a focus on internal consistency amongst all of the elements of the Master Plan. He said that he will pester the Board, for sure, unless those inconsistencies are resolved before the deadline for submitting the Master Plan.

There were no further comments from the public.

Mr. Batista said that in echoing some of what Mr. Sandow said, in looking at what we are dealing with in the year coming up and what we dealt with in 2010, he saw that there are at least 8 things that we spent a lot of time on – many meetings working, and that has gone to the Township Committee and has been slowed there. He said that things haven't been passed, something like the Stirling Parking Ordinance which came back here and was "butchered" and sent back again exactly the way the Township Committee wanted it, and it is still not passed? He feared that in some of these larger items, with regard to environmental ordinances, tree ordinances, developmental fee ordinances, and Valley Rd., we are going to get bogged down when those things come back here and we're trying to work on the Land Use Element and other larger portions. As a member of this Board, he said that he was asking our representatives (the Township Committee) to *please* help us push some of these things through.

Mr. Connor said that he had done his own informal looking at Main Avenue. He said that he sometimes gets there in the evenings and sometimes during the day and he just thought he would count how many spaces there were on Main Ave. that were marked spaces. He said that there are approximately 50 south of the railroad tracks and about another dozen north of the railroad tracks, with one exception on a Saturday night, the least number of cars he found parked out of the 50 spaces was 1 and the most he ever found was 23. He said that people are worried about the fact that there will not be parking on the street and, except on Saturday night when the Hotel is busy, you don't have 50% of those key spaces filled. He felt that the idea that by forcing people to park on the street and allowing some people to actually have parking lots that are more fully used and you have decent plantings and more environmental and landscaping concerns that you allow people to actually build a business or mixed use business and not require all the spaces that the Ordinance requires and say what will happen that you are going to have congestion in the parking spaces on Main Ave. If we do, he said that his take is that we have been successful because right now you can go there every time and can find a parking space. He did not believe that it is an issue. He said that, if the Township Committee thinks that they need to have an official survey, we can have somebody go in and do a survey, but he felt that to allow people to count those spaces in front as part of their parking allotment will have a positive effect and will not have the negative effect that people say they will.

Mayor Harrington said that the Stirling Parking Ordinance is on the Township Committee agenda for tomorrow evening.

The meeting was opened to the public.

Mr. Sandow said that there seems to be a good deal of confusion about the fact that the Main Ave. Ordinance came back to the Planning Board. He did not think that there is an awful lot of disagreement about whether or not there are spaces on the street to accommodate the parking. The objection that he had at the Township Committee, which he felt was the *key* objection, was that there was a sunset in the ordinance that was sent to the Committee. After 5 years, he forgot whether the exception would expire or whether the Planning Board was directed to examine it again. His concern at the time was, by putting a sunset period into the Ordinance, you simply increase the amount of uncertainty that any developer might have because he cannot be sure that 5 years later he will suddenly become non-conforming. He said that that was the issue that he thought was the killer for the Main Ave. Ordinance as it was sent up from the Planning Board. He wanted to keep the record straight and said that it was a very severe structural issue that made this an unworkable ordinance, not the question of how many spaces there are painted in the street.

Mr. Batista said that, in essence, what the Board created was something that was unfavorable for developers and then having to put additional paving space instead of being able to build on there and not have garages.

Mr. Sandow disagreed and said that the fact that we guaranteed a period of uncertainty and guaranteed that at the end of 5 years he might suddenly find himself in a situation where he was nonconforming if we decided to change the parking rules back to what they were.

Mr. Batista replied that he would be a pre-existing nonconforming use that would never get rejected.

Mr. Sandow said that it would mean that anything else that went on in that lot would have to go through a variance process.

Mr. Piserchia said that he believed that the sunset provision has been removed.

Mr. Sandow agreed. He said that he just wanted to clarify the discussion that was going on here. It was not a question of how many parking spaces are painted on the street.

Mr. Connor said that he was not saying that that was the only discussion, but it was one of the discussions.

There being no further comments, the meeting adjourned at 9:16 P.M.

DAWN V. WOLFE
Planning & Zoning Administrator