

AMENDED MINUTES

AUGUST 11, 2015

PLANNING BOARD

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

Chairman Pfeil called the meeting to order at 7:34 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 2015.

MEETING CUT-OFF

Chairman Pfeil read the following statement: Announcement is made that as a matter of procedure, it is the intention of the Planning Board not to continue any matter past 10:30 p.m. at any Regular or Special Meeting of the Board unless a motion is passed by the members present to extend the meeting to a later specified cut-off time.

CELL PHONES AND PAGERS

Chairman Pfeil read the following statement: All in attendance are requested to turn off cell phones and pagers as they interfere with the court room taping mechanism.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

Excused:

J. Alan Pfeil, Chairman
Brendan Rae, Mayor
Charles Arentowicz, Vice-Chairman
Gregory Aroneo, Member (arrived 7:39 PM)
David Hands, Member
Guy Piserchia, Member
Guy Roshto, Member
Timothy Wallisch, Member

Ashish Moholkar, Member

Kevin O'Brien, Board Planner
Thomas Lemanowicz, Board Engineer
Cynthia Kiefer, Board Secretary

Daniel Bernstein, Bd. Attny.

Ms. Kiefer advised Chairman Pfeil that he had a quorum and could proceed.

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

PUBLIC QUESTIONS OR COMMENT PERIOD

Chairman Pfeil asked the public for questions or comments on items *not* listed on the agenda for the evening. Hearing none he closed the meeting to the public.

Chairman Pfeil stated that there were two (2) ordinances that had come to the Planning Board after first reading by the Township Committee.

DISCUSSION – Ordinance #361-15 - "Requiring a Zoning Permit rather than a Construction Permit for new driveways and amending Section 124 of the Township Land Use Regulations entitled 'Supplemental Use Regulations'" (proposed)

Mayor Rae explained that there was a one word change-Construction to Zoning-made in the ordinance to bring it up to date with current practices in the township.

Mr. O'Brien stated that several years back to the Construction Code of the State of New Jersey removed the Construction Official as the responsible person for issuing zoning permits. The township did revise its ordinances to reflect that change so that all zoning requests would go through a zoning permit process. Either a zoning permit was issued or the applicant had to appear before one of the land use boards. This ordinance fixed it to where it should be so that the zoning permit would become the gatekeeper here. It was consistent with what was being done currently.

Chairman Pfeil asked the board members if they had any questions or comments. The motion was made by Mr. Roshto stating that Ordinance #361-15 was consistent with the Master Plan. Mr. Hands seconded the motion and a **ROLL CALL VOTE** was taken. Those in Favor: Mayor Rae, Mr. Arentowicz,

Mr. Hands, Mr. Piserchia, Mr. Roshto, Mr. Wallisch, Chairman Pfeil. Those Opposed: NONE. The motion passed unanimously.

DISCUSSION - Ordinance #360-15 - "Moving the Township Temporary Sign Regulations from the Land Use Ordinance to the Police Regulations Section of the Township Code, adding Sandwich Board Regulations and amending various sections of the Township Code" (proposed)

Mayor Rae explained that it had been brought to their attention that the temporary sign regulations were currently in zoning and they would be better served in the Police Regulations Section of the Township Code. This was the opinion of the Township Committee and the Township Attorney.

Mr. Piserchia added that the Township Attorney told them that this was how most towns did it. The Township Committee passed it on first reading based on Jack's advice.

Chairman Pfeil noted that Mr. Aroneo had arrived at 7:39 PM.

Mr. O'Brien said that he had received this ordinance late last week with the agenda and he had not had time to conduct any kind of a study or analysis. He did not know which towns used it as part of their police powers. In many of the towns that he worked in, it was in the Land Use Ordinances however he deferred to Mr. Pidgeon's experience.

Mr. Roshto expressed concern stating he felt there was not enough yet. For example, there were no definitions. The land use ordinances had all the definitions including what a temporary sign was. The police ordinances were void of that so it seemed on the face of it that they were losing definitions. On the other side of that, those definitions that were in the land use ordinances were "hanging loose". They didn't apply to anything. He did not feel that the proposed ordinance was complete enough.

Chairman Pfeil expressed concern about the appeals process for a sign that did not conform. He asked what that would be-- a Township Committee resolution? Or would it go before the Zoning Board? If someone wanted to make a sign bigger for example, what would be the mechanism for that?

Mr. Piserchia said that the reason for sending the ordinance to the Planning Board was not simply a formality. It was to get questions, comments, concerns and suggestions from the board.

Mr. O'Brien stated that by law the Planning Board had 35 days to respond to a first reading from the Township Committee after which they could take any action that they wished. He asked if the Township Committee would extend that time since the next Planning Board meeting was scheduled in four weeks.

Mayor Rae said that the Township Committee would not be meeting until September 9, 2015 and Mr. O'Brien advised him that the next Planning Board meeting was the night before that.

Chairman Pfeil asked if the Township Committee would give the Planning Board until the end of October to finish what they have already started which was a temporary sign ordinance. He explained that they had asked for feedback from the Chamber of Commerce and had gotten very little.

Mayor Rae said that they already had an ordinance here to work on.

Chairman Pfeil replied that they also had a temporary sign ordinance that they were working on which was much more specific than this one. They had a draft that had been discussed however it had stalled when the board asked for feedback from the Chamber of Commerce. The board was prepared to move forward on this however realistically Chairman Pfeil did not feel they could complete it in just one meeting.

Mr. Piserchia asked Mr. O'Brien to forward the draft to the Township Committee and the Board Attorney.

Mr. O'Brien stated that it only addressed the issue of sandwich board signs since that was the matter that had previously been referred to the board.

Chairman Pfeil stated that he saw the rationale in moving this forward however they had seen a lot of holes in the proposed ordinance presented this evening. The onus would be on the Township Committee to make decisions on things like size and color of signs and he wasn't sure that was correct.

Mr. Roshto said he agreed with Mr. Pidgeon about moving *some* of these things into the police ordinances. But this was taking everything wholesale including the language which should be land use oriented and moving it to the police ordinances. There was no facility in police ordinances for definitions of sizes, for example. Land use ordinances deal with that. The proposed ordinance did not deal with that and was open ended. So even though he agreed that some of it could be moved over to the police ordinances he felt some sections should stay in land use.

Mayor Rae asked when the Planning Board would have comments about this ordinance.

Mr. O'Brien said that he could compare this draft to the current regulations and present it to the Ordinance Review Subcommittee in September.

Chairman Pfeil said that the Planning Board would be prepared to comment at its second meeting in September. Mayor Rae agreed.

Mr. Roshto said that he was 100% in favor of making the process easier for the applicants. By moving it into the police powers it would essentially be free and would be a consent agenda resolution way to deal with it.

Mr. Piserchia used the bike race as an example. He did not feel that someone should have to go through the permit process to put up 20 signs. That was one of the things that influenced this proposed ordinance.

Mr. Roshto agreed that that was a great idea. For "real" temporary signs like the bike race signs it made perfect sense for it to be in the police powers. However temporary signs were much more than that. They could be there for more than two years and they could be planted in the ground. By pulling everything out, those types of signs would be included as well.

Mr. Hands asked if there were any other instances of multiple signs that were part of the concern of the Township Committee that the Planning Board should be aware of before Mr. O'Brien did his review.

Mr. Piserchia said that this started at the Township Committee level with the bike race in mind. There were other events such as Millington Downtown Day where multiple signs were used. That was the genesis of this. He felt that Mr. Roshto was correct in saying that they had to make sure not to include things that they did not intend.

Mr. O'Brien said that currently the ordinance did allow for temporary signs for public and semi-public events which the bike race would fall under. There were no constraints on that.

Mayor Rae and Mr. Piserchia felt that there was a constraint on the number of signs.

Mr. O'Brien stated that there was no number constraint if it was a "special public or semi-public" event. There was a maximum of 12 signs for educational, charitable, civic, religious or like special events.

Mr. Piserchia noted that the bike race put out 20 signs so technically they needed a variance.

Mr. Roshto asked if the Township Committee would be amenable to separating out "truly temporary signs" like the ones being discussed now versus the "half temporary signs".

Mr. Piserchia said that he thought so however he did not want to speak for the others. Mayor Rae agreed.

Mr. Roshto felt that the Planning Board could make it very simple and straightforward while dealing with problems.

Chairman Pfeil scheduled an Ordinance Review Subcommittee meeting at 5:30 PM on September 8, 2015 to move this issue forward.

Mr. Roshto said that the second part was sandwich board signs which he felt were different than temporary signs. When he read the ordinance he felt it was the original one that had come before the Planning Board a long time ago. It had been changed by multiple people however this was the original version that had been passed by the Township Committee on first reading. All kinds of questions had come up during the meetings and a second cleaner ordinance had been written.

Mr. Piserchia said that he did not know which iteration the Township Committee had used.

Mr. Hands asked if sandwich board signs were taken out of this, would it be an issue.

Mayor Rae said that they were looking for recommendation from the board as to the best way to move forward.

PRESENTATION

PRISM - Status of Tifa Ltd. Property Sale and Future Plans

Present: Gregory Perry, P.P., Supervising Planner, Morris County Planning Board
Frank Regan, Attorney for Prism Capital Partners, LLC
Eugene Diaz, Principal, Prism Capital Partners, LLC
Robert Fournladis, Sr. Vice-President, Prism Capital Partners, LLC
Edward J. Snieckus, jr. LA, PP, ASLA Burgis Associates, Inc.

Chairman Pfeil explained that at the June meeting, the board had requested that the attorney for Tifa come before the board at this meeting to provide details on the status of the sale. This stemmed from the board's requirement that Tifa complete a 20+ year old agreement to install a sidewalk along Division Street. Within the last two (2) weeks, Tifa advised the board that they would not attend the meeting and that they had nothing to present. Prism offered to update the board from their perspective as the potential buyer for the Tifa property.

Mr. O'Brien noted that Gregory Perry the Morris County Planning Board was present that evening. He explained that the site plan was not only a township site plan the county site plan also so the county's interests were at stake also.

Chairman Pfeil added that there were no applications in front of this board from either Tifa or Prism so this was an opportunity to gather information rather than a proceeding.

Frank Regan introduced himself as counsel for **Prism Capital Partners LLC** and he confirmed that they did have a contract to acquire the Tifa property. It had been two years since Prism appeared before a subcommittee of the Planning Board. In November 2014 Prism again appeared before some group of officials to update them on the proposal for the property. This evening additional information would be provided with regard to Prism's impending acquisition of this property. He noted that representatives from Prism, Eugene Diaz and Robert Fournladis, were present along with Edward Snieckus from the planning firm of **Burgis Associates, Inc.** with a PowerPoint proposal. He stated that subsequent to this presentation, Prism anticipated presenting a formal request to rezone the property for consideration by the township and Planning Board.

Eugene Diaz introduced himself as a principal with **Prism Capital Partners LLC**. He gave an overview of what had transpired in the last 24 months since Prism first appeared before the township subcommittee. Most of the time had been spent addressing a variety of issues primarily stemming from the property's original classification as a Superfund Site. There had been a very complicated review of this property to understand all of the impacts associated with its prior designation and its delisting from that Superfund Site, its current environmental status and what could be achieved with the property relative to the state's interests. The state had entered into a settlement agreement with Tifa back during the original Superfund cleanup. He stated that there was no condition at the site which would be harmful to health and human environment at the property today. Under the technical guidelines of Site Remediation for Brownfield Sites, this would fall under with the Department of Environmental Protection (D.E.P.) There was remediation that would have to take place that Prism would be prepared to conduct and complete in accordance with the technical guidelines for Site Remediation by the D.E.P. Prism had a "application" in with the D.E.P. at this point relative to their review of Prism's findings so that the state and Prism would be on the same page. He believed it would be met with acceptance on the state's side because it would be remedying issues that were left undone in the original Superfund remediation of this property. Prism had also spent the better part of 15 or so of those months listening to what members of the subcommittee had said regarding the project. They had gone back to their own market analysis to understand if they were looking at a project that they had full faith and belief in to be able to deliver an economically successful project. They went so far as to hire Burgess Associates as a planner to do a planning study as well in support of a rezoning and their desire to create a new residential enclave of multifamily rentals at this location. He stated that today more than ever they were all the more convinced of their ability to deliver a first-class luxury multifamily project to this location. Mr. Diaz added that with respect to multifamily development in general it had been the hot button throughout the United States. The United States Census Bureau came out with a report just a couple weeks ago indicating that their analysis of shifting demographics showed five (5) to ten (10) more years of significant demand for luxury multifamily housing nationwide and in higher density areas significantly increased demand for this particular product type. Prism felt the market was here for this today and they were positioned with their contract with Tifa to close now and resolve any issues with respect to the state's interests to the original designation of the site and their ability to remediate it. He believed that the project as designed would be extremely well received. Supporting documentation and evidence from a planning perspective would be laid out in a formal application that would all be submitted on the record.

Chairman Pfeil asked Mr. Diaz to cover the actual timeframe for the sale to close.

Mr. Diaz responded that the only condition outstanding at this time would be the D.E.P.'s consent to the transfer of the settlement agreement. He noted that Prism had met the requirements that the D.E.P. had asked for relative to investigations and submitted the work to the D.E.P.

Mr. Piserchia stated that when the current owner appeared before the board in June the question was upon sale, would the new owner be required to immediately remediate or would it be upon development of the property. It was his understanding that it was not an immediate remediation. He asked if that was what Mr. Diaz was referring to when he said "transfer of the settlement agreement".

Mr. Diaz replied that there would be, in accordance with the D.E.P. guidelines, a requirement to undertake certain matters in accordance with the technical guidelines. There were time frames established today from site acquisition irrespective of development that would be required in order to

meet D.E.P. guidelines. Whether or not zoning was changed, there were things that Prism as the new owner would be required to do.

Mr. Piserchia asked if this was because the property was changing ownership or would the current owner have been required to do the same things.

Mr. Diaz said that the current owner was exempt from any additional work on this site pursuant to a settlement agreement. He noted that there were confidentiality agreements between Prism and the Seller that he could not broach with respect to the conditions. The Settlement Agreement was a public document and subject to OPRA request however the current owner was exempt from here to eternity from having to make any additional expenditures with respect to remediation efforts at that property.

Mr. Piserchia asked if he understood correctly that Prism was willing to meet all D.E.P. guidelines.

Mr. Diaz responded that when Prism closed on the property there would be certain requirements that they would have to fulfill which would involve certain remediation. If they obtained approvals to redevelop that property, there would be additional work required however Prism was committed to the project.

Mr. Arentowicz asked Mr. Diaz when he expected to get approval from the D.E.P.

Mr. Diaz answered that 90 days would be a reasonably expected timeframe for them to act. Prism had been able to elevate this to the highest levels of the D.E.P. staff. He assured the board that this had been on the Chief of Staff's desk for the better part of the last year in terms of the state identifying resolution to this matter as important to furtherance of the D.E.P.'s objectives.

Mr. Arentowicz asked if there was anything in the settlement agreement that was in dispute from what Prism had been requested to do. He wanted to know if Prism was in agreement with the state as to what remediation activity was required.

Mr. Diaz stated that the status of the current contract was a firm nonrefundable contract with the Seller with Prism's obligation to meet upon closing all of the remediation guidelines set forth by the D.E.P.

Mr. O'Brien asked how long the current application been in to the D.E.P.

Mr. Diaz responded that it had been about a couple of weeks since the work was completed and submitted.

Mr. O'Brien asked if it was typical to get an answer within 90 days.

Mr. Diaz stated that 90 to 120 days for this type of review was typical.

Mr. Wallisch asked Mr. Diaz if he was aware of the township's concerns about the sidewalk along Division.

Mr. Diaz said that that was one of the issues that had come up in terms of the contract with the Seller. He understood the deficiency. From Prism's perspective, they would like to come to an accommodation with the township relative to *when* that sidewalk would be installed. It might involve money being placed in escrow upon closing to ensure that the work would be done upon redevelopment. They did not want to have to do the work twice. They would post a sum of money as determined by the engineers with the township to hold an escrow and the sidewalk would be done if and when Prism was either approved for redevelopment or denied. Upon denial they would still do the sidewalk or it would be done in concert any approved redevelopment. He hoped that would be a good accommodation otherwise there would have to be further discussions with Tifa as to how and when it would be accomplished.

Mr. Arentowicz had a question for Mr. O'Brien. If they went to escrow, would the county be involved?

Mr. O'Brien replied, "Yes." It was a county road and it was their jurisdiction. They shared site plan approval with the township.

Mr. Diaz noted that in Middlesex County in the Township of Woodbridge they had encountered a similar situation. They created a joint Technical Review Committee (T.R.C.) where the county had a seat along with the local municipality. He suggested that this might be a good way to go if the county was willing to entertain that relationship. It would keep everybody on the same page at the same time.

Chairman Pfeil asked if they got D.E.P. approval in 90 days—

Mr. Diaz stated that Prism had a 30 day window to close.

Chairman Pfeil asked if he was correct in assuming that it was reasonable for Prism to close in calendar 2015.

Mr. Diaz replied, "There or about."

Robert Fourniadis introduced himself as the Senior Vice President of *Prism Capital Partners LLC*. He stated that they had looked at the site a couple of years ago and immediately saw it as a great site with a lot of potential for redevelopment to create a transit village with a combination of residential and commercial centered around a train station in a very good location. It was a few miles from 287 and 78 which was one of the reasons they were attracted to the site. They had hoped to be before the board a long time ago but as Mr. Diaz explained, there were a lot of roadblocks in a way. Ultimately D.E.P. saw that if the property was ever going to get cleaned up and redeveloped they would have to allow the sale to go through. One of the points that was made was that what Prism was looking to do was consistent with what the state was looking to do across the state which was to take under-utilized properties in good locations next to transit facilities and redevelop them-- smart growth, transit oriented communities. He felt that that was one of the reasons the D.E.P. finally decided to sit back and be practical about this. They realized that if the sale did not go through, Tifa would never have to do anything.

Mr. Fourniadis reiterated that he had been before the township officials at an earlier date and he had shown them the vision that Prism had. It would be a stick frame, three (3) story luxury apartment community with amenities such as a swimming pool, clubhouse and fitness center along with about anywhere between 10,000 and 20,000 square feet of retail along Division Avenue. He felt it would be a boost to the area as a nice town center and transit village. He also knew there was a need for it. Prism had several apartment projects under contract around the state and they were constantly looking at the market.

Edward J. Snieckus introduced himself as a professional planner and partner with the firm of *Burgis Associates Inc.* of Westwood, New Jersey. He stated that Burgis Associates represented many townships in the state including Parsippany-Troy Hills and Summit. In an effort to answer some of the questions that the township had, he had a PowerPoint presentation regarding development.

At that point, the board members moved to the audience section of the court room in order to view the PowerPoint presentation.

Once the Power Point presentation was completed, the board members and consultants returned to their seats.

HOUSING ELEMENT – COAH

Chairman Pfeil stated that the remaining item on the agenda was discussion of the Housing Element and how it related to the COAH requirements.

Mr. O'Brien stated that the New Jersey State Supreme Court took the Council on Affordable Housing out of the affordable housing business in March and put the courts back in charge as they were prior to COAH in the 1980's. The courts now decide the amount of affordable housing to be applied per town. The Township of Long Hill submitted its first paperwork to the Superior Court on July 8, 2015. The township informed the court that it would be using Professor Burchell's affordable housing numbers courtesy of Rutgers University. Once those numbers have been arrived at, this board would prepare a Housing Element and Fair Share Plan that would take those numbers, allocate how they would be built in this township and what would happen over the next 10 years through 2025 which was the third round period that the courts are now in charge of. Basically, the township is in a standby position because they have complied with the court and everything the court has asked the township to do up to this moment. The township has until December 8, 2015 to file the Housing Element. The governing body has until the same time to adopt the resolution recognizing that Housing Element and supporting it. That paperwork will be delivered on time however at this time the township is waiting for the numbers to come in.

Mr. O'Brien added that a consortium of towns-- over 100--have contracted with the professor to provide those numbers as opposed to going with the Fair Share Housing Center numbers which were initially promulgated throughout the state back in March and April. Those numbers allocated 434 affordable housing units to Long Hill Township.

Mr. O'Brien suggested that he meet with a subcommittee of the Planning Board for guidance. He would then come up with a draft Housing Element to be reviewed by the subcommittee and eventually by the full board. In answer to Chairman Pfeil's question, Mr. O'Brien stated that it could either be a different subcommittee or the existing Ordinance Review Subcommittee.

Chairman Pfeil felt that the Ordinance Review Subcommittee had a lot on his plate already along with the Master Plan Committee. He felt another subcommittee would be more appropriate and asked for volunteers. Mr. Wallisch and Mr. Aroneo volunteered. Chairman Pfeil volunteered as a third member.

Mr. Wallisch asked how many affordable housing units there were currently in the township.

Mr. Piserchia said that Lounsberry fulfilled that.

Mr. O'Brien explained that that was one component. The township had provided a very good number over the years of its past obligations. At the end of the past obligations, the second round of COAH which expired in 1999, the township had either a 70 or 103 unit credit because it had taken care of that obligation in excess.

Mr. O'Brien advised the chair that it would be best to wait for the numbers before scheduling a meeting with the subcommittee. He had some preparatory work to be done prior to that meeting.

Mr. Roshto noted that the Ordinance Review Subcommittee had met just prior to this meeting. During that meeting he mentioned that a map had to be completed for the Valley Road Business District and he would not be able to finish it. For the board's information, the subcommittee was going to ask Mr. Lemanowicz's company to finish it by putting on the overlay which was discussed at the last meeting.

Mr. Lemanowicz said that he did not think it would be very difficult.

Mr. Wallisch motioned to adjourn. Mr. Hands seconded and the meeting was adjourned at 9:30 PM.

Date: _____

Cynthia Kiefer
Planning & Zoning Board Secretary