

MINUTES

MARCH 22, 2016

PLANNING BOARD

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

Chairman Pfeil called the meeting to order at 7:40 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 2016.

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
David Hands, Vice Chairman
Patrick Jones, Member
Thomas Malinousky, Member
Ashish Moholkar, Member (7:50 pm)
Brendan Rae, Member
Dennis Sandow, Member

Gregory Aroneo, Member
Michael Pudlak, Member

Kevin O'Brien, Board Planner
Cynthia Kiefer, Board Secretary

Thomas Lemanowicz, Bd Engr
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 QUESTION OR COMMENT

Chairman Pfeil asked if there are any questions or comments on items not listed on the agenda.

Louise Noell, 17 Windsor Way, Millington, discussed an Ecotourism Proposal that she wanted to present to the Planning Board and Master Plan Committee.

Hearing no further comments or questions from the public, Chairman Pfeil closed the meeting to the public.

AMENDMENT OF MASTER DEED AND BYLAWS

Chairman Pfeil explained that Sunrise at Gillette Condominium Association was seeking approval to amend its Covenants and Restrictions which currently prohibited dogs over 20 pounds. Planning Board approval would be required to amend Section 17 (C). In addition, the Association asked that the Planning Board waive the requirement for review of *any* future changes to their Master Deed and Bylaws. He referred to Mr. Bernstein's letter to Ms. Kiefer which supported the authorization to change the section regarding dogs however Mr. Bernstein cautioned the Board against waiving the overall requirement for review.

Ashley Force, Sunrise Drive, Gillette, questioned why the Planning Board would want to retain control. She noted that as a resident of Sunrise, it was very difficult to get anything passed. In response to Mr. O'Brien's question, she stated that she was not representing the Association.

The Board members discussed whether or not to retain oversight and decided to ask Mr. Bernstein to review the Deeds and Covenants with the Association's attorney and then report back to the Planning Board with his opinion.

Mr. O'Brien then said that the Board could vote to authorize Mr. Bernstein to write a resolution allowing a change to Section 17(c) of the Covenants and Restrictions of the Sunrise at Gillette Condominium Association. That resolution would be provided to the Association after all outstanding escrows and fees were paid.

Dr. Rae motioned and Mr. Moholkar seconded the authorization to write a resolution. A **ROLL CALL VOTE** was taken. Those in Favor: Vice Chairman Hands, Mr. Jones, Mr. Malinousky, Mr. Moholkar, Dr. Rae, Mr. Sandow, Chairman Pfeil. Those Opposed: NONE.

HOUSING ELEMENT AND FAIR SHARE PLAN

Mr. O'Brien stated that over the past couple of months there had been multiple revisions in the requirements for this document and he was not sure where it would wind up. Currently he was being told by the courts that the Planning Board would be asked to accept this as a draft and then the Township Committee would be asked to accept it as a draft. It would then be forwarded to the judge. Possibly there would be a trial with one of the communities in Morris County to set a housing standard. He noted that the housing numbers fluctuated wildly, depending on which entity was distributing them. Many strategies had been discussed over the past few months at the Master Plan Committee level along with the Ordinance Review Subcommittee. He felt their strategies were sound and they attempted to give the Township as much flexibility as possible while meeting the requirements of the Municipal Land Use Law and the Fair Housing Act. The rest depended on what happened at the next level.

In response to a question by Chairman Pfeil, Mr. O'Brien stated that there were a couple of dozen different strategies that could have been used. One of the reasons they were using these strategies here was because they had had success with programs such as rehabilitation, group homes, age restricted housing and accessory apartments here in the past.

Chairman Pfeil asked if they took Econsult's number of 109 units and then took the 50 credits that were valid from prior COAH—

Mr. O'Brien stated that in his opinion, those credits were valid. He noted that the COAH was no longer in existence.

Mr. O'Brien added that they were only using 50 of the 70 credits in order to give the Township some flexibility. It would allow the Township to reach its numbers reasonably by 2025.

There was some discussion about increasing the number of units at Lounsberry. Mr. O'Brien noted that the only requirement was to create zoning that would *allow* Lounsberry to expand and hence create the *possibility*.

There was also discussion about inclusionary development which currently did not exist in the Township. Mr. O'Brien reiterated that the Township would have to show the court that it could *accommodate* this. It didn't mean there had to be a "shovel in the ground". The revision of the Millington Element and the Redevelopment Study would both serve as examples to the court that these spots could possibly become inclusionary spots. If these two areas did not work, the Township would have to find other areas.

Mr. O'Brien advised the Board members that if they accepted this document, it would have to go to the courts for approval to be adopted as an element. If the court did not agree with the numbers, the Township would have to come up with additional strategies.

Dr. Rae asked if the Township could tell the court that the 109 number was unattainable due to the mature nature of the community. He wanted to know if that was a line of argument that the Township could take.

Mr. O'Brien agreed with Dr. Rae that the 109 number was difficult. In order to come up with an even lower number the Township would have to do research along the lines of what Econsult had done which would cost thousands of dollars.

Mr. O'Brien speculated that the next round from the court would determine a number. He added that some of the courts in other counties were adopting the much higher Fair Share numbers and some were adopting the lower Econsult numbers. There were 15 courts making decisions for the entire state and it could take years before the issue was fully settled. Mr. O'Brien stated that the 109 number was the most reasonable number of the choices they had before them.

Chairman Pfeil stated that the goal for the Planning Board that evening was to pass the draft Housing Element and Fair Share Plan in front of them so that it could be sent to the Township Committee for **acceptance** by resolution in order to meet the court imposed April 4, 2016 filing date.

Mr. Sandow was concerned about the numbers used in the document. Mr. O'Brien advised the board members that he had used the 2000 and 2010 census numbers which were precise numbers along with the American Community Survey estimate which is also used by the Census Bureau. It was a five year average from 2009 to 2013. The bar chart that Mr. Sandow was referring to was from the American Community Survey and not the 2010 Census so Mr. O'Brien was removing that chart from the document.

Mr. Sandow continued to challenge the growth numbers. He felt that the Township had to convince the judge that it had no capacity for growth because there was no more room for development. The Township had reached its capacity for housing and people.

Mr. O'Brien told the board members that he had discussed a new tool with Mr. Pidgeon, Township Attorney, called a "Vacant Land Adjustment". Vacant parcels of land in the Township would be identified as to whether they were on the environmental inventory or whether they were preserved and identify the actual properties that were capable of creating housing. They had decided to use the Econsult material when it became available, to show the ratio of vacant land to developable land. If the material addressed the Township adequately, it would be used to show that there was a finite amount or no amount of vacant land available. If the information was not useful, the Township could do its own assessment. They decided to wait and see what the court set as a number.

Dr. Rae felt that the Econsult number was still too high and that the Township would be "stuck with it" should the court agree with that number. He agreed with Mr. Sandow that the Township should convince the judge at this stage rather than wait until a later stage that there was no capacity for growth.

Mr. Sandow felt an assessment of vacant land would not work because there might be parcels of land that could be subdivided to provide multiple areas of development however that would not be possible unless the owner wanted to subdivide or sell. Parking lots could be identified as vacant land which had been done in the past. He acknowledged that there were high density communities that could be built but it should be stressed to the judge that additional standalone housing units simply would not work in the Township.

Chairman Pfeil verified with Mr. O'Brien that the bar chart on the bottom of page 16, "U.S. Census Bureau, 2009-2013 5-Year American Community Survey," was being eliminated.

Mr. Sandow suggested that the "projected years" be eliminated in the "Population History" chart generated by Morris County Division of Planning. Mr. O'Brien advised Mr. Sandow that they were under requirement by the Municipal Land Use Laws to do a population projection in in the Housing Element. In order to project a flat line as Mr. Sandow wanted, Mr. O'Brien would have to come up with a study and a reason to support that.

Chairman Pfeil felt that because it was required and the Board did not have the time or resources to conduct such a study, the chart be left alone.

Dr. Rae agreed with Mr. Sandow and felt that an explanation that although it was a Morris County projection, it was an impossibility for the Township. A discussion among the board members ensued.

Chairman Pfeil suggested that they stop the projection at 2025 since that was when the Fair Housing requirement ended. At that point the population growth was projected at 260 rather than 700 number noted in the 2040 projection. The board members agreed.

Mr. O'Brien pointed out that on page 30, there was a narrative that discussed the Township's restrictions due to floodplain, wetlands, and prohibitive costs in remediating toxic hazards which would act as limiters as to what the Township could provide. These were mentioned here and in at least one other spot.

Mr. O'Brien reiterated that the 2030, 2035 and 2040 bars would be removed from the populations history chart. To make it even simpler, he suggested removing the bottom chart (Morris County Growth Rate) because it gave the county growth rate which was significantly different from the Township's.

Mr. Moholkar noted that by stopping the population growth projection at 2025, the chart showed the stagnation in growth in the Township.

Mr. O'Brien said that he would add the date and the fact that the chart had been generated by the Morris County Division of Planning to the chart entitled "Population History of Long Hill Township".

Mr. Sandow referred to the table on page 9 entitled "housing by number of rooms". He was deeply troubled by the "Change" column. The 2000 column was a hard number generated by the US Census Bureau but the 2013 number was a survey estimate generated by the American Community Survey. Total number of housing units in this chart did not match the number generated in an earlier chart.

Mr. O'Brien stated that the Township was supposed to give a report of existing housing stock and how it was used however it was not crucial because it was only one chart of many. He offered to try to replace the 2013 estimate with a 2010 census number. It was agreed that if Mr. O'Brien could not get the 2010 census numbers, the 2013 survey numbers would remain. Either way, the "Change" column would be deleted.

It was decided to change the paragraph above the chart to take out the emphasis on the size of homes in terms of rooms and concentrate on single versus multifamily comparison which would show that the Township was comprised primarily of single family units.

Mr. Sandow referred to pages 19 and 20 which discussed household and family income. Nowhere was it shown how the data collected was related to the affordable housing thresholds. He wanted to know how many families represented in these tables would qualify for affordable housing.

Mr. O'Brien responded that these guidelines were referenced in the ordinance and in regional guidelines that would be provided. There was no need to have that information in the document because that was not the intent of the document.

Mr. Sandow referred to the employment table at the bottom of page 21 and was concerned about the abrupt changes in numbers 2009, 2010, 2011 and 2012. The Great Recession was defined as 2007 to 2009 which did not correspond to the numbers in this chart.

Mr. O'Brien noted that these were actual numbers and the board members were comfortable with that.

Chairman Pfeil asked if there was any further discussion on the document. Hearing none he asked for a motion to approve the draft Housing Element and Fair Share Plan. Mr. Jones motioned and Dr. Rae seconded. A **ROLL CALL VOTE** was taken. Those in Favor: Vice Chairman Hands, Mr. Jones, Mr. Malinousky, Mr. Moholkar, Dr. Rae, Mr. Sandow, Chairman Pfeil. Those Opposed: NONE. The resolution was approved unanimously. Mr. O'Brien advised the Board that he would have a track changes document incorporating all of the changes made this evening available to them for review early the next day. A "clean" document would be sent to the Township Committee for their consideration at their meeting the following evening. If there were any changes other than factual changes made by the Committee, the document would be brought back to the Planning Board for review.

Mr. Sandow questioned when this draft Housing Element would be final enough for inclusion in the Master Plan. Mr. O'Brien responded that the court would tell the Township when it could proceed. This draft could be included so that the Master Plan could be approved. The current 2008 Housing Element still stood at this point.

Chairman Pfeil asked if there was any new business before the Board. Hearing none he requested a motion to adjourn. Dr. Rae moved, Mr. Moholkar seconded and by **VOICE VOTE**, the meeting was adjourned at 9:53 PM.

Date: 7.13.16



 Cyndi Kiefer
 Planning & Zoning Coordinator