

TOWNSHIP OF DENVILLE  
PLANNING BOARD  
MINUTES

**April 13, 2011**

The Planning Board of the Township of Denville held its regular meeting on Wednesday, April 13, 2011. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place and commenced at 7:30 P.M. Chairperson Filauro presided.

**Secretary Probasco read Notice of Public Meeting.**

**Roll Call:**     **Present** – Mayor Hussa, Chr. Susan Filauro, Vice Chr. Lou Maffei, Peter Nienstadt, Glenn Buie, Marilyn Kuntz, Gene Fitzpatrick, Kurt Schmitt, Mark London  
                  **Absent** - None  
                  **Professionals present** – Ed Buzak, Esq., William Denzler, PP

Chr. Filauro commented that Nick Rosania was absent due to a death in the family. Referenced his upcoming retirement and that this was to be his last meeting. Chr. Filauro mentioned that appropriate action of the board might be to have the Board Attorney write a resolution to acknowledge Mr. Rosania's service to the township. A motion was made by Mbr. Kuntz, seconded by Mbr. Nienstadt and agreed to by all members.

Mayor Hussa spoke to the interviews indicating that the Council appointed John Ruschke, PE of Hatch Mott MacDonald as Consulting Engineer. Peter Black of Dewberry has not been appointed at this time. Mayor Hussa indicated that it would be the best of both worlds, to have both engineers, Dewberry would be for special engineering needs such as drainage, flood issues and the like.

**MINUTES**

**March 9, 2011**

Motion to adopt the minutes as submitted was made by Mbr. Maffei, seconded by Mbr. Nienstadt and unanimously approved by all members able to vote.

**PURCHASING**

Motion to pay vouchers submitted by The Buzak Law Group (dated March 4, 2011 and April 4, 2011) subject to the availability of funds, was made by Mbr. Buie, seconded by Mbr. Maffei and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by William Denzler and Associates (dated March 7, 2011 and April 4, 2011) subject to the availability of funds, was made by Mbr. Buie, seconded by Mbr. Maffei and unanimously approved by all Members present and able to vote.

**CORRESPONDENCE**

Chr. Filauro referenced the revised general ordinances for updating the Land Use books. An article from East Hanover regarding a Judge's ruling on sexually oriented shops as well as the NJ Municipalities Magazine.

**PROFESSIONAL COMMENTS**

Chr. Filauro asked Bill Denzler to comment on Thatcher McGhee's. Bill Denzler, Township Planner stated that the construction at Thatcher McGhee's was a slow process. There had been a roof line issue that had been resolved. Bill stated that the Palmer Road project had filed for their construction permit and that NJDEP had been out after they filed for their final plan changes. Bill had no other professional comments.

Mayor Husa stated that a property was under consideration to provide additional downtown parking. The intention is to obtain an easement across the parking lot of the medical building in the west bound Route 46. The medical building is behind the defunct gas station. Mayor Husa stated the area in question is in a flood zone. Referenced Permit by Rule and NJDEP approval. Bill Denzler confirmed that he could print out the environmental constraints for the property.

## **PUBLIC HEARINGS**

None Scheduled.

## **OLD BUSINESS**

Chr. Filauro inquired if Mbrs. Maffei and London were able to attend the recent GIS Training at Town Hall. Secretary Probasco and Bill Denzler were able to attend. Bill Denzler stated that it was a relatively simple program that will be available on a separate hard drive located in the Community Room. The program uses the County GIS system and Orthophotography through 2009 which has various views of each property. Bill commented that the system appears to be straightforward, functional and easy to learn.

## **NEW BUSINESS**

Chr. Filauro referenced that Health Officer Norgalis would be providing a Health presentation and question and answer session.

James Norgalis, Health Officer acknowledged the board and said thanks for the opportunity to appear. Health Officer Norgalis provided a presentation of what a public health law enforcement officer can and cannot do.

- Referenced cell towers being a politically charged and research on FCC, CDC and government energy council. Discussing EMF (Electro Magnetic Field) mili-watts per square meter, source as it relates to distance. Cell phones being typically between .5 and 2 mili-watts per square meter. Flat screen televisions being between 4 to 8 and hairdryers exceeding 300 mili-watts per square meter. Stating that individuals are exposed too much greater magnetic fields every day than those present by active cell towers especially at the distances they are exposed.
- Referenced noise and the mixed use of commercial, industrial and residential interfaces (generators, leaf blowers, garbage, etc.). Stating that the majority of the complaints originate from mixed use neighborhoods. Acoustical studies (i.e. noise impact of equipment for an ice cream facility and its' refrigeration equipment) to determine location.
- Stress, hypertension and other related noise related health conditions. Noise limits of 50 for night time and 65 decibels for daytime noise being the protective standard. Noise standard was created in 1970's. Insulation of a typical household wall 50 on outside, 35 on inside. A person wakes up from a sound impact above 35 decibels.
- Nowhere does it state in the sound code that a person has the right to sleep with their windows open. Setting a sound standard needs to be done at a particular place, time and amount of sound as it relates to the decibels. All three impact the health officer's ability to enforce noise regulations and have a direct impact to the requirements placed upon an applicant. Spoke to the impact of the studies as it relates to the time of day and hours of operation. Acoustical engineers are not health departments. Health departments perform sound enforcement not sound studies. Acoustical engineers perform long term studies typically of a work cycle over an extended period of time. Suggested using applicant's resources not the townships resources to determine the negative impacts. All studies to be performed with certified equipment. Ensuring equipment calibrations are performed regularly. Health officer can audit a study and verify the instrumentation calibration was performed, valid license information, etc.
- Referenced Air Pollution. Stated proving air pollution is difficult and is not enforced by local health department. State air pollution codes dictate that NJDEP handles directly or by licensed agent, such as Morris County Office of Health Management. No meter can be used to assess odors for enforcement. Smells are subjective, drawn out and odors can dissipate. A facility cannot be declared odor free. Can declare a facility to use filtration equipment during business hours and that it is serviced and maintained regularly. Must be given the opportunity to work. Impact assessment. Smoke can be regulated by public health but odors cannot be enforced by local health officer.

Chr. Filauro opened to the board for comments and questions.

Mbr. Schmitt found the presentation informative and thanked Jim.

Mbr. Fitzpatrick had no questions but inquired about the health officer's ability to inspect and enter a premise. Jim responded yes. Ability to enter any premises without permission or without a warrant to investigate a condition for an allegation of public health nuisance. Residences as well as businesses.

Mbr. Buie had no questions. Commented that the presentation made some good points regarding hours of business and noise. Dictated by the town's ordinances.

Mbr. Maffei commented on the presentation being information and inquired about light pollution complaints. Mr. Norgalis deferred to the Planner. Bill Denzler indicated that it is tough after the fact and should be addressed in the planning stages. Jim Norgalis stated light studies to determine impact are sometimes performed.

Mayor Husa inquired about the enforcement of feeding animals. James responded animal control. Mayor Husa said he was advised it was the police department. Mayor Husa inquired about the sex ordinance. James Norgalis indicated that although it would have been nice to have included more in it, it's still an improvement from what we had. James stated that vermin or evidence of vermin needs to be seen. An abandoned home may not have the food, water and shelter that rats require. Chr. Filauro mentioned squirrel infestations. Squirrels are not considered vermin. Flies, cockroaches and rats. Grass is somewhat subjective. Mayor Husa referenced a recent Five Guys odor complaint. James responded that this was due to the bypass filter not being in use after their regular cleaning of the grease hoods. Someone failed to flick the bypass switch to turn the filters back on. Mayor Husa had no more.

Mbr. Nienstadt had no questions.

Mbr. Kuntz inquired about nail house inspections. Mr. Norgalis responded that inspections are performed by the State, Division of Consumer Affairs.

Mbr. London asked Mr. Norgalis to provide his background. James stated he had a Bachelors in Biological Science with a minor in Economics. Licensed Health Inspector in Branchburg in 1994, Masters in Health Administration in 1998, Health Officer in Branchburg in 2001, Health Officer in Denville in 2005, began working on Doctorate in Health Administration in 2006.

Mbr. Buie inquired about bed bugs. Mr. Norgalis indicated that this is an up and coming issue with enforcement is currently in limbo between the States community affairs or the health department.

Chr. Filauro inquired about enforcement of odor emissions. James Norgalis responded that the health officer does not perform any odor enforcement. Only NJDEP enforces odor. Clarified that restaurants are emitting steam not smoke. Smoke is defined as black.

## **2012 Master Plan Re-Examination Discussion**

Chr. Filauro provided an overview of the handout and sections requiring changes. Stating the goal is to establish subcommittees to work on various sections of the Master Plan.

1. Utility Service Plan (minor changes necessary)
2. Recycling Plan (minor changes necessary)
3. Economic Plan
4. Community & Recreation Facilities
5. Historic Preservation Plan
6. Circulation Plan
7. Conservation Plan
8. Housing Element & Fair Share Plan (May 2010)
9. Land Use Plan
10. Open Space Plan
11. Bikeway Plan (Nov. 2010)

Chr. Filauro summarized the items to be added for inclusion in the Master Plan. A public meeting can be held to present the changes and address the comments and questions of the public before the board.

- ❖ Highlands language
- ❖ Improved GIS mapping
- ❖ Complete list of updated ordinances
- ❖ Vacant land inventory
- ❖ Environmental issues such as
  - Wind and solar power
  - Sections of the natural resource inventory (NRI)
  - Flooding/surface water and forests
- ❖ Community facilities section to include useful links
- ❖ Quality of life issues
- ❖ Table of Contents/Index/Glossary
- ❖ Consistent font and page numbering throughout

Mbr. London spoke to redline versions, quality of the maps and availability of the documents.

Ed Buzak spoke to the two-step process. The Re-examination of the Master Plan and meeting the requirements of the law. Incorporation of the recommendations of the report into the plan.

Chr. Filauro asked the members for their sections of interest.

Mbr. Fitzpatrick voiced an interest in historic and economic sections.

Mbr. Buie voiced an interest in land use, economic and recreation.

Mbr. Maffei voiced an interest in historic, land use and open space.

Mbr. London voiced an interest in circulation and conservation.

Mbr. Kuntz voiced an interest in conservation.

Mbr. Nienstadt voiced an interest in community, recreation and circulation.

Mbr. Filauro voiced an interest in open space.

Mbr. Schmitt voiced an interest in land use and recreation.

Chr. Filauro asked Mayor Husa to elaborate on the Community Rating System. Mayor Husa indicated that in order to provide residents with a discount while maintaining our status under the National Flood Insurance Program (NFIP) we meet certain CRS criteria. Secretary Probasco confirmed that we were waiting for official notification of program enrollment and status rating.

The CRS would be a sub-element under conservation with a link to the Morris County Hazards Mitigation Plan. Green energy could be included in utilities.

#### **NEW BUSINESS**

Ed Buzak commented that the Supreme Court did grant certification to all appellants in the COAH case. There are no scheduled arguments on COAH as it is before the Supreme Court. Ed Buzak stated that the decision from Judge Bozonelis regarding sex businesses in East Hanover as applied because this operation could not locate anywhere within the confines or boundaries of East Hanover without violating some provision of the ordinance. Stating that generally, that type of ordinance is too prohibitive.

#### **ADJOURNMENT**

Motion to adjourn.

Denean Probasco, Board Secretary

Date adopted: May 25, 2011