

TOWNSHIP OF DENVILLE  
PLANNING BOARD  
MINUTES

**December 14, 2011**

The Planning Board of the Township of Denville held its regular meeting on Wednesday, December 14, 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** – Chr. Sue Filauro, Vice Chr. Lou Maffei, Mayor Ted Hussa, Peter Nienstadt, Marilyn Kuntz, Gene Fitzpatrick, Glenn Buie, Kurt Schmitt, Mark London  
                  **Absent** – None  
                  **Professionals present** – Edward Buzak, Esq., William Denzler, PP, John Ruschke, PP

**MINUTES**

**November 9, 2011**

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

**PURCHASING**

Motion to pay vouchers submitted by The Buzak Law Group (dated November 10<sup>th</sup>, 2011) subject to the availability of funds, was made by Mbr. Buie, seconded by Mbr. Kuntz and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by William Denzler and Associates (dated November 2<sup>nd</sup> and December 12<sup>th</sup>, 2011) subject to the availability of funds, was made by Mbr. Buie, seconded by Mbr. Kuntz and unanimously approved by all Members present and able to vote.

Motion to pay vouchers submitted by Hatch Mott MacDonald (November 7<sup>th</sup> and December 8<sup>th</sup>, 2011) subject to the availability of funds, was made by Mbr. Buie, seconded by Mbr. Kuntz and unanimously approved by all Members present and able to vote.

**CORRESPONDENCE**

Chr. Filauro referenced a letter from Tara Senkel regarding an extension of time for The Downs Group subdivision approval, a letter from Tiena Cofoni regarding the Briar Rose Group litigation and the MCPB's notice of exemption for the Fels application. Ed Buzak, Esq. confirmed that a letter was sent in response requesting additional information. To date, no information has been received but when it is, the applicant will be scheduled. The board attorney stated the court sustained the planning board's action which had been previously sustained. Further stating that the appellant has twenty days from the date the opinion is issued to file a notice. Nothing was received by the December 8<sup>th</sup> date so the matter is concluded and the decision of the Appellate Division stands and the board's denial of the application stands. Mbr. Kuntz provided appreciation to the board attorney for their diligent efforts on this case. Chr. Filauro agreed kudos to Tiena Cofoni.

**PROFESSIONAL COMMENTS**

Bill Denzler, Township Planner stated he had none at this time.

John Ruschke, Township Engineer had none.

Chr. Filauro asked for comments on the Figatner project. The Township Engineer responded that he wasn't present for the elevation of the Figatner building but explained how it is typically

done. Mbr. Fitzpatrick inquired about Picatinny Federal Credit Union performing water testing. The Township Planner responded that he witnessed some work being performed as well and indicated that was soil regarding due to flooding after recent rain. John Ruschke responded about the drainage problem being a maintenance issue of the NJDOT. Stating that we will continue to reach out for NJDOT to perform discharge pipes cleaned. Mayor Husa added that he called Bucco's office and that it would be looked into. John Ruschke referenced it has to do with NJDOT prioritizing their work and requires pressure on the DOT to reprioritize.

## RESOLUTIONS

**PSP/FSP 11-04: Figatner Family Ltd. Partnership  
Block 50202, Lot 4  
111 Bloomfield Avenue**

A motion to **approve** this resolution was made by Mbr. Buie, seconded by Mbr. Fitzpatrick and unanimously approved by all members eligible to vote.

Roll Call: Ayes – Buie, Fitzpatrick, Kuntz, Nienstadt, Maffei, Husa, Filauro

## OLD BUSINESS

Chr. Filauro referenced the land use subcommittee meetings and asked Bill Denzler to comment. Bill Denzler, Township Planner stated that a subcommittee meeting was held in October. Various elements of the land use plan were discussed along with the 2000 Master Plan and the 2006 Reexamination Plan. Issues such as flooding were discussed along with items missing from the last master plan. Items included, downtown structure and streetscapes, ordinances for Morris County storm water management plan (steep slopes and riparian buffers) and demographics and housing. Possible increase of screening and landscaping between commercial and residential uses, further investigation of downtown parking spaces, offices on the first floor in downtown, residential on second floor in downtown, possible amendment of bulk standards to accommodate elevating structures, recycling delivery and pick-up, land use table by zone for commercial and office uses, solar and wind use standards and Route 53 corridor study. Chr. Filauro agreed with Bill Denzler that it was a good start and encouraged everyone to continue reviewing the elements.

Chr. Filauro inquired about the email addresses. The Board Secretary stated that Administration has now agreed to providing board members with individual email addresses and inquired if anyone did not want the additional email address. Board members were all in agreement of having a township email address that they would be required to check.

Chr. Filauro asked Mayor Husa if he had anything he would like to say. Mayor Husa stated that it was his last planning board meeting and thanked everyone for being a great group and caring about the town. The Mayor thanked the board for their time and commitment and professionalism.

## NEW BUSINESS

Chr. Filauro requested comments from the League of Municipalities Convention.

Mbr. Buie referenced:

- Effective Majority versus Quorum and Effective Majority being a requirement of the OPMA and requiring public notice, etc. If a quorum is four and effective majority is two. The Board Attorney stated that the concept derived from a footnote in a case but was not an issue in the case itself. The concept was a difference between the majority and an effective majority of the Open Public Meetings Act as it relates to public notice. The court determined that an effective majority of what your board's quorum. Hasn't been an actual case and therefore not currently bound by it.
- By-Laws review to ensure requirements are accurate and to enforce equality. Referencing meeting adjournment time and limiting time per member of public during a hearing. Ed Buzak spoke to towns having more detailed by-laws and to having consistency creating a less flexibility. Often the decision of the chairperson. It is a good idea to review the By-Laws periodically.
- The attorney's were divided on whether the board members should elaborate on their decision when the board's vote is mixed. On one hand it is good to have the reason why the member voted the way they did and on the other, the comment may not be a good reason to justify the vote. As a matter of public record, it could leave exposure for future appeal by an applicant.
- State Strategic Plan will be addressed as a team and will be an enhancement to the old plan. Mark London concurred that the plan will be an improvement not a replacement of the existing plan. Using spatial efficiency, leveraging assets, sustainability and institutionalizing change.

Mark London provided some highlights of a multi-page document he prepared:

- New application types will include; residential outdoor furnaces, geothermal heating and wind and solar farms.
- Changing the face of downtown; Most towns want GAFO (General Merchandise Apparel Accessories Furniture and Other sales) that have high rent value and high pedestrian traffic. But towns are getting fast foods and professional services. Such as nail salons, small professional offices and health clubs. Which are low rent value and low foot traffic generators and create parking issues.
- Parking is not an entitlement. Too much or too little parking creates problems. Parking price plus alternatives equals a demand for on-street parking. Parking price always trump parking time limits.
- Niche development – Special retailers that cater to office workers, students and hospital services with concierge services for laundry and shopping.
- Downtown Retailers to become Downtown E-Department stores. Where multiple town retailers combine to create an online department store to sell their services but reduces the rent concerns.
- Repetitive Flooding – Acceptable or tolerable risk versus solving all problems. Early land use decisions equal better flood protection. Flood risk communication. Flood Advisory Commission. Flooding is reduced by street sweeping, storm sewer cleaning, stream desnagging, desilting and bank stabilization.

Chr. Filauro thanked the board attorney, board secretary and Mayor Husa. Speaking positively of Mayor Husa being an innovator or many things and wanted to acknowledge his efforts on flood control, acquisition of the Fels property, Katherine Hall Right of Way, Recycling Initiatives, the Bandstand, Bicycle Element of the Master Plan. Mayor Husa spoke to it being an active process and stated that you cannot fix it all but you fix what you can. Stating some drainage solutions exist for some neighborhoods. In addition, to the Mayor's passion for flooding, Chr. Filauro commended the Mayor on assembling a diverse group of people on the planning board with different perspectives and strengths that complement one another. Chr. Filauro, thanked the Mayor for doing a great job and for the opportunity to be on the planning board. In closing, the board wished him well in his future endeavors.

#### **ADJOURNMENT**

Motion to adjourn.

Denean Probasco, Board Secretary

Date Approved: January 11, 2012