

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES
June 11, 2014

The Planning Board of the Township of Denville held its regular meeting on Wednesday, June 11, 2014. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place and commenced at 7:30 p.m. Chairperson Buie presided.

Secretary Probasco read Notice of Public Meeting.

Roll Call: **Present** – Chr. Glenn Buie, Louis Maffei, Mayor Thomas Andes, Sue Filauro, Mark London, Christopher Golinski,
 Absent – Vice Chr. Kuntz, Peter Nienstadt, Kurt Schmitt
 Professionals present – Edward J. Buzak, Esq., John Ruschke, PE, Jason Kasler, PP

MINUTES

May 14, 2014

Motion to adopt the meeting minutes as **amended** was made by Mbr. Filauro, seconded by Mbr. London and unanimously approved by all members able to vote.

PURCHASING

Motion to pay vouchers submitted by **Hatch Mott MacDonald** (May 5, 2014 and May 27, 2014) subject to the availability of funds, was made by Mbr. Golinski, seconded by Mbr. London and unanimously approved by a majority of Members present and able to vote.

Motion to pay vouchers submitted by **Kasler Associates** (dated May 29, 2014) subject to the availability of funds, was made by Mbr. Golinski, seconded by Mbr. London and unanimously approved by a majority of Members present and able to vote.

Motion to pay vouchers submitted by **The Buzak Law Group** (dated May 8, 2014 and June 5, 2014) subject to the availability of funds, was made by Mbr. London, seconded by Mbr. Filauro and unanimously approved by a majority of Members present and able to vote.

RESOLUTIONS

Resolution authorizing the award of professional services contract to Kasler Associates, PA for professional planning services in connection with a comprehensive update to the Township of Denville's Master Plan

Motion was made by Mbr. London, seconded by Mbr. Golinski and approved by a majority of members.

ROLL CALL: Ayes – London, Golinski, Filauro, Maffei, Andes, Buie

**Seton Hall University
29 Spear Lane / 19 Field Lane
Block 61702, Lot 28 & 23**

Motion was made by Mbr. Golinski, seconded by Mbr. London and approved by a majority of members.

ROLL CALL: Ayes – Golinski, London, Filauro, Maffei, Andes

CORRESPONDENCE

Chr. Buie referenced the League of Municipalities magazine and a letter from Hatch Mott MacDonald dated April 28, 2014 regarding a Flood Hazard Area Permit for the Watercourse Cleaning Project of the Rockaway River.

PUBLIC HEARINGS

**CR 14-04: Morris County Vocational Technical School
Block 31301, Lot 18
400 East Main Street**

Karen S. Wachs, Esq. of Schwartz Simon Edelstein & Celso, LLC (100 South Jefferson Road, Suite 100, Whippany) was present and represented the Morris County Vocational Technical School. The applicant is providing a courtesy review of their proposed Project Adventure Physical Education Challenge Course.

Edward J. Buzak, Esq. provided a summary of the process for capital projects, the courtesy review and that the board may make recommendations.

Ms. Wachs provided an overview of the challenge course using plans from USA Architects and referenced the June 2, 2014 approval from the Board of Education. Entered **Exhibit A-1 – Challenge Course Plan, C-1** – Bottom right corner depicts the proposed obstacles. The Challenge Course is replacing the previous basketball court.

Mr. Kimball, PE of Hipolit, Andrew, (400 Valley Road, Mt. Arlington) was present, sworn under oath and accepted as a professional engineer. Describing the area of 50' x 100' having three elements and being funded by the county. High element for balance and agility, two lower level elements, lower level ropes and team efforts wall climbing. An additional 50' x 55' area designated for a playground.

Chr. Buie opened to the board members.

Mbr. London inquired if there was public access. Mr. Hipolit stated that this was not open to the public but would not be fenced off. Karen Wachs, Esq. stated that the challenge course will not be open to the public. Mbr. London inquired if there would be a sign that it was not for public use. Ms. Wachs responded that the comments could be brought back to the school.

Mbr. Filauro inquired about the type of surface beneath the course. Mr. Hipolit responded it would be a soft surface. Mbr. Filauro referenced the proximity to the road and inquired about the reason for not having a fence. Mr. Hipolit responded that no fence currently exists and that the cost of installing one being a deciding factor. Mbr. Filauro suggested even a post and rail between the course and the street and agreed with Mbr. London that signage should be included.

Mbr. Maffei inquired about any proposed lighting. Mr. Hipolit responded there was none.

Mbr. Golinski commented on the plan being good and agreed that safety is a concern. Looking for reassurances that it's locked off as children won't be reading the signs.

Mayor Andes stated most of his questions had been answered. Inquired if enrollment would be increased in any way. Mr. Hipolit responded no. Mayor Andes commented on the challenge course being attractive and something most high schools have now a days. Further commenting that the children will find a way to play even if the higher apparatus are tied off and inquired about the safety surface. Mr. Hipolit responded that play mulch will be used and the guidelines of depths will be followed.

Chr. Buie commented that the course would be great for the school and voice concerns for the safety from an attractive nuisance. Wished the applicant good luck.

Chr. Buie announced that the next hearing would come forward.

**PSP/FPSV 14-01: J. Fletcher Creamer & Son, Inc.
301 Palmer Road
Block 61702, Lot 5**

The public hearing for this application was carried from May 14, 2014.

Richard McLaughlin, Esq. General Counsel of J. Fletcher Creamer & Son, Inc. (101 East Broadway, Hackensack) was present and represented the company. J. Fletcher Creamer & Son, Inc. would like to lease the space from Creamer Bros., the contract purchaser. Mr. McLaughlin provided an overview of Creamer & Son's business operations and the need for operating all year round with a presence on site January through December. Stating the desired hours of operation would be 6 am to 8 pm versus the prior owner's hours of operation of 7 am to 8 pm.

Robert Finn, General Superintendent of Creamer & Son (1701 East Linden Avenue, Linden, NJ) was present and sworn under oath. Mr. Finn spoke to his job responsibilities including employees, laborers, yards and satellite yards. Guide rail would be stored onsite for emergency highway repairs, along with conduit for Verizon work. Maximum number of workers onsite would be seven to fifteen. Staggered hours, arriving onsite to pick up what is required and leaving. No modification or fabrication will be performed onsite. Trailers will be loaded the day before the work is performed. Damaged rail goes back on the trailer. Maximum of two workers onsite for the entire day. The loading of the trucks takes place between 9 am and 3 pm. Material is recycled in containers daily. No construction debris onsite. No hazardous materials or chemicals will be onsite. No fueling onsite. Minor repairs may be performed onsite. However, mechanics typically go to the road site for repairs. Major repairs are sent to the repair center. Types of vehicles onsite; attenuators, flatbed truck, performance truck and pounder truck. No pounding or vibrations will take place onsite. Noise onsite versus the landscape business, hours of 8:30 to 3:30. Deliveries will take place between 9 and 3. No changes to the building are proposed. None to the topography, drainage or contours of the site. No chemicals. Aware of the conservation easement and the fence on the site. Stormwater maintenance plan is in place by current owner and Creamer and Co. agrees to comply with same. Stone will be kept onsite for repairs on the highway to be used for emergencies. Gate will be locked whenever there is an employee onsite.

Chr. Buie opened to the professionals.

John Ruschke, PE inquired about additional signage in driveway, lighting and parking. Mr. Finn stated a sign approximately 18' x 24' would be in driveway. Mr. Finn stated there would be no lighting. Mr. Finn provided an overview of a typical day. Employee arrives in their own vehicle and is onsite for approximate 15 minutes. No designated parking area for the employees is proposed. The township engineer inquired about the locations for various items on site. Guide rail off to one section, in 10 or 25' lengths. One bend or end treatment on hand for NJDOT emergencies. The Township Engineer inquired

about change in operation and contemplation of other uses. Mr. Finn responded the use would be primary guide rails. PVC, stone, gravel and sand are stored on site as well.

John Ruschke, PE inquired about the call outs and frequency of emergencies. Once a month for an emergency of off-hours replied Mr. Finn. Stating if the truck is loaded already, they can take the truck that's loaded for the next day.

Richard McLaughlin Esq. inquired about the small sign. Mr. Finn confirmed it would be small, driven into the ground by a 4' x 4' post and not illuminated.

Jason Kasler, PP spoke to the different types of trucks and the quantities of each. Mr. Finn responded seven trucks possible along with employee vehicles. One or two anticipated tractor trailer deliveries per week. Jason Kasler, PP inquired about the outdoor bins and their contents. Mr. Finn responded gravel, sand, ¾ stone, sand and top soil. Two forty foot trailers and one tractor. Tractor was missed in the list of equipment.

Chr. Buie opened the public hearing to members of the public interested in speaking.

John Freudenreich (3205 Scenic Court) was present, sworn under oath and spoke to the existing landscaping business having no impact on the neighborhood. Referenced prior site plan from Jaman Engineering dated December 4, 2013 with no revision date. Entered as **Exhibit A-1** Mr. Freudenreich asked questions regarding the operations. Mr. Finn responded that the trucks would be offloaded by forklift in banded bundles. Mr. Freudenreich spoke to various noises that would occur by unloading the bundles from deliveries along with the damaged materials that would be unloaded into the top loading dumpsters.

John Muroski (914 Hawley Court) was present and stated he was not noticed and requested adjournment so that neighbors can be properly noticed. The board attorney responded to the application being reviewed by his office and found to be properly noticed per statute. Stating the public hearing would proceed. Mr. Muroski entered **Exhibit P-1** printout from the applicant's webpage from the www.ifcson.com/services/emergency/%20 June 2014 indicates they specialize in emergency work. Mr. Muroski referenced preloading trucks, availability of MSDS sheets and annual reviews. Mr. McLaughlin referenced Mr. Muroski's comments and asked Mr. Finn to clarify what a pile driver was and if one would be used onsite. Mr. Finn explained it drives 6' and 3' posts into the ground and would not be used onsite.

Jordan Cimbale (915 Hawley Court) was present and sworn under oath. Mr. Cimbale referenced legal notice, vehicle noise, frequency of emergencies, property values and dumpster noise. Stating more legal notice should have been provided.

Erica Student (3401 Scenic Court) was present and sworn under oath. Ms. Student spoke to the shrines as a result of fatalities, control of the speed of the vehicles, safety concerns and noise. Mr. Finn confirmed that no traffic study was conducted and that vehicle engines may be idling for ten minutes at a time. Dumpster filling will take approximately one hour per day. Ms. Student referenced the storage area being visible to the street and inquired about a guarantee that the business needs won't change requiring additional trucks. Edward J. Buzak, Esq. spoke to Ms. Student regarding what the board is capable of imposing under their jurisdiction. Ms. Student spoke to the impacts of the community and referenced legal notice. Mr. Buzak explained that legal notice is established by a state wide statute, is not controlled by the municipality and the applicant has complied with the statutory requirements.

Bill O'Keefe (304 Palmer Road) was present and sworn under oath. Mr. O'Keefe read a prepared statement regarding the unfairness of approving extended hours. Voicing concern for speeding, the dangerous curve, five fatalities, 2,000 pieces of equipment, 6-8 hours of operation for six days a week all being detrimental to the quality of life to the Palmer Road residents. Referenced dump trucks would be used as well. Thanked the board. Mr. McLaughlin had Mr. Finn confirm that J. Fletcher Creamer has no equipment on site.

Robyn Mappa (606 Knollwood Court) was present and sworn under oath. Ms. Mappa has been on the Board of Directors for Berkshire Hills. Spoke to flooding, school buses and having both entrances to Berkshire Hills being on Palmer Road requiring police redirection during flooding.

Michael Roth (318 Palmer Road) was present and sworn under oath. Inquired about roll-offs and timing. Applicant stated dumpsters will be controlled and locked and not at 5:30 a.m. Spoke to the hours of operation being a serious consideration for the boards granting or denial of the application.

Michael Baechle (304 Dalton Court) was present and sworn under oath. Voiced concerns for emergency operations without lighting, theft and inquired about additional lighting. Applicant indicated one security light. Mr. Finn confirmed there would be no additional lighting for evening operations.

Mary Ann Cuneo (304 Palmer Road) was present and sworn under oath. Also a property owner of 320 Palmer Road. Voiced concerns for noise, dust, traffic, and flooding. Inquired about back-up horns onsite. Mr. Finn confirmed there would be back-up horns and confirmed that they have a water truck.

Donna Carafello (2108 Middlefield Court) was present and commended the residents that came out to speak. Stated there are 420 homeowners with concerns. Voiced her support to the community and her hope for a positive resolution.

Chr. Buie asked for other members of the public, seeing none, announced a brief break.

Chr. Buie opened to the board members at 9:46 pm after a brief break.

Mbr. London voiced concern about buffering along the road, referenced dead trees and runoff concerns and the required detention basin maintenance. Mr. Finn stated they would adhere to the maintenance schedule. Referenced noise concerns for the dumpster and trucks onsite and inquired about plans for a reduction of noise level, such as limiting to certain hours. The applicant has another facility in Wall, New Jersey. Stating there are no complaints from neighbors (Hackensack, Linden, etc.) Lighting onsite and operation. Mr. McLaughlin referenced the lighting plan. Gravel can be watered down at times of dust.

For the record, Mr. McLaughlin stated that during break he spoke with Mr. Freudenreich and the photos he was referencing during his testimony/comment were not the subject property of the applicant.

Mbr. Filauro inquired about the lease, trucks and use of Palmer Road. Mr. McLaughlin, Esq. responded to the lease arrangement. Mr. Finn stated that the lot is large enough for the flat bed trucks to maneuver. Mbr. Filauro inquired about snow removal. Mr. Finn responded that it's moved onsite. Mbr. Filauro inquired about sound beyond the property boundaries. Mr. McLaughlin responded to the difficulty of complying with the standard.

Mbr. Maffei spoke to the outdoor storage and vehicles. Jason Kasler, PP responded that, if screened properly, outdoor storage is permitted. Mbr. Maffei referenced bridge weight restrictions and inquired about storing additional materials onsite such as metal pipe. Mr. Finn stated there would be none. Mbr.

Mbr. Golinski asked the board attorney to clarify what the board is being asked to decide this evening. Edward Buzak, Esq. spoke to the amendment to the preliminary and final site plan previously granted. There was some discussion regarding the future business growth require amending the hours of operation. Mbr. Buie voicing concern for hours of operation not being abused.

Mayor Andes spoke to the public, the applicant, the residents and spoke to being a good neighbor. Suggested that the dumpster loading only occur during the day, that the trucks don't back-up during the evening (after 8 pm), that the applicant be mindful of noise levels and that their operations be those of a good neighbor. Chr. Buie spoke to the signage to be coordinated with the engineer regarding no tractor trailers making a right hand turn.

Edward J. Buzak, Esq. provided a summary of the application with the following conditions to be included but not limited to; best management practices to develop traffic pattern to eliminate need for backup equipment, no vehicles onsite, adequate screening of equipment and materials, sign to be approved by township engineer to prevent left hand turns by tractor trailers on Palmer Road, use of best management practices to minimize backing vehicles into site during or after hours, no dumpster use or placing of damaged materials into dumpster after 8 pm or before 6 am, take steps to reduce noise when loading dumpster, detention basin to be cleaned and maintained, additional planting to be approved by township engineer, replace or removal of any dead trees onsite that serve as a screen, no change to exterior lighting, signage in compliance with ordinance to be approved by appropriate officers of the township, onsite dust control, hours of operation 6-8 Monday through Saturday, with emergency use of the site as testified to by the applicant.

A motion to deny this application was made by Mbr. Golinski, seconded by Mbr. Filauro. The board attorney asked for an explanation. Mbr. Filauro provided a brief explanation and stated the proposed was too intense a use of the property. Referencing the difficulties of controlling noise in adjacent residential and commercial properties. Mbr. Golinski concurred with Mbr. Filauro. Stating the prior approval was an appropriate fit and good compromise for the adjacent zones. Stating that there wasn't a benefit for the town to vary from the existing conditions.

ROLL CALL: Ayes – Golinski, Filauro, Maffei, London, Andes
Nays - Buie

NEW BUSINESS

Chr. Buie suggested consideration be given to restraints on time (hours of operation) in future ordinances.

ADJOURNMENT AT 10:46 PM

Denean Probasco, Board Secretary

Date Approved: October 8, 2014