

**MINUTES OF THE REGULAR MEETING
MORRIS COUNTY PLANNING BOARD**

30 Schuyler Place
February 17, 2011

Morristown
New Jersey

CALL TO ORDER

Chairman Falkoski called the meeting to order at 7:00 p.m.

OPEN PUBLIC MEETINGS LAW

Chairman Falkoski stated that the Secretary of the Board provided public notice of this meeting in a legal notice dated February 2, 2011.

ROLL CALL

Those present were:

Joseph Falkoski, Chairman	Barry Marell, Board Attorney
Steve Rattner, Vice-Chair	Christine Marion, Planning Director
Isobel Olcott, Secretary	Frank Pinto, Department Director
Ann Grossi, Freeholder (arrived at 7:15 p.m.)	Anthony Soriano, Supervising Planner
Paul VanGelder, Alt. # 1	Greg Perry, Principal Planner
Stephen Jones, Alt. # 2	Rene Axelrod, Recording Secretary

REVIEW OF MINUTES

Ms. Olcott moved approval of the minutes of the January 20, 2011 meeting. The motion was seconded by Mr. Rattner. The motion was approved by voice vote with Mr. Jones abstaining.

DIRECTOR'S REPORT

The Board accepted the Director's Report for January 2011 and it will be placed on file.

REPORT OF FUNDS RECEIVED

Funds received for January 2011 totaled \$5,265.00

Ms. Marion stated that she modified the report to show comparable year-to-date data from the previous year.

Mr. Rattner stated that he heard building permits were up 14% in January, all in multi-family housing. A discussion followed.

FUTURE MEETINGS

None to Report.

COMMITTEE REPORTS

Environment and Watershed

Wastewater Management Plan - Ms. Marion informed the Board that the public meeting on the draft sewer service areas was held on February 9, 2011 at the Morris County Library. Sixty-three (63) people attended the meeting and many were from Hanover Township, which had sent notices to property owners whose properties may be affected by the proposed sewer service area changes. Elizabeth Semple, NJDEP Manager of Land Use and Water Quality Management Planning, read a prepared introductory statement and had three of her staff in attendance. Ms. Marion informed the Board that she also gave a brief introduction, which then evolved into a general question and answer session. She said the meeting went well, and that over the course of the meeting Virginia Michelin and she met with local officials and property owners and their representatives regarding sewer service delineations and corrections. She stated that the public has 30 days from the date of the public meeting to provide comments on the draft sewer service areas.

Land Subdivision and Zoning

Developments Reviewed – Mr. Rattner stated that all the applications received were minor and all were approved. He gave a brief description of the applications. Ms. Marion stated that the first draft of the Annual Development Activity Report will be done by the end of the month.

Ms. Olcott made a motion to approve the Report of Actions Taken on Development Plans for January 2011. The motion was seconded by Mr. Rattner and approved by voice vote.

Legislative and Municipal

Recent Legislation – Mr. Soriano described recent legislative activity, starting with an update of Senate Bill 1. The governor conditionally vetoed S1, which would have abolished COAH. Mr. Soriano expects another version of the bill to be submitted shortly. He described several other bills including: 1) Senate Bill S2450 that will require counties to be responsible for curbs damaged during county road projects; 2) Senate Bill S2433, passed by both houses, which would allow municipalities to reexamine municipal master plans every ten years instead of every six years; and 3) Senate Bill 2686, which would amend the “State Transfer of Development Rights Act” to increase impact fees that towns may collect for accepting development credits from Highlands and Pinelands sending areas. It would also prohibit the approval of variances to increase density in receiving areas without the purchase of development credits. He reminded the Board that Senate Bill S82, which mandates that local development regulations in effect on the date of submission of a development application may not be changed with regard to that application, will go into effect on May 5, 2011. A discussion followed.

Master Plan & Land Use Ordinance Monthly Report – Mr. Soriano stated that the County received only one master plan amendment: a revision of Community Facilities and Utility Plan Element that is part the update of the Borough of Mountain Lakes 1996 Master Plan. He said that the proposed element focuses on the maintenance and upgrade of existing infrastructure systems.

For the Land Use Ordinance Monthly Report, Mr. Soriano stated that staff processed three proposed ordinances and one adopted ordinance during January 2011. The Borough of Lincoln Park is proposing to amend its Stormwater Management Regulations in accordance with NJDEP requirements and Long Hill Township is proposing a reduction in parking requirements in its Village Business Zone in Stirling. The Borough of Wharton adopted a Redevelopment Plan for an 8.5 acre site located on the north side of East Dewey Avenue near the intersection of Route 80 and Route 15. The Plan would permit the development of high density multi-family market rate housing rather than the age-restricted housing for which it is currently zoned, provided the developer addresses the Borough's COAH rehabilitation component. In the event COAH is abolished, the developer would be required to pay an affordable housing fee.

Long Range Planning

Ms. Olcott stated the Committee did not meet.

LIAISON REPORTS

Lake Hopatcong Commission

No report.

Lake Musconetcong Regional Planning Board

Mr. Rattner stated that the board passed a resolution requesting the NJDEP to exclude the low water flow section from the Lake Hopatcong Water Level Management Plan. Mr. Rattner informed members that the attempt to control the water chestnut plant through freezing failed because of the high water level in Lake Musconetcong resulting from the late and rapid draining of Lake Hopatcong for a repair and maintenance project. The board discussed controlling the water chestnut by using volunteers to pull out the plants and by using herbicides. The cost of these efforts would be paid for primarily by homeowners' associations located around the lake. A discussion followed.

Minutes of the November 17, 2010 Lake Musconetcong Regional Planning Board are in the members' binders.

Musconetcong River Management Council

Mr. Rattner reported that the Council was able to mobilize all the communities along the river to object to the Lake Hopatcong Water Level Management Plan. He also informed the board

that he and Ms. Marion attended a public hearing on the plan. At the meeting, Mr. Larry Baier, NJDEP, said that if the proposed water level management plan is implemented by the NJDEP, Musconetcong Sewerage Authority rates will increase due to the lower river flows. Mr. Rattner said that there was good press coverage and he sent articles via e-mail to Ms. Marion. He also stated that those commenting at the hearing wanted to know why water quality was not addressed in the plan. He said that the main factor impacting water quality in Lake Hopatcong was the amount of nutrients discharged from the surrounding septic systems. Many of these systems are located on very small lots and situated over shallow bedrock. A discussion followed.

Morris County Open Space & Farmland Preservation Trust Fund

Mr. Pinto stated that since the last meeting, the County closed on the Mini Mac Farm located in Washington Township. He said there are six farm projects in the final closing stage, pending state reviews and the release of state funding.

Reports are in members' binders.

CORRESPONDENCE AND REPORTS RECEIVED

Ms. Marion informed members that she received a call from a resident of Long Hill Township, Mr. Cilino, who has concerns about the Army Corp of Engineers planned levee construction project in the Valley Road section of Long Hill near the commercial area in Stirling. The intent of this project is to alleviate flooding from the Passaic River. Mr. Cilino is asking the Morris County Planning Board to provide a review and make comments on this project proposal. Ms. Marion stated that a copy of Mr. Cilino's e-mail and his position paper against the flood wall is in the members' binders. Ms. Marion stated that she contacted County Engineering and consulted with Mr. Perry concerning this issue and found that the County has never taken a position on these projects. A discussion followed.

Ms. Marion asked the Board for recommendations on how to proceed, noting that the County does not have jurisdiction on this matter. A discussion followed. Members recommended that the response indicate that the County review of such matters is limited to any potential impacts on county roads and facilities.

Ms. Marion stated that the County received notice from New Jersey Transit regarding its proposals to put up billboards within its right-of-way in the Town Boonton and the Township of Denville. Ms. Marion described the proposed height and size of the billboards, which will have the option of being converted to LED displays. She noted that the New Jersey Department of Transportation must comply with municipal zoning, but that NJ Transit has the statutory authority to construct these billboards and is immune from local regulation. A discussion followed.

The Planning Board decided the County's position on the proposed billboards would best come from the Freeholders, and recommended that a letter be sent to the Morris County Board

of Freeholders indicating the Planning Board's objection to these billboards. Chairman Falkoski will sign the letter.

Ms. Marion said she received notice on a meeting and public hearing to be held on March 2, 2011 from the Delaware River Basin Commission. She informed members that the Commission has jurisdiction over the approval of discharges to the Musconetcong River, part of which has been designated as "Special Protection Waters." The Commission will be reviewing an application to extend an existing discharge permit for the Thomas & Betts Corporation in Washington Township. Mr. Rattner asked that a copy be sent to him.

REPORTS OF MEETINGS

State Planning Commission Meeting – Mr. Soriano reported that he attended the State Planning Commission Meeting on February 16th. The new director, Mr. Sharfenberger, gave a brief report regarding ongoing plan endorsement activities, but there was no discussion of the status of the State Plan. Mr. Soriano stated that Mr. Sharfenberger will be at the County Planners Association meeting on February 18th to discuss the status of the State Plan and the new agenda of the Office of Planning Advocacy. He said that he and Ms. Marion will attend that meeting.

Highlands Council- Mr. Soriano said he attended a Highlands Council meeting this afternoon. The meeting focused on the plan conformance applications for three municipalities, including Rockaway Township. The Council conditionally approved the Township's plan conformance application for both the preservation and planning areas.

OTHER BUSINESS

Musconetcong Watershed Association Resolution Concerning Lake Hopatcong Water Level Management Plan- Ms. Marion reminded the Planning Board that in January 2011, it had recommended postponing action on the proposed resolution until after the Lake Hopatcong Commission's meeting on the Water Level Management Plan. She noted that there are conflicting concerns with regard to the low water flow provisions of the Plan and that the County has representation on both the Lake Hopatcong and the Lake Musconetcong entities. The Planning Board decided not to take a position on the resolution at this time.

Bylaws Amendment Committee – Ms. Marion said she received input from Mr. Marell and Mr. Rattner concerning the proposed changes to the Bylaws and stated that the 2011 Draft Revisions are in each member's binders. Ms. Olcott noted that Article V., Section 3 on the requirements for calling special meetings were restrictive. The Bylaws require a written request signed by three (3) or more members of the Board ...” Ms. Marion stated that the Bylaws follow Robert's Rules and Mr. Marell explained that the previous Section 2 allows the Chairman to call a special meeting at anytime. Discussion followed and no changes to Section 3 were proposed.

Mr. Marell asked the Board members whether they wanted to include a provision in the bylaws that would allow meeting participation by telephone or some other means of remote

communication. Freeholder Grossi stated that remote communication is allowed by the Open Public Meetings Act. A discussion followed. The Board concluded that State law would allow such communication whether or not it was specifically included in the Bylaws and, while it might be useful in specific circumstances, a change to the Bylaws was not presently necessary.

Mr. Marell also explained potential issues with the current number of members on each committee. He recommended that the number of members on each committee be limited to three to eliminate the possibility of achieving an unintended effective quorum of the board and running afoul of public notice requirements. Ms. Marion recommended restructuring the committees and the Board recommended that an Alternate Member only attend a committee meeting when it is known that a regular member will be absent. Mr. Perry suggested having Mr. Hammond appoint one of his engineers as staff on the Land Development Review Committee and eliminate the County Engineer appointment. Ms. Marion hopes to meet with the Bylaws Committee to prepare a final draft of the Bylaws for the next Board meeting.

2010 Census – Ms. Marion stated the Census Bureau released its 2010 counts for redistricting at the municipal level and presented a table comparing 2000, 2009, and 2010 population numbers. She noted that several municipalities have lost population. She indicated some of these figures are questionable. She noted Mendham Borough, which not only lost population, but also lost 33 housing units. She suggested that these reductions may be the result of inaccurate boundary delineations. Ms. Marion also noted that Riverdale Borough had the greatest percentage growth in population.

Ms. Olcott voiced concern regarding the apparent inaccuracy of some of the figures presented. Ms. Marion stated that the one year change in population and housing between the 2009 estimates and 2010 census count should be viewed as an indicator of the accuracy of the 2009 estimates. She also noted staff's continued involvement in the Census Bureau's boundary verification survey program, which should reduce future incidents of error.

Mr. Rattner asked where the newly released and more detailed census information can be found. Ms. Marion informed members that the previous long-form information has been replaced by American Community Survey, which includes one year, three year and five year estimates. Mr. Rattner asked that the link to this Census website be sent to him. Ms. Olcott questioned the vacancy rates identified for Morris County. A discussion followed.

LEGAL UPDATE

Nothing to report.

COMMENTS FROM THE PUBLIC

Mr. Rattner read an e-mail from Ray Zabihach extending greetings and thanks to the Board members for their response(s) to his injury and becoming a grandfather for the first time.

Mr. Pinto informed Board members that the County Agricultural Development Board is currently holding its meeting in the next room and invited members to attend.

Ms. Marion also informed board members of the Complete Streets Workshop schedule for March 31, 2011, at Waterloo Village. She had previously sent out information to Board members via e-mail and had registered those interested in attending. She stated that any other members should contact her if interested in attending.

NEXT MEETING

The next meeting will be held on March 17, 2011 at 7:00 p.m.

ADJOURNMENT

At 8:50 p.m., Mr. VanGelder moved to adjourn the meeting. Ms. Olcott seconded and all approved by voice vote.

Respectfully submitted,

Christine Marion, P.P./AICP
Planning Director