

JOINT MEETING
WASHINGTON TOWNSHIP COMMITTEE
AND
WASHINGTON TOWNSHIP LAND USE BOARD
December 3, 2009, 7:30 p.m.

CALL TO ORDER and PUBLIC NOTICE

Mayor Elbassiouny called the meeting to order at 7:40 p.m. Mayor Elbassiouny said this is a special joint meeting of the Committee and Land Use Board of the Township of Washington. Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that a Notice was published in *The Star Gazette*. Notice was posted on the municipal bulletin board in the Township Administration Building in Washington Township, New Jersey, and notice was filed with the Township Clerk.

ROLL CALL

Present: Leonard Artigliere, Evan Howell, James Vergos, Erich Sodtalbers, Robert Finke

Absent: Efrem Zaret, Mark Rossi, Robert Christine

Professionals: Steven Gruenberg, Esq.; Scarlett Doyle, P.P.

DISCUSSION

The Mayor said the purpose of this meeting is to conduct a public hearing to present, discuss and accept public comment on the Draft Highlands Council Regional Master Plan Element of the Washington Township Master Plan. In addition, the Committee will consider a Resolution of Petition for Plan Conformance in accordance with the Highlands Act.

Municipal and Land Use Board Planner Scarlett Doyle initiated discussion on Plan conformance. She noted that Washington Township is located in the preservation and planning areas. Action at this meeting relates solely to the preservation area. Ms. Doyle pointed out that this is a state mandated resolution.

Ms. Doyle indicated that clarification has been added to the proposed resolution. This resolution relates solely to the preservation area. In the future if there are any portions of the plan that are optional or voluntary, Washington Township reserves the right to withdraw from those portions.

There will be no action at this time on the planning area. Any changes that are relative to the planning area must be made via ordinance. Ms. Doyle contends there is insufficient information, and therefore, it is premature to make a decision on the planning area at this time.

The Mayor invited questions from the Committee and Land Use Board. Mr. Sodtalbers of the Land Use Board asked why it is mandatory that the Township participate in the findings as to the preservation area. Mr. Gruenberg, attorney to the Land Use Board, clarified that every municipality in the preservation area must conform. This is the law. He noted there are ramifications related to not conforming. One consequence is that the Highlands Commission can take over a dissenting Board. In addition, there is potential litigation.

Asked what happens if Warren County does not support the Plan, Mr. Gruenberg said the Township is a separate entity.

Ms. Doyle expanded the explanation. She reiterated that Washington Township reserves the right to withdraw from provisions that are made optional or voluntary.

Mr. Gruenberg noted that the Township is also reviewing its COAH obligation. If the Township decides not to opt in, the Highlands Council could withdraw the funding for analyzing the COAH obligation.

Asked whether landowners had been compensated, Ms. Doyle indicated to her knowledge no one had been compensated. Ms. Doyle referenced protection of water supply through conservation. Recommendation has been made that there be a tax on the water as an incentive to conserve. This would be utilized to compensate landowners.

Mr. Artigliere, Land Use Board chairman, explained that this amounts to taking property. He articulated that there should be a wider base for payments and if conservation of the area is critical to the entire state, those landowners affected should not be forced to shoulder the entire economic burden. Land Use Board member, Robert Finke expressed that this is a civil rights violations. Mr. Sodtalbers agreed and added that this takes away home rule. Mr. Artigliere noted these issues have been litigated and despite views to the contrary, this is the law.

The Mayor pointed out that all of our citizens could agree with these issues. However, the Committee is mandated to comply with the law.

Hearing was opened to members of the public.

Jim Kelsey from Independence Township introduced himself. He indicated he came to clarify Independence Township's stand against the Highlands Act. He noted they believe the act is unconstitutional. Mr. Kelsey encouraged municipal civil disobedience. He contended that once municipality's buy in, then lawsuits will be against the municipalities rather than lawsuits against the state. Further, if a municipality does not

conform, remedy must be sought against the state. He encouraged sending a message that the land taking is unconstitutional and morally wrong. He contended that each municipality knows best how to handle their land responsibilities.

Mr. Kelsey cited a number of municipalities that have chosen not to conform, namely Independence, Mansfield, Tewksbury as well as Hunterdon County. He urged the Township not to comply with the deadline.

Hank Klump of Tewksbury Township introduced himself. He noted the Highlands Act is a bid to take away people's land. He observed farmers are being punished. He indicated that there are absolutely no funds in place to compensate landowners. Mr. Klump said land in the preservation area will have no value or equity. He described septic concerns. Mr. Klump discussed the need for a build-out analysis. He pointed out that opting in would prompt lawsuits against municipalities. Mr. Klump contended that provisions must be made that landowners must be compensated in a timely manner.

David Shope of Long Valley introduced himself. He indicated owns property in Washington Township. Mr. Shope said he is a party to a lawsuit against the Highlands Council. He referenced the water in the Highlands. Mr. Shope explained that 46" of water falls throughout the state. He indicated there is an additional 2" of water in the preservation area. Water goes to NJ Water Supply Authority. Water is sold for large sums, which go into the State coffers. Mr. Shope distributed an article by Guliet Hirsch, Esq. discussing Highlands issues. Mr. Shope reiterated there is no funding for compensation of landowners.

Cheryl Burket, Washington Township, asked about the presence of farms in the preservation area. Ms. Doyle explained the regulations apply to all properties in the preservation area. Ms. Burket questioned what change would occur. Ms. Doyle noted land use provisions and septic regulations would change. Ms. Doyle explained all property owners will be affected. Lot sizes will be increased. Mr. Sodalbers described the changes to large parcels of land that would be impacted.

Al Ivaney, Washington Township Environmental Commission, referenced the Pohatcong Valley superfund site, which consists of 5600 acres. He distributed EPA studies. He did not take a position on the Highlands Regional Master Plan.

There being no further comments from the public, motion was made by R. J. Strunk and seconded by Barry Mueller to close the public hearing.

Members in favor: Robert Klingel, R. J. Strunk, Barry Mueller, Samir Elbassiouny

Motion to close the public hearing of the Land Use Board was made by James Vergos and seconded by Evan Howell with all members in concurrence.

Mr. Gruenberg summarized that the resolution is an amended version from the one proposed by the Highlands Council. The Township is only considering the preservation area. Planning area is optional.

He said ramifications are somewhat up in the air. The Highlands Council has threatened to take over the actions of Land Use Boards that do not conform. Possibilities include a lawsuit against municipalities that do not opt in. If the Township does opt in, Mr. Gruenberg observed that the Highlands Council does provide representation to defend lawsuits. Published guidelines are available for review.

Ms. Doyle explained that she discussed the Township's amendments to the ordinance with the Highlands Council's area representative Christine Danis on December 2. Ms. Danis, on behalf of the Highlands Council agreed that the ordinance is acceptable.

Ms. Doyle confirmed this ordinance gives the municipality the greatest opportunity to opt out without being non-responsive.

Mr. Sodtalters urged the Township to do nothing, i.e. allow the deadline to pass. Mr. Finke concurred indicating this is a civil rights violation. Mr. Vergos noted the financial burden for single family homeowners and indicated he is against the resolution. Mr. Artigliere expressed his concerns and pointed out that these concerns have been litigated and rejected by the Courts. He indicated he believed the Township is protected by the proposed resolution and has the responsibility to comply with the law even though we may disagree with it.

The Mayor noted the risks regardless of the decision.

Mr. Gruenberg explained failure to file by December 8 is considered a violation. At that point the funding to analyze COAH obligations would likely be withdrawn.

Ms. Doyle observed the Board and Committee are of a single mind, that no one likes the legislation. She indicated the Committee must decide whether to conform to the law or take the risk of not complying.

The Mayor requested a motion to introduce ordinance 09-158, Submission of Petition for Plan Conformance to the Highlands Water Protection and Planning Council for land in the preservation area and in the planning area. RJ Strunk moved and Robert Klingel seconded a motion to adopt Resolution 09-158.

Members in favor: Robert Klingel, R.J. Strunk, Samir Elbassiouny
Members opposed: Barry Mueller

ADJOURNMENT

The meeting was adjourned at 9:10 pm.
These minutes were approved December 9, 2009.

Alice Oldford, Secretary to the Board

