

**LEBANON TOWNSHIP PLANNING BOARD
REORGANIZATION/BUSINESS MEETING
CLOSED EXECUTIVE SESSION**

**Lebanon Township Planning Board
Municipal Bldg 530 West Hill Road Glen Gardner, N.J.**

February 2, 2016

The 896th Regular Meeting of the Lebanon Township Planning Board Meeting was called to order at 7:03 p.m. by Board Clerk Gail Glashoff. Present were: Mr. Milkowski, Mr. Duckworth, Mr. Schmidt, Mr. Piasecki, Mr. Rich, Mr. MacQueen, Ms. Bleck, Mr. Weiler, Mr. McKee, 1st Alternate Gerlich, 2nd Alternate Skidmore, Attorney Gallina, Planner Bolan & Engr. Risse. Also from Township Committee: Mr. Wunder & Mr. Schmidt. Mayor Laul arrived at 7:10 p.m. and Attorney St. Angelo arrived at 7:20 p.m.

In compliance with the "Open Public Meetings Act" notice is hereby given that the Lebanon Township Planning Board will hold their Reorganization Meeting on February 2, 2016 at 7:00 p.m. If the meeting is cancelled due to inclement weather the Planning Board will meet on February 16, 2016. At the conclusion of the Reorganization portion of the Meeting, the Planning Board will conduct regular business and then go into Closed Joint Executive Session with the Township Committee to discuss possible litigation. Notice of this Meeting was published in the Hunterdon Review on January 20, 2016. Copies of the Agenda were faxed to the Hunterdon Review, Hunterdon County Democrat, Express Times, Courier News, Star Ledger and posted on the bulletin board in the Municipal Building on January 24, 2016.

SWEAR IN:

Tom McKee (Mayor Designee)	Class I	1 Year Term
Adam Duckworth	Class II	1 Year Term
Ron Milkowski, Committeeman	Class III	1 Year Term
Doreen Bleck	Class IV	4 Year Term
E. J. Skidmore	Class IV	2 Year Term- Alternate II

Attorney Gallina administered the oath of office to the above listed Board Members. Welcome to our newest member Mr. Duckworth.

NOMINATIONS FOR CHAIRMAN:

Ms. Glashoff asked for a nomination for Chairman. Motion by Mr. Rich and seconded by Ms. Bleck nominate Mr. MacQueen as Chairman. Being no further nominations, motion by Mr. Milkowski and seconded by Mr. Schmidt to close the nominations. Unanimously approved. Congratulations to Mr. MacQueen. Chairman MacQueen took over the meeting at this time.

NOMINATIONS FOR VICE CHAIR:

Chairman MacQueen asked for a nomination for Vice Chair. Motion by Mr. Rich and seconded by Mr. Milkowski to nominate Ms. Bleck as Vice Chair. Being no further nominations, motion by Mr. Gerlich and seconded by Mr. Piasecki to close the nominations. Unanimously approved.

NOMINATIONS FOR SECRETARY:

Motion by Ms. Bleck and seconded by Mr. Weiler to nominate Mr. Gerlich as Secretary. Unanimously approved.

NOMINATIONS FOR ASSISTANT SECRETARY:

Motion by Ms. Bleck and seconded by Mr. McKee to nominate Mr. Weiler as Assistant Secretary. Unanimously approved.

APPOINTMENTS:

- a. John Gallina, Esq.
- b. Michael Bolan, PP
- c. Stephen Risse, Engr. (Bayer/Risse Engrs.)
- d. Gail W. Glashoff, Planning Board Clerk
- e. Mark Blount, Esq. (Alternate Attorney)
- f. James Kyle, PP (Alternate Planner)
- g. Jess Symonds, Engr. (Alternate Engr.)

Ms. Bleck asked if Mr. Symonds was still in business. Ms. Glashoff said yes and that she did receive his contract for 2016 but he is now working from home. Motion by Ms. Bleck and seconded by Mr. Piasecki to appoint all the appointees a-g. Unanimously approved.

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ADOPT RESOLUTIONS:

a. Authorizing Agreement for Professional Services

Ms. Glashoff reviewed for the board the Agreement for Professional Services. Motion by Ms. Bleck and seconded by Mr. Rich to adopt the Resolution for Professional Services. Unanimously approved.

b. Annual Meeting Notice Schedule 2016

Ms. Glashoff reviewed the Meeting Notice Schedule for the board. Motion by Mr. Gerlich and seconded by Ms. Bleck to adopt the Resolution for the Meeting Notice Schedule. Unanimously approved.

ADOPT RESOLUTION FOR PROFESSIONALS ON PAY TO PLAY:

Ms. Glashoff briefly reviewed the Resolution for Pay to Play. Motion by Mr. Piasecki and seconded by Ms. Bleck to adopt the Resolution for Pay to Play. Unanimously approved.

ADOPT PROFESSIONAL CONTRACTS:

- a. John Gallina, Esq.
- b. Michael Bolan, PP
- c. Bayer/Risse Engrs. (Stephen Risse, Engr.)
- d. Mark Blount, Esq. (Alternate Attorney)
- e. James Kyle, PP (Alternate Planner)
- f. Jess Symonds, Engr. (Alternate Engr.)

Ms. Glashoff reviewed each contract for the board and noted that all Professional fees are the same as last year. Motion by Ms. Bleck and seconded by Mr. Rich to adopt all the Professional Contracts as presented. Unanimously approved.

APPOINT APPLICATION REVIEW COMMITTEE:

Motion by Mr. Piasecki and seconded by Mr. Gerlich that the following board members will serve on the Review Committee: Mr. Rich, Ms. Bleck, Mr. Weiler and Mr. McKee as an Alternate. Unanimously approved.

PRESENTATION OF MINUTES: December 1, 2015 Regular Meeting

Motion by Mr. Rich and seconded by Ms. Bleck to approve the minutes as presented. Unanimously approved. Mr. Rich complimented Ms. Glashoff on the minutes.

December 1, 2015 Closed Executive Session

Motion by Ms. Bleck and seconded by Mr. Piasecki to approve the Executive Minutes as presented. Unanimously approved.

RESOLUTION:

- | | |
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| a. Darryl Pennisi
Extension of Time Denied for 1 Lot Minor Subdivision.
with Variance | Block #61 Lot #34
Anthony & Mt. Airy Roads R5 |
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Motion by Mr. Rich and seconded by Mr. Piasecki to approve the Resolution for Darryl Pennisi.

ROLL CALL	Yes: Mr. Schmidt Mr. Gerlich Mr. Piasecki	Mr. Rich Mr. Weiler	Abstain: Mr. MacQueen Mr. Duckworth Mr. Skidmore	No: Mr. Milkowski Ms. Bleck Mr. McKee
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CORRESPONDENCE:

- a. NJPO Newsletter – Nov/Dec 2015
- b. Fair Share Housing Article
- c. Memo from Planner Bolan on Affordable Housing dated 1/27/2016
- d. Memo from Attorney St. Angelo date 1/21/2016

Ms. Glashoff said there was one more item under correspondence. Ms. Glashoff said that the Museum over on Musconetcong River Road has needed and wanted a real bathroom for a long time. They have been

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using an outhouse. They want to put an addition on the back of the building 10' x 12' with a storage area underneath. Ms. Glashoff showed the board a picture of the Museum which shows a two story addition. Mr. Mckee noted the grade behind the building is lower which the lower portion of the addition would be below grade making the two story addition up to the first floor of the building. Besides storage it would also be used as a mechanical area. The Township Committee tomorrow evening will be introducing a Bond Ordinance and the Planning Board needs to issue a letter stating that the building improvements do not alter the Master Plan. The question was asked if it is a historic building. The response was yes but they have an architect who will build the addition to an historic standard. Mr. Schmidt asked if they will be putting in a septic system. The response was no but they will have a holding tank. Ms. Glashoff stated in speaking with Planner Bolan today, he said that everything looked good for the Township to move forward with the Bond Ordinance. Chairman MacQueen asked Mr. Laul to fill the board in on exactly what the game plan is. Mr. Laul said the intent is to put in the bathroom and put in a mechanical room below so at a later date they can put in a boiler. Mr. Laul went on to say it is an historic building but not registered with the County. Right now they have propane heaters in the windows which are unsafe so this will give them the opportunity to have a boiler and they are hoping to get grant money from the County to put in an historic looking baseboard. Mr. Laul said the reason for the holding tank is because they are less than 300' from the Musconetcong River. Mr. Laul noted with the holding tank they will be able to have school groups come to the museum also they have a lot of people that come during the day and in bad weather with snow, using the outhouse is difficult especially for the seniors. The museum falls within our realm. There are two classifications, one, if they are registered with the County as an historic building you can't touch it and the another level is that the town can call it an historic building and you can get historic grant money to preserve it or do maintenance and/or improvements. Mr. Laul said this is what he was told by the County. Since this is a capital improvement, the Committee can do a Bond. Chairman MacQueen thanked Mr. Laul for his input. Ms. Glashoff stated that a motion needs to be made to have a letter go to the Township Committee. Motion by Ms. Bleck and seconded by Mr. Rich to have Ms. Glashoff write a letter to the Township Committee stating that per MLUL 40:55D-3a that the project is consist with the Master Plan. Unanimously approved.

PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$ 580.00
b. Michael Bolan, PP	\$3,412.40
c. H.C. Planning & Zoning Admin.	\$ 15.00
Total:	\$4,007.40

This amount includes the addendum to the Bill Report. Motion by Mr. Gerlich and seconded by Ms. Bleck to approve the bills as presented. Unanimously approved.

Attorney St. Angelo and Planner Bolan informed the board that the bulk of the discussion on Affordable Housing can be discussed in an open meeting. There will be a small portion regarding the legal matters that will need to be discussed in Closed Session. At this time Chairman MacQueen turned the meeting over to Attorney St. Angelo and Planner Bolan. Planner Bolan stated that Attorney St. Angelo attended the Case Management Seminar with Judge Miller in Somerville. Judge Miller is the Judge for Warren, Hunterdon & Somerset Counties. There were approximately 30 Attorneys that attended the Seminar. Planner Bolan said he was there but not in the capacity representing Lebanon Township but was there as a Special Master appointed by Judge Miller for other municipalities in Hunterdon & Somerset Counties. Attorney St. Angelo said the Case Management Session was a public hearing and noted that a short executive session will be needed at the conclusion of this discussion. Besides the attorneys representing the municipalities in Hunterdon & Somerset Counties, representatives from Fair Share Housing Corp. and the N.J. Builders Association were also present. Judge Miller went through a list of housekeeping items and how we are going to proceed. This is going to take very long, very frustrating and will be an expensive process. Attorney St. Angelo said the more Judge Miller talked the more she could see the shear length of this and what it will curtail is incredible. The first thing Judge Miller said was what everyone is calling the numbers trial and who's methodology will be used to calculate the fair share number. Judge Miller saw four ways of doing it; going town by town, going county by county, consolidating Hunterdon and Somerset together which are in the same region or including Warren County into one big trial. Attorney St. Angelo said they would like to do all three counties together in order to keep the cost down. We plan on having Econsult as our expert to handle everything for us. Then we would just split the cost. Judge Miller will be appointing a Regional Special Master which has been done in Ocean County. Judge Miller will look to consolidate Hunterdon & Somerset together since they are in the same region. At this time, Judge Miller hasn't put out an order yet, he is circulating it among the Special Masters for comments. Attorney St. Angelo said she is hoping for one trial. Attorney St. Angelo said the Fair Share Housing Center & the Builders Association are advocating for a municipality by municipality trial because what they are seeking to do is to bully towns into settling and Lebanon Township does not fall into that category. Attorney St. Angelo said that no town will want to be the first test case and by doing each town individually it would cost each one for Econsult. Attorney St. Angelo said if they did each town, it would affect the methodology and we wouldn't have a say in it. Attorney St. Angelo went on to say it would be very unlikely that Judge Miller would go in that direction. Middlesex County is doing the individual towns and it doesn't look good.

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It is important that everyone is heard in the most cost effective way. Planner Bolan said there are 59 municipalities within the 3 counties that Gebhardt & Kiefer represent and said there would be a lead council which will also help on the cost. Attorney St. Angelo said they would have one person that would conduct the depositions. Also the other thing that Judge Miller talked about was what would the numbers trial look like. We would be deciding the methodology and the compliance mechanism which means who would get the credits, who would get the bonus credits and what would be the rules of the game. Attorney St. Angelo said for Lebanon Township you have no interveners. It would be the compliance hearing and Fair Share Housing Center. Regarding the Fair Share Housing Center and the Builders Association, they attempted to get into the merits of the case and started arguing, but Judge Miller didn't pay any mind and kept things moving. Also the timeline for expert reports, Fair Share Housing is submitting a report on Friday February 5th which is a rebuttal report responding to comments in the Econsult Report. Attorney St. Angelo said that Judge Miller has extended the immunity deadline to July 31, 2016. Judge Miller is also looking to establish a Fair Share number before he has everyone start doing their plans and having Public Hearings. The one thing that Judge Miller was really stressing was municipalities looking to settle. It would be municipalities sitting down with Fair Share Housing and looking to agree to a plan and a number. It could be more or less than what the court would assign. The Builders Association is also submitting a report by Friday February 5th critiquing Econsults Report. Attorney St. Angelo said she is hoping to have a copy of these reports to review and noted that in Ocean County Fair Share Housing has submitted two new reports. The expert for the interveners Art Bernard has also submitted another report. Attorney St. Angelo said she is hoping to be able to review all these reports. The general critique of Econsults Report is that it does not follow the prior round rules. Judge Miller has started discussing with the Special Masters those municipalities that would be a candidate for settlement. As for the Special Master, Judge Miller is going to appoint Richard Reading. Fair Share Housing and the Attorney for the Builders Association were not very happy about the appointment.

Planner Bolan noted that the trials are to start by the end of June/first of July, but Judge Miller also said with all the attorneys that are involved and vacations in the summer that he doesn't see these trials starting until early fall. Planner Bolan stated there are 15 Judges hearing these cases for 330 municipalities. Judge Miller said that he met with the other 14 Judges that will be hearing these cases. Planner Bolan noted there will be another case management session sometime in April and hopefully we will know more at that time. Planner Bolan said with this meeting in April things could change again. Attorney St. Angelo said there are issues that need to be decided before we go to the numbers trial. The big question, is there an obligation with this gap period. Also, there are small issues that need to be addressed before we get to the gap period and before the numbers trial. Attorney St. Angelo noted there are counties that are ahead us and those that are behind us before we go to the numbers trial. There are 15 Judges and we would end up with 15 different methodologies and there is the chance that we could end up back at the Supreme Court again. Chairman MacQueen asked about the cost to the Township. Attorney St. Angelo said at this point she didn't know. Attorney St. Angelo said once we get the case management order from Judge Miller but at this time Judge Miller was only looking for comments from everyone on what we should do and then the order will tell us what it looks like. Also, how many municipalities can be consolidated into one and can we spread the cost. Mr. McKee said this is opened ended contract and the municipalities don't stand a snowballs chance with this being open-ended. Mr. McKee said it is COAH that failed not the Township. At this time Engineer Risse left the meeting. (8:10 p.m.)

Attorney St. Angelo said that Fair Share Housing has retained a second expert and we are going to have a new Special Master appointed since the existing Special Master is stepping down. Chairman MacQueen asked what is this going to cost the Township. Attorney St. Angelo said we have to wait until we get the case management order from Judge Miller. The Builders Association have two experts and the interveners have an expert. Mr. Duckworth asked to summarize the best case and the worst case scenario. If the trial goes perfectly in our favor what's in it for us. Attorney St. Angelo said the best case would be, we would say to the Fair Share Housing Center, we are in the Highlands and here is the Highlands build out analysis and we could settle and not have to go to trial. Attorney St. Angelo said the Highlands build out is our case which is what we are basing our build out on. Planner Bolan said our best case is his memo. Planner Bolan said the worst case is the Fair Share Housing Center has us with 317 affordable units and Econsult with 21 affordable units. Planner Bolan said you are not going to see a settlement. Mr. Duckworth asked, how can we best position ourselves. Attorney St. Angelo said that discussion is for a close session. Mr. Piasecki asked what the difference was between Warren, Hunterdon & Somerset regarding the regions. Attorney St. Angelo said that COAH assigned the Counties into regions. Planner Bolan said there are 6 regions and Hunterdon is in Region 3 which is the West Central Region consisting of Hunterdon Somerset & Middlesex. Judge Wolfson is handling Middlesex and Hunterdon & Somerset are with Judge Miller. Planner Bolan said that Judge Wolfson is trying to be the lead on all this which isn't good. Warren County is in the Region with Essex and Morris. Chairman MacQueen asked Planner Bolan for his comments regarding his memo. Planner Bolan said the time frame up to 1999 we had an obligation of 27 affordable units and we have satisfied that obligation. Planner Bolan said we did an RCA with Lambertville for senior housing, we purchased property on Mt. Kipp Rd for Freedom House for ten bedrooms and because they were rental bedrooms we got 7 bonus credits. The rehabilitation units are for deficiencies in housing units. Planner Bolan said we had a high number of 32 rehab units in the past. Planner Bolan said when COAH was considered dysfunctional it essentially set everyone back 30 years. Back to the beginning in 1985 before there was a Fair Housing Act in New Jersey and Council on Affordable Housing (COAH). Planner Bolan said the reason why the Temporary Immunity is important is because without it a builder

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can come into a municipality and say they can satisfy your obligation. Planner Bolan said it is beneficial to the Township that we are in the preservation area of the Highlands which gives up some sort of protection. At this point we have a rehabilitation share of zero. The monies that we have in our trust fund can be used for other ways of for-filling our obligation. At this point, Planner Bolan reviewed for the board his memo. Planner Bolan informed the board that our Fair Share Plan of affordable units is 4. We could do 2 accessory apartments and 2 units through participation in the Regional Affordable Housing Development Planning Program (RAHDPP) under the auspices of the Highlands Council to transfer up to 50% of the municipal housing obligation under (NJS A52:27D-329.9). In regard to the unmet need component, the Township has already implemented two of the methods, namely zoning amendments that permit apartments or accessory apartments and a development fee.

Planner Bolan said that Econsult projected that the Township need for the period of July 1, 2015 to June 30, 2025 is 21 affordable housing units. The Fair Share Housing Center published its report July 2015. Their report uses a projection period extending from 1999-2015. The overriding constraint affecting the Township's capability to provide affordable housing is its location in the Highlands being the Preservation Area. The Highlands Build-Out Analysis was conducted in 2009 which indicated that the Township's total development potential is 20 housing units under the DEP Highlands Rules. The projection going forward from 2015-2025 and the Fair Share Housing Center wants us to make up everything that has happened over the past 15 years from the inaction of COAH. In doing the build out analysis, Planner Bolan said he was able to take out 15 parcels because of them being purchased for open space or have been developed. Planner Bolan said he hopes this will make the 20 unit number go down. Planner Bolan then discussed the vacant land adjustment. If a municipality has vacant lands that aren't developed then you can get an adjustment. When you do the vacant land adjustment under the COAH Rules, you actually assume when you have calculated the available acres you multiple by using a 6 unit per acre density to figure out what your total potential will be. This is totally unrealistic in a municipality that doesn't have sewers. Planner Bolan said he is using our build-out analysis and applying the 20% set aside which it states in the Rules and apply it to the total development potential. That is how we got to the 4 affordable units. In Econsult report the prospective need obligation of 21 affordable units and the one affordable unit that COAH recalculated gives 22 affordable units of which 4 represent the Township's Realistic Development Potential (RDP). In deducting the 4 units the remainder is 18 affordable units which is considered unmet need. Planner Bolan said the affirmative steps should be taken to address the unmet need. At the conclusion of Planner Bolan comments, it was decided to go into closed executive session to discuss the direction that the board will need to go.

The Chairman will announce that the Board will go into Executive Session at this time and ask for a motion. Motion by Ms. Bleck and seconded by Mr. Rich to go into Closed Executive Session at this time. Unanimously approved. Time: 8:40 p.m.

RESOLUTION NO: 01-2016

WHEREAS, Section 7(b) of the Open Public Meetings Act 1.1975 c. 231 NJS A 10:4-12(b)(8) permits the exclusion of the public from Planning Board Meetings where certain matters are to be discussed; and

WHEREAS, the Open Public Meetings Act also recognizes exceptions to the right of the public to attend portions of such meetings; and

WHEREAS, the Lebanon Township Planning Board is desirous to meet to discuss potential litigation; and

WHEREAS, the Lebanon Township Planning Board will reconvene in public session at the conclusion of the Executive Session;

NOW, THEREFORE BE IT RESOLVED, by the Lebanon Township Planning Board of the Township of Lebanon, Hunterdon County, New Jersey, that this Board met in Executive Session.

The Planning Board will return to the Public Portion of the Regular Meeting at this time. Motion by Ms. Bleck and seconded by Mr. McKee to return to the public portion of the meeting. Unanimously approved.

Being no further business to come before the board, nor comments from the public, motion by Ms. Bleck and seconded by Mr. Schmidt to adjourn the meeting at 9:00 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK