

MINUTES

7:30 PM

PRESENT: R. Dodds
D. Haywood
P. Lubitz
J. Mathieu
S. McNicol
E. Niemann
L. Senus
J. Strasser
D. Banisch, Planner
D. Pierce, Attorney

ABSENT: T. Kratzer
M. Synchron, Alt. #1

CALL TO ORDER

The meeting was called to order at 7:33 PM by R. Dodds.

NOTIFICATION

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk, and further, all persons are requested to utilize the microphones which are provided for your use by the Township. Your cooperation is appreciated.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat and Courier News, and has been posted in the Kingwood Township Municipal Building at least 48 hours prior to this meeting and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

Draft Noise Ordinance

D. Banisch reviewed his memo to the Board:

We are providing the attached Noise Ordinance amendment, which is strictly based upon the New Jersey Department of Environmental Protection (NJDEP) Model Noise Ordinance.

The attached ordinance repeals existing "Noise" regulations found at Section 132-54.E. in the Supplemental Regulations section of the Zoning Ordinance.

This ordinance establishes noise limits that are consistent with the New Jersey State Noise Control Regulations found at N.J.A.C. 7:29, which became effective July 3, 2007 and established revised noise control regulations in accordance with the New Jersey Noise Control Act.

Municipalities are required to submit Noise ordinance amendments to the NJDEP whenever the ordinance establishes noise control standards that may deviate from the NJDEP Model Ordinance. When a municipality adopts the NJDEP

Model Noise Ordinance without any changes, the municipality may certify in writing to the NJDEP that the ordinance adopted is consistent with and does not deviate from the Model Ordinance.

There are two sections of the ordinance that are optional. These are found on pages 8 through 10 and include provisions pertaining to:

Section 130-54.E.(9):

- Emergency work, power tools, home maintenance tools, landscaping and or yard maintenance equipment;
- Construction and demolition activity;
- Motorized snow removal equipment;
- Interior and exterior burglar alarms;
- Non-vehicular music or sound production devices operated from public spaces or public rights-of-way;
- Domesticated or caged animals; and

Section 130-54.E.(10) - Motor Vehicles:

- Operations of motor vehicles that have had original equipment sound control devices altered;
- Motor cycles must have mufflers that comply with Federal Noise Regulations;
- Personal or commercial vehicular music amplification or reproduction equipment.

The noise regulations in these two sections of the ordinance do not appear to be unreasonably restrictive to an individual's normal use and enjoyment of their property.

Enforcement provisions are included in the ordinance amendment, which are consistent with the NJDEP model ordinance.

After some discussion, it was moved by P. Lubitz, seconded by S. McNicol and carried to recommend the Township Committee introduce and adopt the draft ordinance provided by D. Banisch this evening with the following modification:

Page – 2 – definition of Emergency Work add “residential”.

All members present voted **AYE** on **ROLL CALL VOTE**.

Draft Ordinance Environmental Impact and Assessment (SEIA) and Preservation of Threatened and Endangered Species and Suitable Habitats

R. Dodds stated the draft is based on the Millstone Township Ordinance.

D. Pierce stated in certain places the ordinance pertains to more than major development. It seems to be applicable to subdivisions, plan development applications and applications for building permits. It would apply to anyone who wants to do any type of construction. The Board discussed the draft briefly and the real question is how extensive should the ordinance be on development. The ordinance gives authority to the Environmental Commission, which is a purely advisory body and has no power whatsoever to act on an application. The prior discussion turned the Board into directing what applications this ordinance should apply to and the scope of the development. The Board discussed making this requirement more simple by adding an item to the checklist for applications the Board deemed appropriate. The ordinance requires the applicant provide a review from the NJ Natural Heritage Program and indicate the presence of endangered species. There are actual regulations of where there are threatened or endangered species. It is regulated by state law. The current Township ordinance

requires a threatened or endangered species evaluation. The requirements are a carryover from long before he was involved with the Township. It is inappropriate and should be eliminated. D. Banisch suggested the trigger be a level of disturbance and impervious coverage. He suggested a disturbance of an acre or more and impervious coverage of .25 acre or more, which would also trigger the stormwater management rules. D. Pierce stated the Township would have to draft an ordinance to amend the checklist which will provide the conditions on which checklist items would apply. It would not be just for development but be adding the requirement to the building permit. It would require a separate development ordinance amendment. P. Lubitz suggested since it is November and near the Township's fiscal year end, it be put off until the next fiscal year.

D. Banisch left the meeting.

J. Strasser recused himself for the following matter.

Resolution No. 2011-12 - EffiSolar – Block 23, Lot 11 – County Road 519 – Preliminary Approval

V. DeSimone, attorney for the applicant, requested on Page 10, paragraph 4 that the producing ability of the facility not be limited in the approval. If the facility changes the type of panels, the Township would be notified. D. Pierce stated he does not have a problem with removing the reference. It is a generic description and not intended to limit their power production ability. He would like to add a condition that if the facility increases the power output, the Township will have to be notified as well as the emergency responders.

V. DeSimone stated on page 16, paragraph 6, requested the paragraph be specific to Phase 2 of the project.

It was moved by E. Niemann, seconded by D. Haywood and carried to adopt Resolution No. 2011-12, Block 23, Lot 11 – EffiSolar – Preliminary Site Plan Approval. All members present voted **AYE** on **ROLL CALL VOTE**, except L. Senus, who **ABSTAINED**.

Resolution No. 2011-13 -EffiSolar – Block 38, Lots 17, 18 and 19.01 – County Road 519 – Preliminary Approval

V. DeSimone, attorney for the applicant, stated he is requesting the same change as above for this resolution. There is also one typo on page one which incorrectly identifies the block as 28 rather than 38. D. Pierce stated the resolution will also have the additional condition included.

It was moved by E. Niemann, seconded by S. McNicol and carried to adopt Resolution No. 2011-13 -EffiSolar – Block 38, Lots 17, 18 and 19.01 – County Road 519 – Preliminary Approval. All members present voted **AYE** on **ROLL CALL VOTE**, except R. Dodds and D. Haywood, who **ABSTAINED**.

J. Strasser resumed his seat on the Board.

Cacciabauda – Block 37, Lots 3.05, 3.06 & 3.07 – Federal Twist Road –Request for Extension of Time to File

D. Pierce stated the applicant has requested a 90-day extension of time to file the deeds. The last changes to the deeds have been worked out and the applicant has resolved the issues with the DEP. The applicant feels they can obtain the amendment to the ROW design within 30 days but is asking for 90 days. It is their anticipation that it will be completed within the next week or two.

It was moved by J. Mathieu, seconded by J. Strasser and carried to grant a 90 day extension of time to file the deeds. All members present voted **AYE** on **ROLL CALL VOTE**.

Open Space and Agricultural Advisory Committee –

The Board received a request to amend the Open Space/Recreation Plan (OSRP) to encourage those who develop along the Lockatong Creek or any other open water to grant public access easement to the Township.

D. Pierce responded if the Planning Board was favorably inclined to grant the request, the Board can ask D. Banisch to incorporate the request of the Open Space and Agricultural Advisory Committee into the Open Space/Recreation Plan.

It was moved by P. Lubitz seconded by S. Mathieu to recommend the amendment be made when there are other amendments to the OSRP made so it is economically done at one time. All members present voted **AYE** on **ROLL CALL VOTE**.

Resolution No. 2011 – 11 - Sundancer Capital LLC - Block 24, Lots 4 & 7 – Muddy Run Road and Barbertown Point Breeze Road – Preliminary Approval

R. Dodds stated the applicant has not replenished their escrow.

Approval of Minutes of October 13, 2011

It was moved by J. Mathieu, seconded by S. McNicol and carried to approve the minutes of October 13, 2011 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**.

Approval of Minutes of October 27, 2011

It was moved by E. Niemann, seconded by S. McNicol and carried to approve the minutes of October 27, 2011 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except R. Dodds, D. Haywood and J. Strasser, who **ABSTAINED**.

Resolution No. 2011-14 – Adoption of Reexamination Report of the Master Plan

It was moved by J. Mathieu, seconded by S. McNicol and carried to adopt Resolution No. 2011-14 – Adoption of Reexamination Report of the Master Plan. All member present voted **AYE** on **ROLL CALL VOTE**, except S. McNicol and J. Strasser, who **ABSTAINED**.

APPLICATION STATUS

CORRESPONDENCE

PRIVILEGE OF THE FLOOR

E. Niemann reported on the County Planning Board meeting which was an update on the New Jersey Strategic State Plan, which was released in late October. She will provide the link to the secretary so it can be distributed to the Board members.

ADJOURNMENT

It was moved by P. Lubitz, seconded by J. Mathieu and carried to adjourn the meeting at 8:42 PM. All members voted **AYE**.

Respectfully submitted,

Diane Laudenschick, Secretary