

Minutes of the Re-Organization Meeting of the Morris Plains Planning Board held on January 16, 2012 at 7:30 P.M. in the Council Chambers, 531 Speedwell Avenue. The following members were present:

Present: Mr. Andre Jensen  
Mrs. Sydney Leach, Vice Chair  
Mr. Ralph Lopez, Chair  
Mr. Leo Nichols  
Mr. Vincent Novak  
Mr. Roman Zabihach  
Mayor Druetzler

Leon Hall, Borough Engineer  
William Denzler, Borough Planner  
Christopher Falcon, Board Attorney

Absent: Mr. Hank Sawoski  
Mr. Donald Underhill

### **PLEDGE OF ALLEGIANCE**

The meeting was called to order by Mayor Druetzler. Mayor Druetzler made the statement that adequate notice of this meeting has been published and posted in accordance with Chapter 231 of the Public Law of 1975, "Open Public Meetings Act."

Mayor Druetzler commented on the Borough Council's Re-Organization meeting held on January 5, 2012. Mr. Zabihach was reappointed as the Council representative and Messrs. Jensen and Lopez remain on the Planning Board. Mr. Underhill was appointed at Class II member of the Board. He thanked all who attended the Re-Organization and those who serve the Borough. He commented on the progress of the Lennar construction project.

### **COMMENTS FROM THE PUBLIC**

Mayor Druetzler opened the meeting to the public to speak on matters other than those on the agenda. No comments were forthcoming, and this portion of the meeting was closed to the public.

### **NOMINATIONS OF OFFICERS**

Mayor Druetzler stated the next order of business is the nomination of Board Officers to serve to 2012.

### **NOMINATIONS FOR BOARD CHAIRMAN**

Mr. Novak nominated Mr. Ralph Lopez for Chairman of the Planning Board for the year 2012, seconded by Mr. Zabihach.

Mayor Druetzler asked if there were any additional nominations. There being no further nominations, Mayor Druetzler declared the nominations closed and asked for a roll call on the nomination of Mr. Lopez as Chairman.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Nichols, Mr. Novak, Mr. Zabihach,  
Mayor Druetzler

Abstain: Mr. Lopez

Absent: Mr. Sawoski, Mr. Underhill

Nays: None

**Motion carried.**

### **NOMINATIONS FOR BOARD VICE CHAIR**

Mr. Nichols nominated Mrs. Sydney Leach for Vice Chair of the Planning Board for the year 2012, seconded by Mr. Lopez.

Mayor Druetzler asked if there were any additional nominations. There being no further nominations, Mayor Druetzler declared the nominations closed and asked for a roll call on the nomination of Sydney Leach as Vice Chair.

Roll Call

Yeas: Mr. Jensen, Mr. Lopez, Mr. Nichols, Mr. Novak, Mr. Zabihach,  
Mayor Druetzler

Abstain: Mrs. Leach

Absent: Mr. Sawoski, Mr. Underhill

Nays: None

**Motion carried.**

Mayor Druetzler congratulated Mr. Lopez and Mrs. Leach on re-election to their positions of Chair and Vice Chair, respectively, of the Planning Board. He also thanked all Board members for their time and service.

Mr. Lopez thanked the Board for their confidence in his chairmanship, stating he looks forward to a very productive year.

### **PLANNING BOARD RESOLUTION NO. 12-01 NOTICE OF MEETINGS**

**BE IT RESOLVED** by the Planning Board of the Borough of Morris Plains in the County of Morris and State of New Jersey as follows:

**WHEREAS**, Chapter 231 of the Public Laws of the State of New Jersey for 1975, known and hereinafter designated as the "Open Public Meetings Act", requires notification of meetings of public bodies as therein defined, in the manner therein set forth.

**NOW, THEREFORE**, for purposes of compliance with the “Open Public Meetings Act” aforesaid, the Planning Board of the Borough of Morris Plains hereby makes the following designations:

1. The Morris News Bee and the Morris County Daily Record are hereby designated as the two newspapers to receive notice of meetings as required by any and all sections of the “Open Public Meetings Act”, it appearing that those newspapers are most likely to inform the local public of such meetings.
2. The location for the posting of the notice of meeting shall be the bulletin board of the Borough Hall.
3. The sum of \$5.00 is hereby fixed as the amount to be paid by any persons requesting individual notice of meetings as provided in Section 14 of the “Open Public Meetings Act.”
4. The regular meetings of the Planning Board for the year 2012 shall be: February 13, March 19, April 16 May 14, June 18, July 16, August 20, September 17, October 15, November 19, December 10, and January 21, 2013 at 7:30 p.m.
5. All meetings of the Planning Board shall be open to the public.

I, Karen Coffey, Secretary of the Morris Plains Planning Board, in the County of Morris, and State of New Jersey, do hereby certify the foregoing to be a true copy of a Resolution adopted by the said Morris Plains Planning Board on the 16<sup>th</sup> day of January 2012, at a meeting duly convened by said body.

Mr. Zabihach moved that Planning Board Resolution 12-01 be approved, seconded by Mr. Nichols.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mr. Nichols, Mr. Novak,  
Mr. Zabihach, Mayor Druetzler

Absent: Mr. Sawoski, Mr. Underhill

Nays: None

**Motion carried.**

### **PLANNING BOARD RESOLUTION NO. 12-02 PROFESSIONAL SERVICES**

**WHEREAS**, the Planning Board of the Borough of Morris Plains desires to retain the services of a planning consultant, an engineer and an attorney to perform professional services as required for the year 2012; and

**WHEREAS**, the foregoing services are professional services as in N.J.S. 40A:11-2(6) which are permitted to be contracted without public bidding as set forth in

N.J.S.A. 40A:11-5(1)(a); and as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, the Board has determined that the value of each of the professional services will exceed \$17,500; and

**WHEREAS**, each of the professional consultants named below have completed and submitted a Business Entity Disclosure Certification which certifies that each firm has not made any reportable contributions to a political or candidate committee represented by a Board member in the previous one year, and that the contract will prohibit the below listed firms from making any reportable contribution through the term of the contract; and

**WHEREAS**, the Board has determined after due consideration that the following named individuals shall be appointed to fill the positions hereinafter designated:

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Morris Plains as follows:

1. The Board retains the services of the following to be compensated pursuant to the sums appropriated for the purpose in the duly adopted municipal budget for the year 2012:
  - a. Planning Consultant – William C. Denzler of William Denzler and Associates.
  - b. Engineer – Leon C. Hall of Anderson & Denzler Associates, Inc.
  - c. Board Attorney – Christopher H. Falcon, Esq. of Maraziti, Falcon & Healey
2. The Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and
3. The Board Secretary shall cause a copy of this Resolution to be published in accordance with N.J.S.A. 40A:11-5(1)(a)(i).
4. This Resolution shall take effect as provided by law.

I, Karen Coffey, Secretary of the Morris Plains Planning Board, in the County of Morris, and State of New Jersey, do hereby certify the foregoing to be a true copy of a Resolution adopted by the said Morris Plains Planning Board on the 16<sup>th</sup> day of January 2012, at a meeting duly convened by said body.

Mr. Nichols moved that Planning Board Resolution 10-02 be approved, seconded by Mr. Jensen.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mr. Nichols, Mr. Novak,

Mr. Zabihach, Mayor Druetzler  
Absent: Mr. Sawoski, Mr. Underhill  
Nays: None

**Motion carried.**

**PLANNING BOARD RESOLUTION NO. 12-03  
MINOR SITE PLAN COMMITTEE**

**BE IT RESOLVED** by the Planning Board of the Borough of Morris Plains in the County of Morris and State of New Jersey on this 16<sup>th</sup> day of January 2012:

1. The following individuals are hereby appointed to the Minor Site Plan Committee from the date hereof until December 31, 2012:

- a) Vince Novak, Chairman
- b) Hank Sawoski
- c) Donald Underhill

2. This resolution shall take effect as provided by law.

Mrs. Leach moved that Planning Board Resolution 12-03 be adopted as read, seconded by Mr. Jensen.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mr. Nichols, Mr. Novak,  
Mr. Zabihach, Mayor Druetzler

Absent: Mr. Sawoski, Mr. Underhill

Nays: None

**Motion carried.**

**PLANNING BOARD RESOLUTION NO. 12-04  
MASTER PLAN REVIEW COMMITTEE**

1. The following individuals are hereby appointed to the Master Plan Review Committee from the date hereof until December 31, 2012:

- a) Roman Zabihach, Chairman
- b) Andre Jensen
- c) Sydney Leach
- d) Leo Nichols

2. This resolution shall take effect as provided by law.

Mr. Novak moved that Planning Board Resolution 12-04 be adopted as read, seconded by Mr. Nichols.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mr. Nichols, Mr. Novak,

Mr. Zabihach, Mayor Druetzler  
Absent: Mr. Sawoski, Mr. Underhill  
Nays: None

**Motion carried.**

### **APPROVAL OF MINUTES**

Mr. Lopez stated the next agenda item is approval of the meeting minutes of the Regular Meeting on December 12, 2011.

Mr. Nichols moved that the minutes of the December 12, 2011 Regular Meeting be approved with revisions as noted: (1) on the last page 186 changing Mr. Nichols to Mr. Novak in connection with a Minor Site Plan Committee study being done; (2) Mr. Zabihach requested a change to the spelling of Ms. Li's last name in paragraph 9 on Page 184; and (3) The Board Secretary made a change on the opposite page 183 to correct the spelling of Mr. Falcon's last name, seconded by Mr. Zabihach.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mr. Nichols, Mr. Novak,  
Mr. Zabihach, Mayor Druetzler  
Absent: Mr. Sawoski, Mr. Underhill  
Nays: None

**Motion carried.**

### **CORRESPONDENCE AND BILLS**

Mr. Nichols read the vouchers for payment.

|   |                 |                 |
|---|-----------------|-----------------|
| <b>William Denzler &amp; Associates</b>                                 | <b>PO#86883</b> | <b>\$776.25</b> |
| For Professional Services rendered to the Planning Board, December 2011 |                 |                 |
| <b>William Denzler &amp; Associates</b>                                 | <b>PO#86868</b> | <b>\$862.50</b> |
| For Professional Services rendered to the Planning Board, November 2011 |                 |                 |

Mr. Nichols moved that these vouchers as read be approved, seconded by Mr. Jensen.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mr. Nichols, Mr. Novak,  
Mr. Zabihach, Mayor Druetzler  
Absent: Mr. Sawoski, Mr. Underhill  
Nays: None

**Motion carried.**

### **PB-6-11 Fresh Tortilla, 637-645 Speedwell Avenue Block: 65 Lot: 6**

Mr. Lopez stated this application is on tonight's agenda for memorialization of the Resolution.

Mr. Falcon read this Resolution into the record.

A copy of this Resolution is attached and on file in the Board Secretary's office in the Planning Board's Resolution Book.

Mr. Nichols moved that this Resolution be approved, seconded by Mayor Druetzler.

The Board Secretary advised that the Applicant had inquired about issues relating to electrical service. She also advised a new furnace has been installed.

Mayor Druetzler advised that he and Mr. Underhill visited the site. He reported that the trees had been trimmed, there was a landscaper performing work and the site was significantly cleaned up.

Roll Call

Yeas: Mr. Jensen, Mrs. Leach, Mr. Lopez, Mr. Nichols, Mr. Novak,  
Mr. Zabihach, Mayor Druetzler

Absent: Mr. Sawoski, Mr. Underhill

Nays: None

Motion carried.

## **COMMITTEE REPORTS**

### **Minor Site Plan Committee**

Mr. Novak advised of a discussion with Mr. Salerno, Zoning Official. He is working on a procedure while awaiting additional information. It is hoped he will be available to give a presentation to the Board at its February meeting.

### **Master Plan Review Committee**

Mr. Zabihach advised there is nothing to report at this time.

## **OLD BUSINESS**

### **Escrow Report**

The Board Secretary reported that all matters are in good shape.

Mayor Druetzler asked two questions of the Professionals. Is American High Tech Park being taken over by Waterview and can certain paperwork be sent back to them?

Mr. Hall stated this is a good question and he is not certain that conditions are transferable to Waterview, such as deeds and easement dedication(s). The documentation has not yet been perfected so he does not know it falls to American High Tech Park or Waterview. He believes this is a decision for the Board Attorney.

Mr. Falcon advised that if the new owner has taken over all of the responsibilities of the prior Resolutions, then it would fall to the latest Applicant.

Mr. Hall stated that then compliance with the previous Resolution(s) is the latest Applicant's responsibility.

Mr. Falcon stated yes.

Mr. Hall commented further on several outstanding conditions of the original Resolution.

Mayor Druetzler recommended waiting a month or so to learn when it closes. He then asked about ACP of Morris Plains.

Mr. Hall responded he has to double check escrow issues on this. He needs to check the Resolution. He will do so and report back to the Board as to his findings with regard to ACP of Morris Plains.

Cross discussion regarding issues relating to JMF and American High Tech.

Mr. Hall commented on an 900 American Road LLC site plan for an office building/warehouse flex. The approval is approaching its five-year protection period in connection with zoning changes and changes in the Site Plan Ordinance. The protection will be expiring at some time in 2012. Site approval is usually for three years plus two one-year extensions. Their five-year window is about to end. They have never perfected their approval, and he had a list of many conditions. The site plan approval is good forever, but its protection from zoning and site plan changes expires within five years.

Mr. Falcon raised the subject of the Permanent Extension Act.

Mr. Hall stated it is his understanding that this Act does not apply in a municipality covered under the Highlands Water Protection Act. This includes the Highlands Planning Area. Morris Plains is covered under the Highlands Water Protection Act since it is located within the Highlands Planning Area.

Mr. Falcon asked Mr. Hall if he believes there are any issues that would affect this situation.

Mr. Hall responded yes, steep slopes, soil disturbance, and riparian zone issues.

Mayor Druetzler commented that he recollects that when the steep slopes, soil disturbance, and riparian zone regulations were adopted, it was asked whether these would affect anyone in the Borough. The answer at that time was no. How does it now possibly affect a property?

As to the riparian regulation, Mr. Hall explained that it will depend on the classification of a water body. He provided details of what this regulation covers and how to obtain additional information on an internet website.

Mayor Druetzler commented on the need for future similar decisions to attempt to create a greater pro-business environment. This Applicant's building on American Road is roughly 80 percent vacant. It's not likely this Applicant would come before the Board any time soon with an application to construct another building. Fischer Scientific recently vacated Building 5 on American Road to relocate to Pennsylvania. He cautioned the Board to remember how these kinds of business relocations and land use issues can/do negatively affect the Borough's ratable base. The consequences affect the taxpayers. The Borough will be fair with businesses, but at the same time do not want to unduly burden businesses.

Continuing, Mayor Druetzler commented on the strip mall belonging to Mr. Eddie Kloss on Route 10 East and that he now has six of the seven small stores at this mall with tenants. In his drives around the surrounding vicinity, based on what he has observed in other shopping center/strip mall areas, he believes the economy continues to create a very difficult business atmosphere.

Cross discussion concerning Board members overall assessment of the challenges facing Borough and area retail business difficulties, including hearing of various stores moving out of malls located in other municipalities. Brief discussion of the Pfizer/Johnson & Johnson properties.

Mrs. Leach commented on what she has heard regarding the existing Shop-Rite in Morris Plains as well as the new planned Shop-Rite to be located in the Horsehill Road vicinity.

Mayor Druetzler commented on attempts to forecast successful businesses of the future. He believes that businesses where customers can easily buy directly from the internet such as furniture stores, carpet stores as well as many others will continue to experience serious challenges. Businesses providing services most likely will be the business survivors of the future. These businesses would include restaurants, hair salons and the like.

## **NEW BUSINESS**

Mr. Zabihach stated he will be attending a special meeting on Wednesday night of a six-county coalition at the Freeholder Public Meeting Room. The purpose of this meeting is to hear the concerns of the citizens group, Corporate Measures. The group is questioning the proposed final State drafts of the strategic plan. This plan will impact the Borough if adopted. While he has not seen the proposed plan, he believes it is more business oriented. He is curious to learn what the group's concerns are and why. He will report back to the Board.

There being no further business, Mr. Zabihach moved the meeting be adjourned, seconded by Mrs. Leach. Voice vote. All in favor. Motion carried.

Karen M. Coffey  
Commission Secretary

Maureen Sullivan  
Recording Secretary