



## **TOWN OF CLINTON**

INCORPORATED APRIL 5, 1865

43 Leigh St., P.O. Box 5194

Clinton, N.J. 08809-5194

(908) 735-8616 FAX (908) 735-8082

### **PLANNING BOARD**

Minutes of the Town of Clinton Planning Board held on October 6, 2009 at 7:30pm in the Municipal Building at 43 Leigh Street Clinton, New Jersey 08809

Chairman Gallagher called the meeting to order at 7:30pm and read the "Administrative Statement" and the "Statement of Adequate Notice":

"Meetings are held on the first Tuesday of each month. Applications must be filed at least 21 days prior to the meeting date. In order to ensure that all applications receive complete and thorough consideration of the board, all meetings will adjourn no later than 10:30pm with all items not concluded to be carried over to next month's agenda".

"Adequate notice of this meeting has been provided indicating the time and place of the meeting with the proposed agenda, which notice was posted, made available to the newspapers and filed with the clerk of the Town of Clinton in accordance with Section 3(d) of the Public Laws of 1975".

#### **Oath of Office:**

Mr. Walter Hetzel and Mr. Matt Perez were previously sworn in as new Planning Board Members. Mr. Hetzel replaced Mr. Paul and Mr. Perez replace Mr. Baka.

#### **Roll Call:**

**Present:** Gallagher, Hendricksen, Hetzel, Insel, Maher, McGuire, Perez, Rogan, Trepkau

**Absent:**

Mr. Robert Clerico and Mr. Carl Hintz were present.

#### **Approval of Minutes:**

A Motion was made by Mrs. Insel, seconded by Mr. Maher, to approve the September 1, 2009 minutes:

**All Ayes.**

**Motion Carried.**

**Abstain:**

**Hendricksen, McGuire, Hetzel, Perez**

#### **Discussion of recent flood activity:**

Mr. Clerico reported to the board that after the rainfall of August 21, 2009 the Council asked Mr. Clerico to document the high water marks in town and compare the new findings with the FEMA flood maps that the town uses. The FEMA flood maps were updated on September 26, 2009 using a digital format. Mr. Clerico outlined his findings in his report to the Board dated September 1, 2009. Mr. Clerico stated the flood elevations that occurred along the Beaver Brook are consistent with the 100-year base flood elevation predicated and established by the FEMA Mapping. Mr. Clerico broke down his observations of the watermarks by sections that were affected in town. The Upper section (New Street- RT 78) were a half-foot to a foot higher than predicated by FEMA. The second section (Leigh Street to New Street) was at a lower level than what FEMA predicated. The third section (running along the South Branch of the Raritan to Leigh Street) was one half to one foot higher than predicted. The fourth section ( South Branch between Old Route 22 and Main Street) was one foot lower than what FEMA predicted. Mr. Clerico stated that there is not enough information to positively say this was a 100-year storm but based on his observations the rainfall of August 21, 2009 reacted as if it were a 100-year storm.

Chairman Gallagher inquired if there were any recommendations that could be imposed on future applicants. Mr. Clerico stated if an applicant is working in a regulated area the applicant would have to adhere to state regulations. State and FEMA have different regulations one option would be to compare both and adopt under town ordinances the stricter regulations. Mr. Hendricksen commented that in the best interest and to protect homeowners against a 100- year flood that it would be a good idea to look at the state regulations versus the FEMA mapping.

**Highlands Discussion and Recommendation:**

Mr. Hintz stated he was here tonight to go over any final questions the board might have and he handed out an information sheet on the Pros and Cons of opting into the Highlands, which Mr. Hintz went through each Pro and Con. Mr. Hintz stated that in order to receive the COAH extension until next June the Town must make a decision whether to opt in to the Highlands Master Plan by December 8, 2009. If the Town decides not to opt in, then the Round Three COAH plan is due by December 2009.

Mr. Gallagher inquired what the restrictions are if we do not opt in, Mr. Hintz stated the Preservation area is automatically subject to Highlands, the Planning area would be planned through the town and the town would have to meet the higher COAH numbers. Mr. Hintz stated that if we opted into the Highlands any application in the planning area would include a more detailed town checklist, which would include the Highlands requirements. The Highlands would review the application before the Planning Board deemed the application complete and the Highlands would have 15 days to override any Planning Board approval.

Mr. Hendricksen stated the Environmental Impact Statement would have additional requirements that Highlands would require. The Highlands Land Use Ordinance would be an additional document in addition to the Town's Ordinance and the two ordinances should work together.

Mr. Rogan inquired if the town opted into the Highlands would it negatively impact what the town has planned for the tracts of vacant land, Mr. Hintz replied some tracts may or may not be impacted.

Mr. Trepkau stated the reduction in COAH numbers is the biggest Pro, and the Con would be more regulations.

Mrs. Insel stated the fiscal responsibility would be reduced substantially if we were in the Highlands.

Mr. Hendricksen stated that under COAH's plan the number of affordable housing units the town would have to provide is unrealistic, cutting the number to a third under the Highlands plan makes opting in more palatable. In addition, Highlands will give us another level of protection.

Chairman Gallagher questioned if the Town would be giving up local authority to reduce numbers. Mr. Hendricksen stated the Highlands Ordinance is not telling Clinton how to zone the town, just gives additional restrictions such as environmental which can be beneficial to a municipality. The idea behind the Highlands is to protect drinking water in New Jersey. Chairman Gallagher commented the town's water is provided by wells. Mr. Hintz stated the water restrictions are based upon the wells we have now. Mr. Hintz advised the board that he attended a meeting today regarding the new well Clinton wants to install and the Highlands agreed to work with the town and their consultants to come up with a schedule later this year for the Highlands to review.

Mr. Hetzel stated water is a huge issue in the years to come, many surrounding towns have numerous septic systems and we don't want them leaking into our wells.

Mr. McGuire stated COAH and Highlands are two different organizations. One is Pro-sprawl and the

other is anti-sprawl. COAH has come up with a uniform plan that distributes housing that is unrealistic and it is his opinion Highlands is the lesser of two evils.

Chairman Gallagher inquired if the Town opted in can you opt out at a later date, Mr. Hintz responded that you would be able to opt out however any money given to the town to help with ordinance changes may have to be returned.

Mrs. Insel stated a lot of the Highland's regulations are what applicants have to adhere to now in regard to State DEP requirements.

Mr. Rogan stated the biggest pro is the COAH reduction, legal shield and grant availability and it seems the restrictions the Highlands will impose will compliment the town. Mr. Rogan recommends opting in.

Mr. Maher recommended opting in. Some of the components of the Town's Master Plan were to put in some restrictions, which will already be in place under the highlands. Funding and the COAH numbers are positive.

Mr. Hetzel commented that the Industrial Tract has been reduced by 80% under the Highlands Protection Zone designation whether we opt in or not, and if we opt in under COAH then we may need to develop the Moebus tract to meet COAH's numbers.

A Motion was made by Mr. Maher, seconded by Mrs. Insel, to open the meeting to the public:

**All Ayes. Motion Carried.**

Whitney Wetherill, 36 West Main Street, commented that if you have legal protection through Highlands then a builder will think twice on implementing a builder remedy lawsuit, also with lower COAH numbers they can be intermixed throughout the town instead of lumping them all together, which makes for better planning of the town.

Attorney Walter Wilson stated he represents the owner of Moebus Tract and the Twin Ponds developer. Attorney Wilson advised the board the owner of Moebus tract is developing a plan for the property, which would be seriously impacted by the Highlands which will result in loss of property that invariably a lawsuit will be considered. The current proposal is a mix of single family with a few multi family buildings, which also incorporates affordable housing. The serious impacts of the Highlands on the project would result in the elimination of the single family homes, the buffer requirements would be increased from 150 to 300 feet, the developer would not be permitted to extend water, which the main is already completed under Route 31 waiting to be hooked up. Sewer service would not be permitted, the site would be limited to septic systems. Attorney Wilson wanted the board to keep in mind the affordable housing number under Highlands is based on Round Three only and the Town is still obligated to satisfy any remaining units from Round one and two and that eventually there will be a round four. Attorney Wilson added Highlands is a regulatory authority that thwarts economic development. He suggested the board take a step back there are a lot of issues that the board still needs to consider that may come back to hurt the town later.

There being no further questions, a Motion was made by Mr. Hendricksen, seconded by Mrs. Insel, to close the meeting to the public.

**All Ayes. Motion Carried.**

Chairman Gallagher commented that he was originally in favor of the Highlands but after further research and speaking with State Representatives and other professionals he believes opting in will take away local planning. The economics of the plan is only one aspect. Chairman Gallagher stated he respects everyone's opinion tonight, but that being said he needs further guidance and doesn't feel he can take the step tonight. Chairman Gallagher inquired if we provide COAH with our third round numbers by December can we still decide to opt into the Highlands next year. Mr. Hintz stated no the decision has to

be made by December 8, 2009.

A Motion was made by Mr. Rogan, seconded by Mr. McGuire, to recommend to Council the Town opt into the Highlands Master Plan.

The majority of the board agreed the reduced COAH numbers are a benefit, the town will benefit from added protection, and quality of life will be better protected. Chairman Gallagher commented he finds it hard to be in favor of the Highlands Plan, he has a serious objection of taking away local planning and is opposed to the town opting in at this time.

**ROLL CALL VOTE:**

Ayes: Hendricksen, Hetzel, Insel, Maher, McGuire, Perez, Rogan, Trepkau

Nays: Gallagher

**8-1 Motion Passed.**

**Committee Appointments:**

Chairman Gallagher appointed Mr. Hetzel and Mr. Perez to the Master Plan Committee.

**Voucher Approval:**

A Motion was made by Mrs. Insel, seconded by Mr. Hetzel to approve the voucher list:

**All Ayes. Motion Carried.**

Due to election night the next scheduled meeting for the Planning Board will be Tuesday November 17, 2009.

There being no further business a Motion was made by Mr. Hetzel, seconded by Mr. Perez, to adjourn the meeting at 10:40pm.

Respectfully submitted,

Allison Witt  
Land Use Administrator