

TOWNSHIP OF WASHINGTON (WARREN COUNTY)
AGENDA
SPECIAL JOINT MEETING
WITH WASHINGTON TOWNSHIP LAND USE BOARD
Thursday, December 3, 2009
7:30 p.m.

This meeting is being held in compliance with the Open public Meetings Law of 1975 in as much as a notice has been published in the Star Gazette, transmitted to the Express Times, posted at the Municipal Building and a copy is on file in the Clerks Office

CALL MEETING TO ORDER
OPEN PUBLIC MEETING ACT
SALUTE TO FLAG
ROLL CALL

DISCUSSION

Joint Meeting with Washington Township Land Use Board for the purpose of 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 and adopt a Township Committee Resolution of Petition for Plan Conformance in accordance with the Highlands Act.

RESOLUTIONS

09-158 Washington Twp. 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

PUBLIC QUESTIONS & CONCERNS

ADJOURNMENT

JOINT MEETING
WASHINGTON TOWNSHIP COMMITTEE
AND
WASHINGTON TOWNSHIP LAND USE BOARD
DRAFT PUBLIC MEETING MINUTES DRAFT

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 Sodalbers, 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. 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 this has been litigated, and 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. Sodtalbers 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 not upheld in the Courts. He indicated he believed the Township is protected by the proposed resolution.

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.

TOWNSHIP OF WASHINGTON, WARREN COUNTY

Special Meeting
December 3, 2009

The special meeting of the Washington Township Committee and Washington Township Land Use Board was held this date in the Washington Township Municipal Building located at 211 Route 31 North, Washington, N.J. The meeting was called to order at 7:39 p.m. by Mayor Samir Elbassiouny

SUNSHINE LAW COMPLIANCE - The Mayor noted that this meeting was being held in compliance with the Open Public Meeting Law of 1975 in as much as a notice had been published in the Star Gazette, transmitted to the Express Times, posted at the Municipal Building and a copy is on file in the Clerks Office. This agenda is subject to change by order of the Washington Township Committee before and/or during the scheduled meeting. The purpose of this meeting was for the purpose of a public hearing to present, discuss and accept public comments on the DRAFT Highlands Council Regional Master Plan Element of the Washington Township Master Plan and adopt a Township Committee Resolution of Petition for Plan Conformance in accordance with the Highlands Act.

ROLL CALL: Elbassiouny, present; Mueller, present; Strunk, present. Klingel (8:15 p.m). Kovacs was absent. Peter de Boer, Township Administrator and Anna Godfrey, Deputy Clerk were also present.

ROLL CALL BY LAND USE BOARD: Artigliere, present; Howell, present; Vergos, present; Sodtablers, present; Finke, present. Christine, Rossi, Cavazzini and Zaret were absent.

SALUTE TO FLAG

Scarlett Doyle, Land Use Board Planner, said the first act of the evening would be a discussion and vote by council on the petition for Planning Conformance. Washington Township is in two portions of the Highlands Region, Preservation and Planning. The resolution before Council will be dealing with the Preservation Area. It is premature to make a fully informed decision on the Planning Area.

Strunk asked if the Township did not pass the resolution, would that open the Township up to COAH Regulations? Land Use Attorney Steve Gruenberg said yes. The Mayor said the resolution would protect the Township and give them a way out.

The Land Use Board had a brief discussion on how this would work for farmers and residents. The Mayor said that no one really thinks this is just, however the Township Committee as the governing Body must vote on the resolution.

The Mayor opened the discussion to the public.

Committeeman Robert Klingel came into the meeting at 8:15 p.m.

Jim Kelsey, Independence Township and member of Land Use Board, Hank Klump, Tewksbury Township, and David Shope, Long Valley, gave both written and verbal dissertations urging the Township Committee to turn down the resolution to join the growing list of communities to oppose these Highlands Deadlines and Regulations.

Cheryl Burket asked Scarlett Doyle what would change if the Township went with this on an environmental standard. She said all of the large pieces of land are already preserved. Eric Sodtablers, Land Use Board Member, said this is not correct. There are many farms that are not preserved and there is a large piece of land in the Township that is not preserved. Burket said we must really watch water resources.

Al Ivany said he wanted to provide information regarding the Pohatcong Valley Super Fund Site, even though most of it is not in the highlands, which he handed to the Committee. He wanted to make everyone aware of how this could effect the township in the future.

The Mayor asked if anyone else wished to be heard, nobody did. Strunk made a motion to close the Township Committee Portion of the Public Hearing, Mueller seconded.

ROLL CALL: Mueller, yes; Strunk, yes; Klingel, yes; Elbassiouny, yes.

A motion was made by a Land Use Board Member to close the public hearing, which was seconded. All were in favor.

Steve Gruenberg, Land Use Attorney, gave a wrap up, Highlands does provide legal representation to the Townships that opt to go into Planned Conformance. No one knows just how much representation they will give, because no one has had to use them. This is a State Regulation that the Township has to opt into, so they should provide legal representation. Klinge asked if this Resolution is recommended by the State. Scarlett Doyle said she had spoken with Christine Danis, Highlands Council Representative for this area and told them this was on the schedule. She advised her that the Committee could not agree with certain things and she advised what the modifications were in the resolution.

Land Use Board Members Sodtablers, Finke and Vergos gave reasons to the Township Committee why this resolution should be turned down.

Artigliere, Chairman of the Land Use Board, said that all of these issues have already been raised in litigation and he thinks the resolution protects the Township if there are additional problems. As much as we like to ignore laws that we do not like, we should consider the costs and ramifications if we do not adopt this resolution. We cannot ignore the laws that we do not like. Klingel said his concern was without the resolution the State down the line can dictate to us how we should run our municipalities. He wants to protect the Township.

There was a lengthy discussion regarding the pros and cons of passing the resolution. After the discussion, Strunk made a motion to approve Resolution 09-158, Washington Township 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, Klingel seconded.

ROLL CALL: Mueller, no; Klingel, yes; Strunk, yes; Elbassiouny, yes.

There being nothing further to come before the Committee, Klingel made a motion to adjourn at 9:11 p.m., Mueller seconded.

ROLL CALL: Klingel, yes; Mueller, yes; Strunk, yes; Elbassiouny, yes.

Respectfully,

Mary Ann O'Neil RMC/CMC/MMC
Township Clerk

The minutes are from a recording of the meeting and have not been approved by the Committee. They will be approved at the next regular Township Meeting on Tuesday, December 15, 2009.