

**LAND USE BOARD MINUTES**  
**January 7, 2015**

The Tewksbury Township Land Use Board met in a regularly scheduled meeting on the above date in the Municipal Meeting Hall, 60 Water Street, Mountainville, New Jersey. The meeting was called to order at 7:30 p.m.

Present: Blake Johnstone, Mary Elizabeth Baird, Shaun Van Doren, Dana Desiderio, Bruce Mackie, Shirley Czajkowski, Ed Kerwin, Michael Moriarty, Robert Becker, Ed D’Armiento, Alt. #1, Kurt Rahenkamp, Alt. #2, Glenn Stein, Alt. #3, and David Larsen, Alt. #4.

Also present: Daniel Bernstein, Land Use Board Attorney, William Burr, Land Use Board Engineer, Chuck McGroarty, Land Use Board Planner and Shana L. Goodchild, Land Use Administrator.

Absent: None

There was no one in the audience.

**OPEN PUBLIC MEETING ACT STATEMENT**

Ms. Goodchild opened the meeting by announcing that adequate notice of the meeting had been provided by posting a copy thereof on the Police/Administration Building bulletin board, faxing a copy to the Hunterdon Review and the Hunterdon County Democrat, and filing with the Municipal Clerk, all on December 11, 2014.

**PLEDGE OF ALLEGIANCE**

Those present stood and pledged allegiance to the American flag.

**REORGANIZATION**

Ms. Goodchild announced the following appointments to the Land Use Board for the year 2015:

Shaun Van Doren	Class 1 - Mayor rep.	1 year
Shirley Czajkowski	Class 2 - Township Official	1 year
Mike Moriarty	Class 4- citizen	4 years
Mary Elizabeth Baird	Class 4- citizen	4 years
Bruce Mackie	Class 4 Env. Comm. rep	3 years
Ed D’Armiento	Class 4 Alt #1	2 years
David Larsen	Class 4 Alt #4	2 years

**NOMINATION OF OFFICERS**

➤ Chairman

Ms. Goodchild opened the meeting up for nominations for the Office of Chairman. Mr. Blake Johnstone received the single nomination by motion of Mrs. Baird, seconded by Mr. Becker. Mr. Van Doren moved that nominations be closed and a unanimous ballot be cast electing Blake Johnstone as the 2015 Land Use Board Chairman. Mrs. Baird seconded that motion. All were in favor.

➤ Vice Chairman

Mr. Johnstone opened the meeting up for nominations for the Office of Vice Chairman. Mrs. Mary Elizabeth Baird received the single nomination by motion of Mr. Johnstone, seconded by Mr. Van Doren. Mr. Van Doren moved that nominations be closed and a unanimous ballot be cast electing Mary Elizabeth Baird as the 2015 Land Use Board Vice Chairman. Ms. Desiderio seconded the motion. All were in favor. Mrs. Baird abstained.

**APPOINTMENTS**

➤ Secretary

A motion was made by Mr. Johnstone and seconded by Mrs. Baird to appoint Shana Goodchild as the 2015 Land Use Board Secretary. All were in favor.

➤ Ordinance Reviewer

A motion was made by Ms. Desiderio and seconded by Mr. Moriarty to appoint Bruce Mackie as the 2015 Ordinance Reviewer. All were in favor. Mr. Mackie abstained.

Mr. Johnstone wished everyone a successful year.

**RESOLUTIONS**

➤ Resolution No. 15-01 – Official Newspaper and Meeting Dates

The following resolution was adopted by motion of Mr. Van Doren and seconded by Mr. Becker. The motion carried by the following roll call vote:

**LAND USE BOARD  
TOWNSHIP OF TEWKSBURY  
RESOLUTION NO. 15-01**

WHEREAS, the Open Public Meetings Act, Chapter 231, P.L. 1975, requires that certain notices of meetings be submitted to the press and other interested persons.

NOW, THEREFORE, BE IT RESOLVED, by the Land Use Board of the Township of Tewksbury, County of Hunterdon, State of New Jersey, as follows:

1. The schedule of regular meetings of the Land Use Board for 2015 is hereby approved.
2. The Secretary is designated as the person responsible for the distribution of the following list of regular meetings and those other than regular meetings to those persons and newspapers that request same.

January 7 and 21	July 1 and 15
February 4 and 18	August 5 and 19

March 4 and 18  
April 1 and 15  
May 6 and 20  
June 3 and 17

September 2 and 16  
October 7 and 21  
November 4 and 18  
December 2 and 16

3. The Secretary is also designated as the person responsible for posting the list of regular meetings and notice of any other meetings on the bulletin board in the Municipal Building and filing same in the Municipal Office.

4. The Hunterdon Review, Hunterdon County Democrat, Star Ledger and Courier News are hereby designated to receive all notices of meetings as required under this Act, as it is determined that these are newspapers which would fulfill the requirements of the Act.

5. Requests for notice made by interested persons and news media shall be granted without cost.

6. This resolution shall take effect immediately.

#### **ROLL CALL VOTE**

Those in Favor: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mr. Becker, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. D'Armiento, Mr. Rahenkamp, Mr. Stein, Mr. Larsen and Mr. Johnstone

Those Opposed: None

➤ Resolution No. 15-02 – Professional Services Contract (Attorney/Engineer/Planner)

The following resolution was adopted by motion of Mr. Van Doren and seconded by Mrs. Baird.

Mr. Larsen noted that it is not required to go out to bid and opined that references to bidding should be stricken from the resolution so it is less confusing to residents. Mr. Bernstein didn't have a concern with the resolution either way. Mr. Van Doren noted that the township wouldn't necessarily take the lowest bid for professional services so he felt that the language in the resolution alludes to that fact. Since no one has ever questioned the language, Mr. Johnstone suggested that the language remain. The motion carried by the following roll call vote:

#### **LAND USE BOARD TOWNSHIP OF TEWKSBURY RESOLUTION NO. 15-02**

WHEREAS, there exists a need for a (a) Land Use Board Attorney, (b) Land Use Board Engineer and (c) Land Use Board Planner

WHEREAS, the local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the award of contracts for “Professional Services” without competitive bids must be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED by the Tewksbury Township Land Use Board, County of Hunterdon, State of New Jersey, as follows:

2. The Land Use Board Chairman and Secretary are hereby authorized and directed to execute an agreement with the following:
  - a. Daniel S. Bernstein of Bernstein & Hoffman, Land Use Board Attorney
  - b. William Burr of Maser Consulting, Land Use Board Engineer
  - c. Chuck McGroarty of Banisch Associates, Land Use Planner
3. These contracts are awarded without competitive bidding as a “Professional Service” under the provisions of the Local Public Contracts Law because these are recognized professionals licensed and regulated by law and it is not feasible to obtain competitive bids.
4. A copy of this resolution shall be published in the Hunterdon County Democrat as required by law within ten days of its passage.

ROLL CALL VOTE:

Those in Favor: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mr. Becker, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. D’Armiento, Mr. Rahenkamp, Mr. Stein, Mr. Larsen and Mr. Johnstone

Those Opposed: None

- Resolution No. 15-03 – Appointment of Application Review Committee

The following resolution was adopted by motion of Mr. Van Doren and seconded by Mrs. Baird.

Mr. Larsen questioned the reference to an employee of the Land Use Board and opined that it should be changed since the Land Use Board members are not compensated. Ms. Goodchild noted that the Application Review Committee is comprised of the Land Use Board Engineer, Land Use Administrator and the Zoning Officer. Mr. Van Doren noted that the resolution, in its current form, does not allow a Land Use Board member to sit since a Board member does not fall under the definition of an employee of the Land Use Board or the Township. He added that Ms. Goodchild is technically an employee of the Land Use Board and the Township budgets for her salary; the Land Use Board has the ability to appoint her separate and apart from her position as the Land Use Administrator. The motion carried by the following roll call vote:

**LAND USE BOARD  
TOWNSHIP OF TEWKSBURY**

**RESOLUTION NO. 15-03**

**RESOLUTION**

WHEREAS, the Land Use Board of the Township of Tewksbury has reviewed at public hearings the completeness of applications which have been submitted to the Board, and

WHEREAS, it is difficult to make a completeness review at a public hearing while applicants, interested residents, and their professionals are awaiting public hearings, and

WHEREAS, N.J.S.A. 40:55D-10.3 states that a municipal agency “or its authorized committee or designee” shall certify that an application is complete or that it lacks information required on a checklist, and

WHEREAS, the Land Use Board finds that it is appropriate for the Land Use Board Chairman to appoint an **Application Review Committee**, to determine completeness, comprised of two employees of either the Land Use Board or the Township.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Township of Tewksbury on this 7th day of January, 2015, that the Land Use Board Chairman be authorized to appoint an **Application Review Committee** for the Land Use Board and for the purposes of determining the completeness of application for development. The Application Review Committee shall be comprised of the Land Use Board Engineer, and two employees of either the Land Use Board or the Township.

Roll Call Vote:

Those in Favor: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mr. Becker, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. D’Armiento, Mr. Rahenkamp, Mr. Stein, Mr. Larsen and Mr. Johnstone

Those Opposed: None

**CLAIMS**

Mr. Johnstone asked the Board if there were any questions or comments regarding the following claims to which the response was negative. Ms. Desiderio made a motion to approve the claims listed below and Mr. Becker seconded the motion. The motion carried by the following roll call vote:

1. New Jersey Planning Officials – 2014 Dues – invoice #MPJ-207262014 (\$315.00)
2. Maser Consulting – Land Use Board General Land Use Work, invoice #260032 (\$130.00)
3. Maser Consulting – Land Use Board Escrow – Reed (B45, L6.21), invoice #260033 (\$65.00)
4. Maser Consulting – Land Use Board Escrow – Green Power Energy (Becker) (B31, L7.03), invoice #260034 (\$1,235.00)

5. Suburban Consulting Engineers, Inc. – Land Use Board Inspection – Halsey Farm (B32, L7), invoice 000000023491 (\$1,510.70)
6. Suburban Consulting Engineers, Inc. – Land Use Board Inspection – Johnson (B23, L4, 20 & 36), invoice 000000023485 (\$683.75)

Roll Call Vote:

Those in Favor: Mrs. Baird, Mr. Van Doren, Ms. Desiderio, Mr. Mackie, Mr. Becker, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin, Mr. D’Armiento, Mr. Rahenkamp, Mr. Stein, Mr. Larsen and Mr. Johnstone

Those Opposed: None

**CORRESPONDENCE**

A motion was made by Mr. Van Doren and seconded by Ms. Desiderio acknowledging receipt of the following item of correspondence. All were in favor.

1. Memorandum from Jess Landon dated January 5, 2015 re: volunteer orientation.

Mr. Johnstone encouraged Board members to attend the volunteer orientation.

**PUBLIC PARTICIPATION**

Mr. Johnstone asked the public if there were any questions or comments regarding anything not on the agenda. There being no comments or questions, Mr. Johnstone closed the public participation portion of the meeting.

**PUBLIC HEARING – CONTINUED TO 2/18/15 IN MOUNTAINVILLE**

- Cellco Partnership d/b/a Verizon Wireless & Global Tower  
Appl. No. 13-03  
Block 44, Lot 26  
Conditional Use, Site Plan and Variance (Use variance due to deviation from condition use standards)  
**Action Deadline – indefinitely**

Mr. Johnstone noted that the public hearing will be continued to February 18, 2015 in Mountainville and no new notice will be provided.

**LAND USE BOARD DISCUSSION ITEMS**

- Dan Bernstein to discuss Land Use Board jurisdiction and powers

Mr. Bernstein noted that one reoccurring issue is conflict of interest issues. A Board member that has a business or personal relationship with an applicant, lives within 200 feet of the site, is a member of an organization that has a position on the application or is affiliated with the attorney/professional representing the applicant should recuse themselves from the application so as not to jeopardize the case. He noted that he prefers Board members not to speak at hearings but rather have a neighbor or spouse speak instead. Mr. Bernstein explained that the Board is quasi judicial and therefore members act like judges. Because the Board is quasi judicial

members are sometimes approached by residents but the proper approach is to not speak on the matter otherwise it could disqualify a member from sitting for the application. While the MLUL does not require a Board member to give reasons for voting, Mr. Bernstein opined that a Board member should give reasons for the way they vote as he feels the public and the applicant have the right to know. Mr. Johnstone agreed and opined that it is good in times of litigious cases because the courts generally want to see the basis of the Board's decision.

➤ Recommendation re: Inspection of stormwater facilities (drywells)

Ms. Goodchild reminded Board members that the inspection issue was discussed at the December 17, 2014 meeting and the Board requested that Mr. Burr be prepared to discuss the issues of maintenance, etc. She noted that the Board discussed the issue in 2011 and it was concluded at that time that drywells should be inspected but the Board struggled with how to do it; require the homeowner to provide proof that it was inspected or the township would perform the inspection. The recommendation to the Township Committee was to perform the inspection at the time of the Zoning Inspection (the Continue Certificate of Occupancy Ordinance). It was discussed at the February Township Committee meeting but didn't gain much traction at that level. When asked what the recommended inspection frequency was in 2011, Ms. Goodchild responded every 3 to 5 years. When asked if there is a list of property owners with drywells, Ms. Goodchild explained that the list could be compiled from approved Grading and Surface Water Management Plans and variances that would have required dry wells. The list could then be used to send letters to those homeowners. When asked who would inspect the facility, Mr. Burr explained that it would depend on the type of facility, if it is drywell and the homeowner knows what they need to look for they are capable of doing the initial inspections. If it is something more mechanical in nature, an engineer or specialist may be required. When asked if there is a certificate that he has used in other towns that could be used as a template, Mr. Burr responded in the negative but indicated that he could prepare something for the Township. Mr. Burr noted that the Township should only be concerned with small homeowner projects because larger projects are regulated under the State Stormwater Rules. Mr. Burr explained that homeowner applications require a deed restriction that requires maintenance but it is unknown if the required maintenance is being performed. Mr. Burr noted that the Township should determine who will compile and maintain the list of homeowners and who will be responsible for outreach. Conversely, if the Township does the inspection who will inspect and how the cost will be covered. When asked by Mr. Moriarty how to determine if the drywell is failing, Mr. Burr noted that it is a bottomless concrete tank surrounded by stone and most of the time there is some type of manhole cover or cleanout similar to a septic tank. The lid would be removed and the inside of the tank inspected for standing water, debris or obstructions.

Mr. Johnstone suggested that Mr. Burr draft a checklist for use by homeowners for the Board to review at a future meeting. Mr. Johnstone suggested sending a letter out every 3 to 5 years asking the homeowner to complete the checklist. If they fail to complete and return the required documentation the Township will send someone out to perform the inspection at the homeowner's expense. Mr. Bernstein noted that the Township Committee would have to adopt an ordinance to require the inspection and certification process. Mr. Rahenkamp asked Mr. Burr to speak to the expense and work that goes into a remediation of a drywell if the inspection reveals that it is not working properly. Mr. Burr explained that it could be as simple as replacing

the stone around the concrete box or as complicated as replacing the entire system. Mr. Johnstone noted that the purpose of making sure it is working is so there is no negative impact for surrounding neighbors. Mr. Larsen suggested charging the homeowner a nominal fee, similar to the farmland assessment inspection, for the Township to inspect the drywell. Ms. Desiderio suggested adding something to approvals moving forward that would simplify the process. Mr. Moriarty noted that the Board requires drywells to minimize flooding downstream and for water recharge to the aquifer. When asked by Mr. Becker if he would suggest the inspection occur during a certain time of year such as the high rain season, Mr. Burr responded in the positive. Directing her question to Mr. Van Doren and Ms. Desiderio, Ms. Goodchild asked if the Township Committee will support an ordinance to establish the process. Mr. Van Doren opined there would be support but noted that there will be questions about who will handle the administrative process and the inspections; Mr. Van Doren agreed to bring it up to the Township Committee at a future meeting. When asked by Mr. Van Doren how she will compile the list, Ms. Goodchild explained that she has maintained a spreadsheet of the grading plans since the 2004 inception of the ordinance. She also maintains both paper and electronic files of all resolutions. When asked by Ms. Goodchild if any other town he works in performs drywell inspections, Mr. Burr responded in the negative.

➤ Volunteers for Ridgeline Ordinance Sub-committee

Mr. Van Doren noted that there are ordinances from other municipalities that the sub-committee will use as a starting point to craft an ordinance that will fit Tewksbury. Mr. Van Doren, Mr. Stein, Mr. Becker and Mr. Mackie volunteered to serve on the sub-committee. Ms. Goodchild agreed to compile ordinances and forward them to the sub-committee for review prior to meeting.

Ms. Goodchild asked Board members to contact her if they have any topics they would like to discuss or if there are any presentations/worksessions they would like to have from organizations such as ANJEC. Mr. Johnstone asked if it is worth having someone from the Highlands Council attend a meeting to discuss the status of the Highlands and how it is impacting Tewksbury. Mr. McGroarty noted that he is meeting with the Highlands staff tomorrow to review some concerns about the Highlands Preservation Ordinance; the draft ordinance has been reviewed and the Township has asked for changes. Mr. Van Doren noted that the Highlands Council is hosting a public forum January 14, 2015 at the Oldwick Fire Company soliciting public comments on the next iteration of the Highlands Master Plan. When asked by Mr. Mackie if there is other components of the Tewksbury Highlands Master Plan Element that could use some bolstering, Mr. McGroarty opined that it is pretty comprehensive.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 8:30 p.m. by motion of Mr. Moriarty and seconded by Ms. Desiderio. All were in favor.

Respectfully submitted,

Shana L. Goodchild  
Land Use Administrator