

Franklin Borough Planning Board
Meeting Minutes for
November 16, 2009

The meeting was called to order at 7:39 PM by the Vice-Chairman, Mr. Kevin Lermond, who then led the assembly in the flag salute.

Mr. Lermond read the Statement of Compliance pursuant to the "Open Public Meetings Act, Chapter 231, PL 1975."

ROLL CALL OF MEMBERS PRESENT: Mr. Christiano, Mr. Lermond, Mr. Zschack,
Mr. Suckey, Mr. Maugeri

ABSENT: Mr. Oleksy, Mayor Crowley, Mr. Cholminski

ALSO PRESENT: Mr. David Brady, Esq.
(Arrived Approximately 7:50)
Mr. Thomas G. Knutelsky, P.E.
Mr. Ken Nelson, P.P.
Mr. James Kilduff, Director

APPROVAL OF MINUTES:

Mr. Zschack made a motion to approve the **Franklin Borough Planning Board Meeting Minutes for October 19, 2009**. Seconded by Mr. Maugeri.

Upon Roll Call Vote:

AYES: Lermond, Zschack, Suckey, Maugeri

NAYS: None ABSTENTIONS: None

(Motion Approved)

Mr. Lermond said we don't have enough people to vote on the public meeting minutes of October 21, 2009, so we will pass that. Mr. Lermond asked if we need a motion for that. Mr. Kilduff said we will just carry it (until next month).

PAYMENT OF BILLS:

Mr. Suckey made a motion to approve the **Franklin Borough Planning Board Escrow Report for November 16, 2009**. Seconded by Mr. Christiano.

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Upon Roll Call Vote:

AYES: Christiano, Lermond, Suckey, Maugeri

NAYS: None ABSTENTIONS: Zschack

(Motion Approved)

DISCUSSION:

Sewer Service Area

Mr. Kilduff said the Board engineer, planner and himself met with the County Planning Director and Alice Brees to discuss the sewer service area. Mr. Kilduff said there is still a plan on the part of the DEP to drastically reduce the sewer service area within the Borough of Franklin. Mr. Kilduff said as a result of that meeting Mr. Knutelsky is working on some additional information to provide to the County and they will pass it on to the DEP.

Mr. Knutelsky said there are two specific items that he is working on with the County. The first is a GIS Shape File for certain projects that have been approved by the Borough. Mr. Knutelsky said along with that there will be a separate report, the supporting document that the County needs to convince the State to include the approved projects in the sewer service area. There was a discussion on the sewer service area and the DEP.

Ordinance Revisions

Mr. Kilduff said now that we have completed the work on our Master Plan Reexamination report and amendments, the next step in the process is to recommend changes to the ordinance that reflect what is in the new Master Plan and to recommend those to the Council. Mr. Kilduff said he met with Mr. Nelson to get a proposal together for doing this. Mr. Kilduff said there are some areas that will require discussion from the Board as to how they want to proceed. Mr. Nelson said one area that will require discussion is the two family provisions in the ordinance, to allow two family in selected areas of the Municipality. Mr. Nelson said that is included in the reexamination report as something to study. Mr. Nelson said we may come to the conclusion that we don't want to recommend that to the Council but that is the next step that we will have to take.

Mr. Kilduff referred to the zoning map. Mr. Kilduff said there are a dozen or so properties that we discussed and we made a lot of recommendations for changes on

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a number of those properties. Mr. Kilduff said his original thought was to do this all together as a package (but) if it is going to take too long with the ordinances it probably would be beneficial to get the Zone Map completed first. Mr. Kilduff said that could be done as a separate ordinance.

Mr. Lermond asked are we still working on other things like Plan Endorsement. Mr. Kilduff said we have Plan Endorsement and the next step in the process is the Municipal self assessment. Mr. Kilduff said at the same time we are working under the Highlands Grant, we have to do a self assessment for the Highlands Grant. Mr. Lermond asked how those projects affect the Board. Mr. Kilduff said we prepare the drafts but everything gets reviewed by this Board for approval prior to sending it off to the Mayor & Council for any action.

Mr. Kilduff reminded the Board members that he needs their Professional evaluation forms back.

CORRESPONDENCE:

Mr. Lermond asked Mr. Kilduff if he needs to walk them (the Board) through any of the correspondence. Mr. Kilduff said the correspondence is all self explanatory; we put it in there if it is something addressed or copied to the Board.

APPROVAL OF RESOLUTIONS:

PB-08-09-1 MD-3 LLC. Amended Preliminary and Final Site Plan, Block 28 Lots 4 & 11.

Mr. Zschack made a motion to approve the resolution for **PB-08-09-1 MD-3 LLC. Preliminary and Final Site Plan, Block 28 Lots 4 & 11.** Seconded by Mr. Suckey.

Upon Roll Call Vote:

AYES: Lermond, Zschack, Suckey, Maugeri

NAYS: None ABSTENTIONS: None

(Motion Approved)

Mr. Lermond said in our packets there was correspondence from Mr. Rappaport concerning MD-3 LLC speaking about the condition to update the Board. Mr. Kilduff said that just came in today. Mr. Kilduff said last month the Board said an

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appearance wasn't necessary tonight but the applicant should provide written correspondence as to the status of the project. Mr. Kilduff said the Board indicated that they wanted to see this project get started. Mr. Kilduff said the letter dated today is Mr. Rappaport's advice regarding what has been going on in the last month. There was a discussion about the time line, permits needed for MD-3 LLC, the landscaping that needed to be done and the possibility of a cash bond. Mr. Kilduff said he could send them a letter that if they haven't started construction within a month that the Board would like them to come back and explain why. Mr. Lermond asked if that was reasonable. The Board members agreed. Mr. Lermond said it looks like we have a consensus. Mr. Kilduff said he will remind them that they have six months from the date of adoption.

APPLICATIONS FOR COMPLETENESS:

APPLICATIONS TO BE HEARD:

PB-09-09-1 Ronetco Supermarkets, Extension of Preliminary and Final site Plan, Resolutions, 02-21-06, 04-21-08 and 01-20-09, Block 70 Lots 1.01 and 1.02.

Mr. Lawrence Litwin, attorney for the applicant, stepped forward. Mr. Litwin said they are here tonight to request a year extension of its preliminary and final site plan approval. Mr. Litwin said they don't have to ask for an extension on the subdivision approval because the subdivision has finally been perfected and the landlord has title to the land from Wal-Mart. Mr. Litwin said Ronetco hasn't had a chance to evaluate the plan to see what has to be done in terms of costs involved based on the economy because they have been focused on getting the land. Mr. Litwin explained the statute and why the extension should be granted. Mr. Litwin said we are at the pleasure of the Board because the statute doesn't really govern this case. Mr. Litwin referred to 40:55D-2a. and subsection m.

Mr. Lermond asked Mr. Brady if he agreed to that. Mr. Brady said yes. Mr. Lermond said then it is based upon our (the Board's) pleasure based on economic (conditions). Mr. Litwin added the size of the project and the economic climate that we are in plus the purposes of the land use statute.

Mr. Knutelsky said, based upon their original application and the current standards that are in effect right now, there has been no change that will affect their

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application. Mr. Knutelsky said he doesn't see any reason why it couldn't be granted based upon that fact. Mr. Nelson said he concurs with that. Mr. Maugeri asked how long are they asking for the extension. Mr. Brady said one year, it would run until the middle of December, 2010. Mr. Maugeri asked about the property they were acquiring from Wal-Mart. Mr. Litwin said it is approximately 50 feet wide by 400 feet long and that extends the back of the property. Mr. Litwin said once the property has that land next to it there would be enough room to do 20,000 plus or minus addition.

Mr. Lermond asked if this was the second or third extension. Mr. Brady said this is the third and final. Mr. Brady said all this does is extend the period of extension against zoning ordinance changes. Mr. Brady said it doesn't mean the site plan expires next year; the protection against zoning ordinance change will expire next year and that protection can not be extended.

Mr. Lermond said he thought he heard you say you haven't looked at the plans; you haven't had time to evaluate the plans because you have been focused on acquiring the land. Mr. Lermond said you don't know what plan you would build so we are extending an application on a plan that we saw three year's ago but that plan might change. Mr. Litwin said that plan might change. Mr. Lermond said what would happen if that plan changed. Mr. Litwin said then we would have to come back in. Mr. Litwin said it would start all over again. Mr. Lermond said unless you decide to do something different based on that plan it would presumed that you would build that plan. Mr. Litwin said correct.

Mr. Zschack made a motion to open to the public application **PB-09-09-1 Ronetco Supermarkets, Extension of Preliminary and Final Site Plan, Resolutions, 02-21-06, 04-21-08- and 01-20-09, Block 70 Lots 1.01 7 1.02**. Seconded by Mr. Maugeri. All were in favor.

No one from the public stepped forward.

Mr. Suckey made a motion to close to the public application **PB-09-09-1 Ronetco Supermarkets, Extension of Preliminary and Final Site Plan, Resolutions, 02-21-06, 04-21-08 and 01-20-09, Block 70 Lots 1.01 & 1.02**. Seconded by Mr. Zschack. All were in favor.

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Mr. Christiano made a motion to approve the extension for the period of one year for application **PB-09-09-1 Ronetco Supermarkets, Extension of Preliminary and Final site Plan, Resolutions, 02-21-06, 04-21-08 and 01-20-09**. Mr. Brady said that period would end December 18, 2010. Seconded by Mr. Maugeri.

Upon Roll Call Vote:

AYES: Christiano, Zschack, Suckey, Maugeri

NAYS: Lermond ABSTENTIONS: None

(Motion Approved)

ADJOURNED CASES:

PB-12-08-1 Braen Aggregates, Preliminary and Final Site Plan/Restoration Plan, Block 64 Lots 53, 56, 49.01 and 49.04.

Mr. Jerome Vogel, attorney for the applicant, stepped forward. Also present was Mr. Tessier, planner from Dykstra Associates. Mr. Vogel explained what happened at last months meeting.

Mr. Knutelsky said the applicant has addressed most of his comments; the only ones they haven't addressed is what he is going to cover tonight. Mr. Knutelsky referred to his revised report dated November 12, 2009, section B item #1 page 3, item e. for the reclamation plan. Mr. Knutelsky said the applicant revised the key map to show the correct scale. Mr. Knutelsky said he is looking for something a little different on the key map. Mr. Knutelsky said he wants to see a little greater area on the key map, so in future years, on the reclamation plan, everyone knows exactly where the quarry is in reference to other roads around. Mr. Knutelsky said he is looking for a revision on that. Mr. Tessier said we can do that, he understands what Mr. Knutelsky wants; it's more of a regional map to see where it is located.

Mr. Knutelsky referred to page 4 item F, in regards to dust control. Mr. Knutelsky said the applicant has indicated on the plans that it will be as per standards or whatever standards apply for these operations. Mr. Knutelsky asked what exactly is the process of dust removal. Mr. Tessier said on the cover sheet of the preliminary and final site plan there are dust control measures, there are five on there. Mr. Tessier said they are going to comply with NJDEP requirements. Mr. Tessier read the notes on the plan. Mr. Maugeri asked Mr. Knutelsky if he had read those. Mr.

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Knutelsky said yes. Mr. Knutelsky said he wanted to know if there is going to be a system that is going to be constructed.

Scott Braen, owner and applicant, stepped forward. Mr. Brady said Mr. Tessier, Mr. Dykstra and Mr. Braen have already been sworn in before so as far as we are concerned anything they say today, you are still under oath. Mr. Braen said we already have a water truck up there that we use on all the roads, anywhere vehicles travel in the quarry. Mr. Braen said the DEP strictly enforces dust control. Mr. Braen said anywhere you have material (that) can go from one place to another you have to put spray systems in; it is a high pressure water system. Mr. Braen explained the system. Mr. Lermond asked, then your testimony is it is either a sweeper or a truck wash system. Mr. Braen said yes. Mr. Braen said that new entrance is going to have 1,000 feet of roadway so by the time someone gets from that quarry floor to that asphalt the road usually is pretty clean. Mr. Knutelsky asked if that pavement was treated with water daily. Mr. Braen said they water it all the time. Mr. Lermond asked, including the pavement. Mr. Braen said yes. Mr. Suckey asked if there have been any dust complaints on the roadways by the residents. Mr. Knutelsky said he (hadn't) heard of (any) complaints (but) he isn't sure if the Borough has heard any. Mr. Kilduff said we sometimes get complaints, Braen has done a good job in responding to them but the complaints don't come to his office. Mr. Kilduff said they usually go to another office. Mr. Kilduff said he hasn't heard anything specific about dust. Mr. Maugeri asked if they were operating within the regulations now. Mr. Braen said yes.

Mr. Zschack said he was up there for about an hour and a half today; it was in full operation with trucks going in and out. Mr. Zschack said there was a water truck up there and he saw nothing in dust in today's operation. Mr. Christiano said he travels Corkhill Road everyday to and from work and he hasn't seen anything on the road as far as accumulation of dust and gravel or any spillage.

Mr. Knutelsky referred to page 5, item 2 B, in regards to the roadway improvements. Mr. Knutelsky said we were looking for a partial widening on the side of the road of the applicant's property. Mr. Knutelsky said he reviewed the revisions and the intent of the revisions are ok with his office. Mr. Knutelsky said they are looking for a simplification of the roadway geometry.

Mr. Knutelsky referred to page 6 letter A, landscaping and lighting. Mr. Knutelsky said the applicant has requested a waiver of this requirement. Mr. Knutelsky said,

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based upon their explanation he isn't overly opposed to the waiver since it will be for the benefit of the workers in the quarry. Mr. Knutelsky said it isn't visible from the road or any structures. Mr. Knutelsky said he isn't sure if Mr. Nelson or the Board would have an issue with that waiver. Mr. Tessier showed the area on the plan.

Mr. Knutelsky referred to page 7 item F, as part of the roadway improvements there is a 12 inch metal pipe cross drain that crosses Corkhill Road. Mr. Knutelsky said the drainage improvements that the applicant is proposing ties into that cross drain. Mr. Knutelsky said for Municipal requirements we are using a 15 inch pipe as our minimum tying into the 12 inch pipe. Mr. Knutelsky said it isn't required just as long as the hydraulics of the systems works. Mr. Knutelsky said, according to Mr. Dykstra, the hydraulics did work, they are actually reducing the flow on site with those massive ponds. Mr. Knutelsky said we see the 15 inch pipe in the revision as a positive that tie into the 12 inch pipe cross drain because of the limited amount of drains getting there. Mr. Knutelsky said he would ask the applicant to pursue the matter and possibly get a right to discharge or what is called a continued right to discharge. Mr. Knutelsky said so if they did change from a 12 inch pipe to a 15 that the down stream property owner was agreeable to it, it wouldn't be a problem. Mr. Knutelsky said that is something he is looking at the applicant to try to attend to. There was a discussion about the pipe size and the property owner.

Mr. Knutelsky referred to page 9 item 10 A. Mr. Knutelsky said we are looking for the applicant to provide testimony related to truck circulation, trucks entering the site, where are they coming from, where are they exiting to, how many trucks can be expected now and how many trucks can we expect in the future.

Mr. Braen said currently we are probably averaging 50 to 60 trucks per day which would probably be 250,000 tons. Mr. Braen said the heavier traffic is from seven to one or two o'clock even though they are open until four. Mr. Knutelsky asked if in the future operations would that double. Mr. Braen said it would probably be a few years before that happens. Mr. Maugeri asked if that was documented in prior reports. Mr. Knutelsky said he thinks what was documented as the amount of material proposed to be excavated. Mr. Braen said probably about 95 percent of the vehicles are tri-axle or tandems. Mr. Braen said you do have small single axles but probably not to many, maybe some trailers. Mr. Maugeri asked Mr. Knutelsky if that should be documented someplace. Mr. Knutelsky said it is on the record. Mr. Brady said in some portion of the resolution we can cite there will be this many vehicles anticipated in the next ten years depending on the market conditions. There was a

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discussion on trucks that will be traveling on Corkhill Road going to Ogdensburg and Franklin.

Mr. Knutelsky referred to page 7 and top of 8, in regards to dewatering operations. Mr. Knutelsky said he is looking for a description as to exactly what the dewatering operation is. Mr. Tessier explained dewatering using the existing conditions map sheet 2 of 26. Mr. Knutelsky asked at what point is it determined whether you are going to be requiring that diversion permit. Mr. Tessier said they monitor how much water they are pumping under their current dewatering, as the quarry progresses they are going to look at the water diversion permit. Mr. Knutelsky said then there won't be any change, there will always be that six inch pipe that leads out to the west for pond A right now. Mr. Knutelsky said you start developing pond B you will pump from pond B into pond A and then pump from pond A through that six inch pipe to the west again. Mr. Tessier said it all goes in that same direction.

Mr. Knutelsky referred to page 8, environmental impact statement, item 9 D and E. Mr. Knutelsky said he is looking for the status on the DEP permits, specifically the 150 foot buffer and the 300 foot possible riparian buffer. Mr. Tessier marked exhibit A-4, sheet one of one flood hazard area. It is essentially the same sheet as the site plan sheet showing the development of this pond. Mr. Tessier used this exhibit to explain the buffers. Mr. Knutelsky said there was some beaver dam removals, does that reflect what the historical aerals are. Mr. Tessier explained the 1995 aerial photo from NJDEP that showed these areas. Mr. Tessier said those beaver dams have been removed and it is back to the same condition it was in the aerial. There was a discussion on the buffers.

Mr. Knutelsky referred to item 11 A, in regards to right-of-way dedications. Mr. Knutelsky said the applicant has shown dedications right where the proposed road improvements are. Mr. Knutelsky said there are two other stems that extend into Corkhill Road that we need dedication as well. Mr. Knutelsky said to be consistent from this property we are going to be getting right-of-way dedication from 25 feet of the center of the road anywhere their property touches the roadway. Mr. Knutelsky said you want to make sure that plan is adequate. Mr. Vogel said that was not a problem.

Mr. Knutelsky referred to item 11b. riparian buffers. Mr. Knutelsky said they have covered the riparian buffers, he is ok with that. Mr. Knutelsky referred to item C, in regards to quarry setback lines. Mr. Knutelsky said the ordinance for quarrying has a

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specific reference to disturbances, should be kept 150 feet away from properties. Mr. Knutelsky said there is another reference to quarry setbacks, where process, buildings and parking can take place. Mr. Knutelsky explained the setback ordinance. Mr. Lermond said the action is the applicant will show it. Mr. Tessier said we will show it through the structures and the accessory uses.

Mr. Knutelsky referred to page 10, item 11g. Mr. Knutelsky said on the reclamation plan there is the Whispering Woods Lane development to the west in Sparta that should be reflected on the key map.

Mr. Vogel said he doesn't have a problem with anything that is in that report and they would revise their plans to reflect each of those comments.

Owen Dykstra, engineer for the applicant, was sworn in at this time. Mr. Dykstra said Mr. Knutelsky had addressed the comment in regards to the drainage and cross drain crossing on Corkhill Road. Mr. Dykstra said he agreed with what Mr. Knutelsky had said. Mr. Christiano said the buffers here are subterranean, what happens if we drain the swamp during the course of blasting and removing material. Mr. Tessier said, at the last meeting they had the Hydrologist talk about that. Mr. Tessier gave a brief summary of what the Hydrologist had explained. There was a brief discussion on this and the test wells.

Mr. Zschack said when you pull into the site right now, the current entrance to the left is a pit. Mr. Zschack asked if they knew the final elevation and how far down they are going to be going. Mr. Tessier used sheet 6 of 26 to explain where they were going to create pond A. Mr. Knutelsky asked about tests out there to know how deep it goes, there is specific pond elevations on both, what is the expected depth of that. Mr. Vogel said we don't know, it could go down 100 feet in some places and 50 feet in others and 200 some place else. Mr. Vogel said when you quarry you come to various elevations and when you stop getting whatever the product is you move on. Mr. Vogel said they don't like to give a final elevation underneath because that is dictated by the product. Mr. Vogel said what we always do is the Hydrogeologic study to indicate that the body of water that is going to be in the area where we quarry is able to maintain a constant level. There was a discussion on elevations.

Mr. Nelson referred to his report dated November 9, 2009. Mr. Nelson said it focused primarily on the reclamation plan and the tree location plan. Mr. Nelson

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said he had a meeting with Mr. Tessier and his landscape architect; they went over a number of issues related to the reclamation and tree location plan. Mr. Nelson said they have since revised those drawings to respond to that meeting. Mr. Nelson questioned how the clearing of the site would be done and if it would be done in stages. Mr. Nelson said lot 49.04 most of it is open field as you move further north into a portion of 49.01 that area is heavily wooded. Mr. Nelson asked how soon would that wooded area in 49.01 be removed. Mr. Tessier said they are going to get started on the road first and parking area. Mr. Tessier explained, by using the map how the work will be done. Mr. Vogel said we expect that by this time next year we will have that area clear and the road. Mr. Vogel said they will put in the fence and light because the ordinance requires a fence probably a year after that so it will probably be somewhere within 2 years. There was a discussion on clearing the trees.

Mr. Maugeri made a motion to open to the public application **PB-12-08-1 Braen Aggregates, Preliminary and Final Site Plan/Restoration Plan, Block 64 Lots 53, 56, 49.01 and 49.04**. Seconded by Mr. Zschack. All were in favor.

No one from the public stepped forward.

Mr. Maugeri made a motion to close to the public application **PB-12-08-1 Braen Aggregates, Preliminary and Final Site Plan/Restoration Plan, Block 64 Lots 53, 56, 49.01 and 49.04**. Seconded by Mr. Zschack. All were in favor.

Mr. Zschack said he worked for 25 years by the quarry in Haledon and they have always kept a clean site down there. Mr. Zschack said he walked around up there today and it looked very organized and neat up there. Mr. Zschack said it seemed like a very organized well run operation up there.

Mr. Brady said if the Board is inclined to approve there will be a fair number of conditions; usually if the Board does approve, we approve and (then) memorialize. Mr. Brady said he would look for the Board to authorize him to draft a resolution of approval with certain conditions. Mr. Brady said then we would come back and act on that approval and maybe memorialize all in one night. Mr. Brady said if the Board is inclined to act tonight he would prefer that you (the Board) authorize him to prepare a resolution of approval that can be circulated among everybody to make sure we get everything covered.

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Mr. Zschack made a motion to authorize the Board attorney to draft a resolution for **PB-12-08-1 Braen Aggregates Preliminary and Final Site Plan/Restoration Plan, Block 64 Lots 53, 56, 49.01 and 49.04.** Mr. Brady said the motion would be that he prepare a resolution of approval with such conditions that he may find by going through the record together with our professionals, then we will circulate that and it will come back. Seconded by Mr. Maugeri.

Upon Roll Call Vote:

AYES: Lermond, Zschack, Suckey, Maugeri

NAYS: None ABSTENTIONS: None

(Motion Approved)

Mr. Vogel asked when the December Planning Board meeting was. Mr. Lermond said December 21.

OTHER BUSINESS:

OPEN PUBLIC SESSION:

Mr. Suckey made a motion to Open to the Public. Seconded by Mr. Zschack. All were in favor.

No one from the public stepped forward.

Mr. Suckey made a motion to Close to the Public. Seconded by Mr. Zschack. All were in favor.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 9:42PM on a motion by Mr. Maugeri. Seconded by Mr. Zschack. All were in favor.

Respectfully Submitted,

Robin Hough

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Secretary