

PLANNING BOARD MINUTES  
PUBLIC MEETING  
JANUARY 10, 2013 - 7:00 P.M.  
HELD AT OAKLAND SENIOR CENTER  
20 Lawlor Drive, Oakland, New Jersey

Pursuant to Chapter 231, Public Law 1975 (Open Public Meetings Act) adequate notice of this meeting has been provided by:

- ☐ Adoption of an annual schedule of meetings
- ☐ Posting a copy of same at Borough Hall
- ☐ Forwarding a copy of same to the Record
- ☐ Mailing a copy to any person requesting same

\*\* MEETINGS CONCLUDE AT 10:30 P.M., THEREFORE, NO TESTIMONY WILL BE TAKEN AFTER 10:00 P.M.

PLANNING BOARD MEMBERS:

Jason Shafron, Lee Haymon, Nicholas DiLandro, Eric Kulmala, Christopher Baczewski, Dan Hagberg, Elaine T. Rowin, John Morris, Councilwoman Coira, Mayor Linda H. Schwager and Chairman Thomas Potash.

FLAG SALUTE, MEETING OPENED AT 7:03 P.M., ROLL CALL:

Present: Mrs. Rowin, Messrs. Haymon, Shafron, DiLandro, Kulmala, Baczewski, Hagberg, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.  
Absent: None

Joseph Russo, Esq., Board Attorney, Steve Lydon, Burgis Associates and Kevin Boswell, Boswell Engineering were also in attendance.

PUBLIC HEARING BEGINS:

Chairman Potash welcomed Sandra Coira as a member and liaison to the Board.

Motioned by Mrs. Rowin and seconded by Mayor Schwager, to open the meeting to the public regarding matters not included on the agenda was voted unanimously by the Board.

No comments.

Motioned by Mrs. Rowin and seconded by Mr. Morris, to close the meeting to the public regarding matters not included on the agenda was voted unanimously by the Board.

#### REORGANIZATION OF THE BOARD:

##### CHAIRMAN

Chairman Potash entertained a motion to nominate Board Chairman.

Motioned by Mrs. Rowin and seconded by Mayor Schwager, to nominate Thomas Potash as Chairman to the Board.

Roll Call Vote:       Ayes: Mrs. Rowin, Messrs. Shafron, Haymon, Kumala, DiLandro, Baczewski, Hagberg, Morris, Councilwoman Coira and Mayor Schwager.  
                              Nays: None  
                              Abstain: None  
                              Absent: None

##### VICE-CHAIRMAN

Chairman Potash entertained a motion to nominate Board Vice-Chairman.

Motioned by Mayor Schwager and seconded by Mr. DiLandro, to nominate John Morris as Vice-Chairman to the Board.

Roll Call Vote:       Ayes: Mrs. Rowin, Messrs. Shafron, Haymon, Kulmala, DiLandro, Baczewski, Hagberg, Councilwoman Coira, Mayor Schwager and Chairman Potash.  
                              Nays: None  
                              Abstain: None  
                              Absent: None

##### SECRETARY

Chairman Potash entertained a motion to nominate Board Secretary.

Motioned by Mr. Morris and seconded by Mr. DiLandro, to nominate Elaine Rowin as Secretary to the Board.

Roll Call Vote:       Ayes: Messrs. Shafron, Haymon, Kulmala, DiLandro, Baczewski, Hagberg, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.  
                              Nays: None  
                              Abstain: None  
                              Absent: None

##### BOARD ATTORNEY

Chairman Potash explained that one Request for Qualification packet was received by the borough for the position of Board Attorney from the firm of Uscher, Quait, Uscher &

Russo. He informed the Board that he, Mr. Kulmala and Mr. DiLandro reviewed the Request for Qualifications and decided to continue to retain Mr. Joseph Russo, Esq. with Uscher, Quait, Uscher & Russo at a quarterly payment of \$750.00 and a total retainer of \$6,500.00. A motion was entertained.

Motioned by Mr. DiLandro and seconded by Mr. Kulmala, to continue with the services of Mr. Joseph Russo, Esq. with Uscher, Quait, Uscher & Russo.

Roll Call Vote:           Ayes: Mrs. Rowin, Messrs. Shafron, Haymon, Kulmala, DiLandro, Baczewski, Hagberg, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.  
                              Nays: None  
                              Abstain: None  
                              Absent: None

## BOARD ENGINEER

Chairman Potash explained that one Request for Qualification packet was received by the borough for the position of Board Engineer by Boswell McClave Engineering. Last year Boswell Engineering agreed, when being appointed, to maintain the same hourly rates of 2011 to 2012. In this proposal the hourly rates have increase by \$5 which he, Mr. Kulmala and DiLandro agreed was reasonable.

Mrs. Rowin questioned Mr. Boswell if the Board could be assured that Ms. Rebecca Mejia would remain the representative from Boswell. Mr. Boswell responded that Ms. Mejia would continue to serve as the Board's Engineer. Chairman Potash entertained a motion.

Motioned by Mr. Kulmala and seconded by Mrs. Rowin, to continue with the services of Boswell McClave Engineering as Board Engineer and Ms. Rebecca Mejia continue to be the representative.

Roll Call Vote:           Ayes: Mrs. Rowin, Messrs. Shafron, Haymon, Kulmala, Dilandro, Baczewski, Hagberg, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.  
                              Nays: None  
                              Abstain: None  
                              Absent: None

## BOARD PLANNER

Chairman Potash explained that one Request for Qualification packet was received by the borough for the position of Board Planner by Burgis Associates. Burgis Associates rates would remain the same as they have for the past three years at an hourly rate of \$145.00. Chairman Potash, Mr. Kulmala and Mr. DiLandro agree this was reasonable.

Mrs. Rowin requested that that Mr. Steve Lydon remain the board representative from Burgis. Mr. Lydon responded that he would continue to be the representative for the Board. Chairman Potash entertained a motion.

Motioned by Mr. DiLandro and seconded by Mr. Morris, to continue with the services of Burgis Associates as Board Planner and Mr. Steve Lydon continue to be the representative.

Roll Call Vote:           Ayes: Mrs. Rowin, Messrs. Shafron, Haymon, Kulmala, DiLandro, Baczewski, Hagberg, Morris, Councilwoman Coira and Chairman Potash.  
                              Nays: None  
                              Abstain: Mayor Schwager  
                              Absent: None

#### BOARD SECRETARY

Chairman Potash entertained a motion to appoint the Board Secretary.

Motioned by Mrs. Rowin and seconded by Mr. DiLandro, to appoint Kathryn Gurney as Board Secretary.

Roll Call Vote:           Ayes: Mrs. Rowin, Messrs. Shafron, Haymon, Kulmala, Dilandro, Baczewski, Hagberg, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.  
                              Nays: None  
                              Abstain: None  
                              Absent: None

#### OFFICIAL NEWSPAPER

Chairman Potash entertained a motion to nominate The Record as the official newspaper.

Motioned by Mr. Baczewski and seconded by Mr. DiLandro, to elect The Record as the official newspaper.

Roll Call Vote:           Ayes: Mrs. Rowin, Messrs. Shafron, Haymon, Kulmala, Dilandro, Baczewski, Hagberg, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.  
                              Nays: None  
                              Abstain: None  
                              Absent: None

#### BY-LAWS

Chairman Potash entertained a motion to adopt the By-Laws updated last in 2009. Mr. Russo questioned if it should be added in the By-Laws that all approved minutes are placed on the borough's website. Ms. Gurney informed the Board that all approved minutes have always been sent to the borough's website. A discussion ensued and it was decided not to add this information to the By-Laws.

1. Review and recommendation of Ordinance12-Code-675 Solar Panel installations.

Chairman Potash reminded the Board that at the December meeting they had requested that Mr. Lydon add some items when revising the proposed ordinance. Mr. Lydon explained that he incorporated language into the ordinance referring to buffers which would be mentioned numerous times throughout the ordinance. The language in the ordinance reads; 'solar energy systems shall be screened from the view of public streets and residential zones by vegetation, fencing, walls or topographic features.'

He reminded the Board that in the first revised ordinance it mentioned allowing mounting poles in parking lots to encroach into parking stalls sizes without creating the need for a variance. But when researching the size of these mounting poles, he could not come up with a uniform size to use when calculating a reduction in parking stall size. Language was then added to the ordinance that reads; 'mounting equipment necessary for a solar energy system to be installed above parking infrastructure is permitted to encroach the minimum distance necessary into the depth or width of a parking space without creating a variance condition relative to the dimension or size of a parking space.' This language gives the Board flexibility to work with the installations so there is no need for a variance for parking stall sizes. The balance of the ordinance is the same.

Chairman Potash expressed that two of his issues were partially addressed which included wording in the ordinance addressing the external disconnect switch that is clearly identifiable and unobstructed. He explained that this topic was a safety issue discussed with the Chief of the Fire Department who agreed the wording should be added to the ordinance. However, he remembers discussion that a micro-inverter switch could be required for shutting off power directly to the solar panel and suggested that more detail be included since solar panel still remains active after cutting off the power. A discussion ensued concerning micro-inverters and that they are not in all types of solar panels. Mr. Morris suggested that the ordinance read that the 'external disconnect switch at ground level be clearly identifiable and unobstructed, shall be provided to disconnect power at the output of the solar panel.' He explained that it would then be understood that a disconnect switch at ground level would be required to disconnect power at the array. Mr. Baczewski responded that the state code would address this but a disconnect switch could not be at ground level in the flood plain and reminding the Board that the state code will supersede this ordinance. Mr. Morris responded that the words 'readily accessible' from ground level could be added.

Mr. Kulmala expressed that in the industrial area it is difficult to see solar panels on the rooftops and it should be required that a label for the disconnect switch be visible to alert emergency responders that solar panels exist. His second issue would be that more information be added to the ordinance instructing where a disconnect switch is to be located.

Mr. Russo suggested that a parking field be further defined in the ordinance. He questioned if the Board was in favor of solar panel arrays extending over residential driveways or just in parking lots or both. He explained that the word 'parking field' could have a broader meaning and should be better defined. Mr. Lydon responded that most driveways in a residential zone are in the front yard and would not allow front yard installation. However, if a resident had a driveway in the side or rear yard the installation of a canopy with solar panels would be permitted. Mrs. Rowin questioned if this would be considered an accessory structure. Mr. Lydon responded that in this ordinance it would.

Mr. Kulmala confirmed that on the topic parking installations of solar panels the ordinance was meant to capture the larger installations over parking areas such as hospitals, schools and colleges. Mr. Lydon responded that this was correct along with industrial properties.

Chairman Potash questioned the Board if they would favor residential properties installing solar panels over carports. Mrs. Rowin responded that she would prefer not to see solar panels over residential driveways. Mr. Morris responded that if it were not in the front yard and met the other criteria, he would see no problem with it. Mr. Russo expressed that the purpose of the ordinance is to allow solar energy systems in the residential zones.

Mr. Lydon explained that in the ordinance it establishes solar panels as being either a permitted principal, an accessory structure or as freestanding structures which would give the Board maximum flexibility. Mr. Russo informed the Board that there is a provision in the Municipal Land Use Act referring to solar and wind energy regarding industrial zones making it a permitted use on 20 acres or more. Chairman Potash added that if that land were vacant, the property owner could cover the property in solar panels. Mr. Russo responded that this is correct subject to regulations in the town and whether or not legislation deems it a beneficial use. An entire lot could be covered with solar panels to generate electricity for the building located on the property. He pointed out that in the ordinance all the other zones but residential includes the wording 'solar energy systems as an accessory structure use' and questioned why this wording is not included in the residential zone section. Mr. Lydon responded that because most of the vacant lots in town are in the residential zone and owners of those lots along the flood plain area could take advantage of this. Chairman Potash confirmed that the primary use of those properties could be used to install solar panels and he questioned the Board's feelings concerning this.

A discussion ensued concerning solar panel systems being used for more than personal consumption. Chairman Potash referred back to the Franklin Lakes ordinance which deals with this topic. He read that portion of the ordinance: 'the purpose is to ensure solar energy systems as accessory use for the principal power use and will be to provide power for the principal use of the property whereon said system is to be located and shall not be for generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a solar energy system designed to meet the energy needs of the principal use.' Mr. Hagberg expressed then a solar energy system cannot be a permitted use. Chairman Potash responded that this is correct and he believes that solar panels should be an accessory use to the property which can only be used to generate electricity for the principal use of the property unless from time to time it may generate excess electricity which could be sold back to the power company. Mr. Hagberg expressed how that could be enforced.

Mr. Boswell explained that the Franklin Lakes ordinance was set up around a net 0 metering principal and the tax credit is accrued to those entities that have an equal to or less than the utilization of the power on the property. If you go over that design standard, then it is considered to be a solar farm and it will get less tax credit and become a principal use. There is an exception seen often where an adjacent user goes to the neighboring property owner asking to install panels on their property and this could be referred to the Zoning Board with a stipulation that the adjoining user set up the

net 0 metering principle. There is a different set of rules when it applies to a net 0 metering principal use versus a solar farm. As long as the excess energy from the principal use is not a drastic amount, it would not violate the net 0-metering principal that they were designed for and in order to receive credits, you must satisfy the government by those parameters.

Mr. Morris informed the Board that his company installs solar panels on contaminated sites that the sole purpose is to generate power and residential areas surround some of these sites. He believes that is a good use and that Oakland could have sites in the industrial areas to allow solar energy arrays to generate power and benefit the environment.

Mrs. Rowin expressed her concerns with writing an ordinance with a built in variance clause. She explained that the ordinance being written should be descriptive of what the town desires and not to give options for obtaining a variance. Mr. Morris expressed that the debate is whether or not the Board wants to encourage solar energy in the town. Chairman Potash expressed that he believes the town would like to encourage solar energy systems but discourage large solar fields. Mr. Morris expressed that he does not see any down side with a large solar field as long as it is located in the industrial area or a concealed area. Mr. Kulmala agreed with Mr. Morris. Mr. Baczewski expressed that his problem and he has seen it happen where large number of trees are being removed in order to place a solar energy arrays. Mayor Schwager responded that they would need to get approval from the Shade Tree Commission. Mr. Baczewski expressed that if it is considered a beneficial use they would be permitted to do it.

Mr. Russo questioned Mr. Boswell if the town of Wyckoff has received many applications for solar panel energy. Mr. Boswell responded that the Wyckoff ordinance was adopted to discourage people from putting solar panels in the front and rear yard. He explained that Oakland has a different set of circumstances referring to the Dewey Electronics property. This use would not require sewers, water and would not be impervious as a principal use and would not be seen from Interstate 287.

Chairman Potash expressed that some circumstances may be advantages but he would like the town protected from clear cutting 20 acres of trees in order to install a solar field. He questioned how to write the ordinance so that it protects those properties that could be subject to these solar panels fields versus something that might be beneficial use. Mr. Shafron expressed that he favored the Franklin Lakes ordinance and felt it was standard as written. Mr. Baczewski agreed with Mr. Shafron and feels the Franklin Lakes ordinance deals with the majority of the town.

Mr. Morris suggested the language in the ordinance read that a principal use only applies to the industrial area and not the residential area. Chairman Potash questioned if Mr. Lydon could include that wording in the ordinance. Mr. Lydon questioned if the Board is allowing that solar panels be a principal use for commercial and industrial. Mr. Morris responded that he would not be opposed to allowing the principal use in both commercial and industrial but he feels the consensus of the Board would be to allow a principal use in the industrial area only. Mr. Lydon confirmed that in the ordinance, permitted principal use in the industrial zone and accessory use in the commercial and residential zone.

Chairman Potash expressed that with regard to the Franklin Lakes ordinance, he explained that it goes further into depth with the amount of energy generated on a property. He questioned if the Board was in favor of following the Franklin Lakes ordinance format with regard to the amount of energy generated. Mr. Kulmala did not object to a rooftop being filled with solar panels. Mr. Bacewski responded that it comes down to net 0 metering when trying to produce as much as you use, on a sunny day you make extra and on an overcast day you make less energy which is a balance. He said the designers are not looking to overload properties with solar panels. Mr. Shafron expressed that this is why he prefers the Franklin Lakes ordinance because it protects the town from homeowners filling up their rear yards with solar panels in the event the reimbursement rate for energy were to go up. He added if the solar panels are not used for the home, then they should not be permitted.

Mr. Russo suggested that Chairman Potash take a straw poll. Chairman Potash verified that the Board agrees that solar panels would be considered an accessory use in all zones except for the industrial zone where it would be considered a principal use.

Chairman Potash explained that the issue on whether the ordinance should limit the amount of energy generated on a property would still need to be resolved. A discussion ensued concerning limiting the amount of energy for a homeowner. Mr. Boswell explained that the homeowner would need to meet or beat the net 0 metering standard in order to apply for the 30-percent tax credit and continuing government credits. The consensus of the Board was to leave out the limit on the amount of energy generated on a property.

Chairman Potash questioned if the Board had any other changes to be made to the ordinance. There were no other changes and he suggested that Mr. Lydon revise and add the changes to the ordinance as discussed so that they could wrap the ordinance up for next meeting. Mr. Lydon suggested that he send a copy to Robert Knapp, last years Fire Chief, for his review. The Board agreed.

## 2. Review and recommendation of the Complete Streets Program.

Chairman Potash explained that the Complete Streets Program is an ordinance that encourages different types of transportation besides a vehicle such as walking, cycling, mass transit, etc. It also serves as a guideline to communities for street design. Mr. Boswell confirmed that this program is an inter-motile concept encouraging other types of transportation as well as making sure streets are ADA compliant. It encourages erecting parking facilities next to railroad stations with bus stations being adjacent.

In addition to promoting street design not only for vehicles in communities, it serves as a good tool to attract grant dollars for municipalities by adopting the program and using it as a design guideline. Communities that adopt the program receive credits that help qualify for things like bikeways when applying.

Chairman Potash questioned how this program could help with a narrow road like Ramapo Valley that does not meet all the guidelines. Mr. Boswell responded that in some instances where the road is narrow, a bike lane stripe is put in by making the vehicle travel lane a bit narrower. He explained that they have done this on portions of Darlington Road in Mahwah, but this project is still a work in progress and can only be



done where the road can provide it. The program is designed to be a planning tool for applying guidelines standards for the future development of roadways in a community.

Mr. Morris questioned the number of streets in Oakland that meet the programs criteria of 28-feet and greater than 100 vehicles and would this only apply to borough streets excluding state and county roads. He expressed that he is not in favor of being obligated to put in a bike path on a street that needs repair or pay more taxes if the program was in place. A discussion ensued between Mr. Morris and Mr. Baczewski debating the need for bike paths and the expense it would pose on the taxpayers. Chairman Potash questioned if twenty percent would be an accurate amount. Councilwoman Coira informed the Board that she was responsible for bringing this program before the council and she explained that the Borough of River Edge adopted the program and agreed on an amount no more than five percent as determined by engineering to be funded with local tax dollars. Mr. Morris expressed that he would be more in favor of five percent but still had question with vague language in the program packet.

Mayor Schwager suggested that this matter be carried to the February meeting.

#### MEMORIALIZATION:

None

#### PAYMENT OF BILLS:

Motioned Mrs. Rowin and seconded by Mr. Baczewski, for the payment of bills subject to the availability of funds.

Roll Call Vote:       Ayes: Mrs. Rowin, Messrs. Haymon, Shafron, DiLandro, Kulmala, Baczewski, Hagberg, Morris, Councilman Jensen, Mayor Schwager and Chairman Potash.  
                              Nays: None  
                              Abstain: None  
                              Absent: None

#### APPROVAL OF MINUTES:

Motioned by Mr. Morris and seconded by Mr. Baczewski, to approve the December 13, 2012 minutes as amended.

Roll Call Vote:       Ayes: Mrs. Rowin, Messrs. Haymon, Shafron, DiLandro, Kulmala, Baczewski, Hagberg, Morris, Councilman Jensen, Mayor Schwager and Chairman Potash.  
                              Nays: None  
                              Abstain: None  
                              Absent: None

NEW BUSINESS:

Mrs. Rowin confirmed that the two members were reappointed whose terms expired. Mayor Schwager responded that Mr. Shafron and Mr. DiLandro were both reappointed.

OLD BUSINESS:

None

PUBLIC MEETING ADJOURNED AT 8:45 P.M.

Motioned by Mr. Kulmala and seconded by Mr. Morris, to adjourn the meeting by a unanimous vote by the Board.

Respectfully submitted by,

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Kathlyn Gurney/Administrative Assistant

\*Next meeting on February 14, 2012.