

**BOROUGH OF HIGHLANDS
PLANNING BOARD
REGULAR MEETING
FEBRUARY 8, 2007**

Mayor O'Neil called the meeting to order at 7:41 P.M.

Mayor O'Neil made the following statement: As per requirement of P.L. 1975, Chapter 231, notice is hereby given that this is a Regular Meeting of the Borough of Highlands Planning Board and all requirements have been met. Notice has been transmitted to the Courier, the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board.

ROLL CALL:

**Present: Mr. Manrodt, Mr. Mullen, Mayor O'Neil, Mr. Bahrs, Mr. Nolan,
Mr. Harrison, Mr. Cefalo**

Absent: Mr. Kovic, Mr. Schoellner, Mr. Stockton

**Also Present: Carolyn Cummins, Board Secretary
Jack Serpico, Esq., Board Attorney
Robert Bucco, P.E., Board Engineer
Martin Truscott, P.P.,**

**PB#2007-1 Scaturro Irrevocable Trust
Block 3 Lots 6 & 7 – Portland Road
Application Review & Set P.H. Date**

Mrs. Cummins stated that the applicants Attorney Martin McGann submitted a letter to the board requesting an adjournment of the application review be carried to the March meeting.

Mr. Manrodt offered a motion to reschedule the application review for PB 2007-1 to March 8, 2007, seconded by Mr. Nolan and all were in favor except Mr. Bahrs who abstained.

Mr. Serpico marked the following document into evidence:

A-1: Letter from M. McGann dated 2/7/07 Requesting Adjournment of
Application Review.

Mayor O'Neil administered the Oath of Office to Edwin Harrison.

**PB#2006-3 Catsaros, Gregory
Block 14 Lot 3.01 – 30 Grand Tour
Resolution of Approval - Extension of Time to Perfect Subdivision**

Mrs. Cummins read the title of the following Resolution for approval:

Mr. Mullen offered a motion to move on the adoption of the following Resolution:

**RESOLUTION EXTENDING THE TIME TO PERFECT THE MINOR
SUBDIVISION GRANTED TO GREGORY CATSAROS
FOR BLOCK 14, LOT 3.01**

WHEREAS, the applicant referred to above is the owner of the above mentioned lot, which lot is located in the R-1.01 Zone; and

WHEREAS, the applicant has applied for a minor subdivision with variances that was granted with conditions by the Board on June 10, 2006; and

WHEREAS, the Board adopted a written Resolution memorializing the foregoing on August 10, 2006; and

WHEREAS, the MLUL requires a minor subdivision to be perfected within 190 days from the date the written Resolution was adopted by the Board unless there are extenuating circumstances that effectively prevent the perfection of the subdivision; and

WHEREAS, the applicant could not reasonably comply with the conditions of the approval before the expiration of the 190 days referred to above which is February 16, 2007; and

WHEREAS, the applicant has requested an extension of the time within which to perfect the minor subdivision pursuant to N.J.S.A. 40:55D-47g.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Highlands, for good cause being shown, that the application for an extension of time to perfect the minor subdivision is hereby granted for a period of 90 days from February 16, 2007, pursuant to the statute set forth above.

Seconded by Mayor O'Neil and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Mullen, Mayor O'Neil, Mr. Cefalo

NAYES: None

ABSTAIN: None

Resolution Board Attorney Contract

Mrs. Cummins read the title of the following Resolution for approval:

Mayor O'Neil offered the following Resolution and moved on its adoption:

**RESOLUTION AWARDING CONTRACT
FOR PROFESSIONAL LEGAL SERVICES
TO JACK SERPICO, ESQ.**

WHEREAS, there exists the need for Professional Legal Services to be provided to the Planning Board for the period of January 1, 2007 through June 30, 2007; and

WHEREAS, such Professional Engineering Services can only be provided by licensed professionals and Jack Serpico, Esq. of Jack Serpico, Esq. is so recognized; and

WHEREAS, Jack Serpico, Esq. of the law office Jack Serpico, Esq., was appointed as Planning Board Attorney for the calendar year 2007 on January 11, 2007; and

WHEREAS, Jack Serpico, Esq. of Jack Serpico, Esq. has submitted the attached 2007 contract for approval; and

WHEREAS, the Planning Board has reviewed and hereby approves of the attached contract.

WHEREAS, the law office of Jack Serpico, Esq. has completed and submitted a Business Entity Disclosure Certification which certifies that Jack Serpico has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous one year (Reportable contributions made prior to January 1, 2006 are not considered for the purposes of determining whether a contractor is prohibited from being awarded a contract.) , and that the contract will prohibit Jack Serpico, Esq. from making any reportable contributions through the term of the contract, and

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WHEREAS, the determination of value has been placed on file with this resolution with the Board Secretary; and

WHEREAS, the law office of Jack Serpico, Esq. has submitted the C.271 Political Contribution Disclosure Form in accordance with N.J.S.A. 19:44A-20.26 (P.L. 2005,c271, s2).

WHEREAS, the Local Public Contracts Law N.J.S.A. 40A:11-1 et. seq., requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised; and

WHEREAS, certification of the availability of funds is hereby made as follows:

Account #1141 -3755 \$ 3,375.00
For Legal Services for the Period of January 1, 2007 through June 30, 2007.

Stephen Pfeffer, CFO

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Highlands of the following:

1. Jack Serpico, Esq., of the law office of Jack Serpico, Esq., is hereby awarded a contract for professional legal services to be provided to the Planning Board for the period of January 1, 2007 through June 30, 2007 for an amount not to exceed \$3375.00 and that the attached contract for 2007 is hereby approved.
2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by person authorized by law to practice a recognized profession.
3. A copy of this Resolution as well as the contract shall be placed on file with the Board Secretary of the Borough of Highlands.
4. The Board Secretary is hereby directed to publish notice of this award as required by law.
Seconded by Mr. Nolan and adopted on the following roll call vote:

ROLL CALL:

**AYES: Mr. Manrodt, Mr. Mullen, Mayor O'Neil, Mr. Bahrs, Mr. Nolan,
Mr. Harrison, Mr. Cefalo**
NAYES: None
ABSTAIN: None

Other Business:

Review of Planning Board By-laws, Definition of Bldg Height, ZB Annual Report

Mr. Serpico suggested that the board create a By-law Subcommittee to review the by-laws and report back to the board.

Mayor O'Neil suggested that review of the By-laws, definition of building height and the ZB Annual report be carried to the next meeting due several members being absent.

Review of Zoning Amendment Ordinance O-07-03

Present: Martin Truscott, P.P. of T & M Associates

Mr. Serpico swears in Martin Truscott, P.P. of T & M Associates.

Mr. Truscott stated the following:

1. He stated that he prepared a Memorandum dated 2/8/07 discussing how the proposed amendments are consistent with the Master Plan. There are some minor exceptions in terms of consistency.
2. Ordinance O-07-03 implements the bulk of the recommendations of the Master Plan. It will enact an amendment to the Zoning Ordinance.
3. Any amendment to the Zoning Ordinance has to be referred to the Planning Board for consistency to the Borough Master Plan.
4. There was one area in the proposed MXD Zone where we modified the boundary to include all of the Sandy Hook Bay Marina which is not exactly consistent with the boundary line of the Master Plan but he believes it's a minor change and the intent of the Planning Board at the time of the Master Plan to include all of the Sandy Hook Bay Marina. This is item A under 4 on page 2.
5. The Locust Street Area was changed which was decided by the Planning Board. It was originally included in the proposed MXD zone in the Master Plan but through discussions of the Planning Board it was decided that it was appropriate for it to stay in the R-1.03 Zone.

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6. The third exception to the Master Plan was the Multi Use as a permitted use in the proposed MXD Zone. It was not specifically part of the recommendations of the Master Plan but he believes that it is consistent with the overall recommendations to include Multi-family as well as townhouses and the reasons are listed in the Memorandum.

7. He has reviewed the Ordinance O-07-03 which was prepared by to implement the Master Plan and he believes that it meets the intent and purpose and goals of the Master Plan. It is his recommendation that the board make a similar finding and forward it to the Mayor and Council.

Mr. Serpico marked the following document into evidence:

B-1: Memorandum prepared by Marty Truscott, P.P. of T & M Associates dated 2/8/07;

P-1: Paradise Park Letter dated 2/8/07.

Mr. Truscott continued his testimony as follows:

8. Since last year when the board reviewed the proposed Zoning Amendment there were some additional changes to the ordinance that the board is looking at now which he described as follows: (1) There was a Growth Share Section of the Ordinance as part of the affordable housing. We deleted that section because the Appellate Court just recently struck down the growth share requirements of COAH. (2) They added "Health and fitness establishment and athletic clubs" as a permitted use in the B-1 Zone which was a recommendation from the Board of Adjustment. (3) Under the MXD Zone there were several changes. Under permitted uses marina's, excluding retail sales which conflicted an accessory use, so we added excluded retail BOAT sales. Under D-2, the setback from track boundaries and all other right-of-way lines currently states 20-feet there was a request to make it an average so "but no less than fifteen (15) feet" was added, so it would be an average. D-9 and D-10 talk about the maximum units per structure and building length. The Borough Council asked that five dwelling units be allowed per structure, last year the ordinance permitted four dwelling units and the building length 150 feet where last year the ordinance permitted 100 feet. (4) Fee Schedule, the Certificate of Occupancy fee was corrected to \$50.00 and the Smoke Detector fee was corrected to \$35.00 to be consistent with current ordinance. (5) Affordable Housing, they deleted that entire section.

9. The Zoning Map that was provided do not have any changes in it, just the date of it has changed.

Mr. Mullen questioned the changing of uses that are permitted in a zone.

Mr. Truscott stated that athletic clubs and fitness clubs he feels is consistent with the overall uses in that zone.

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Mr. Mullen stated that he believes that the fitness uses should be added to the H-O Zone uptown in the highway oriented business area only not downtown. He also feels that adequate parking regulations should be established

Mr. Truscott stated that the Planning Board could make a recommendation to limit the fitness uses to the H-O Zone.

Mr. Serpico stated that the Board can also make a recommendation to the Council that they ensure that adequate parking regulations supplement the fitness use.

Mr. Mullen also questioned the setbacks in the B-1 Zone which has a 0- front yard setback and stated that theoretically someone could build right up to highway 36 and we suggested that they adopt different setback standards for that area.

Mr. Truscott - those are incorporated in this amendments. There are specific bulk standards for the highway oriented zone which he then described.

Mr. Mullen questioned if Mr. Truscott developed any kind of use standards for the B-3 Zone more specifically the Careless Navigator property. Right now most of the uses are for waterfront and that is not waterfront property.

Mr. Truscott – there was some slight modification that was part of the changes. We took out the resort name and deleted the hotel/motel and inns as part of the B-3. That is not different from what was considered last year. We then added bars, tavern and retail sales and service establishments as part of the B-3. The permitted use at the Navigator would be a bed & Breakfast, restaurants, commercial recreation, indoor and outdoor bars and taverns, retail sales and service establishments.

Mr. Truscott then explained that Appellate Court ruling regarding affordable housing.

Mayor O'Neil asked if there were any questions from the public on this matter.

Maureen Kraemer of 200 Portland Road questioned if Paradise Mobile Park was taken away would it affect our COAH credits.

Martin Truscott – no.

Frank Wolzein of 30 Paradise Park questioned the number of units being proposed in the MXD Zone and if it would increase the allowed density.

Mr. Truscott stated that it does not allow for a greater density.

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Mr. Mullen explained to the public that the number of units that are developed on a given area of land are limited to 14 units per acre and this proposal is to create buildings that are slightly larger than those that were previously approved. So, that they could get more units into a single structure but not to give them an increase in the number of units.

Frank Wolzein questioned the MXD boundaries.

Ann Davis of 45 questioned how she could obtain a copy of the proposed Zoning Ordinance Amendments.

Mr. Truscott advised that she could obtain a copy from the Borough Clerks Office.

There were no further questions from the public.

Mayor O'Neil asked if there were any comments from the public.

Mr. Serpico stated that the Board has a letter from the Paradise Mobile Park which was marked into evidence as P-1.

Ann Davis of 45 Paradise Park was sworn in and stated that she is upset about the proposed zone change for Paradise Park. She feels that they will be thrown out of their houses and that the residents of Paradise Park should be entitled to relocation costs.

Frank Wolzein of 30 Paradise Park was sworn in and stated that the proposed MXD Zone for Paradise Park should be removed because it deprives them of their rights. He requested that the Planning Board table this matter until the board reviews the impact of it.

Maureen Kraemer of 200 Portland Road was sworn in and stated that she finds it highly offensive that the Council is representing a Developer and not the voters of the town.

Chris Francy of 36 Fifth Street was sworn in and stated that the Master Plan talks about the size of townhouses to be not more than 3-units attached.

There were no further comments from the public.

Mayor O'Neil offered a motion to close the public portion, seconded by Mr. Nolan and all were in favor.

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Mr. Truscott – with regard to the question raised by Mr. Francy pertaining to the number of units in a building in the MXD Zone he feels that the proposed five units per building is still consistent with the Master Plan. He believes that what Mr. Francy was talking about was that referred the Waterfront Transitional Zone which he further explained.

Mr. Manrodt suggested that the Planning Board recommend that the proposed MXD Zone be removed. We should keep it zoned for Mobile Homes.

Mr. Mullen stated that he has been confronted with new material this evening with regard to modifications to the Master Plan and he finds it difficult. The building size is something that was a topic of discussion and he was a strong opponent for keeping the units small. While he does support permitting health clubs in the B-3 Zone he feels that these are things that are subject to review of all board members and he feels that there should be public input with regard to putting new uses in a zone. The Zoning Board looks at specific issues that are raised by an applicant and an objector. It was a recommendation of the board but it was studied in depth.

Mayor O’Neil – it was basically a request by the Zoning Board.

Mr. Mullen – the Zoning Board feels that it’s very appropriate to establish that use there but he is not sure that doing without discussing is appropriate way to amend it.

Mr. Mullen continued to discuss his concerns with the board.

Mr. Manrodt expressed his opposition to the zone change at the Paradise Park.

Mr. Bahrs offered a motion to recommend to that the proposed changes are consistent with the Borough Master Plan and recommended that Council review the expansion of the permitted uses for allowance of health clubs be limited to the H-0 Zone and to also create parking requirements for the proposed new uses of health and fitness clubs, seconded by Mr. Nolan and approved on the following roll call vote:

ROLL CALL:

AYES: Mayor O’Neil, Mr. Bahrs, Mr. Nolan, Mr. Harrison, Mr. Cefalo

NAYES: Mr. Manrodt, Mr. Mullen

ABSTAIN: None

Mr. Serpico stated that he will prepare a resolution for adoption at the next meeting.

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Mr. Nolan offered a motion to carry the review of the By-laws, definition of building height and review of the ZB Annual Report to the next meeting, seconded by Mayor O'Neil and all were in favor.

P

Approval of Minutes:

Mr. Mullen offered a motion to approve the January 11, 2007 Planning Board Meeting Minutes, seconded by Mr. Manrodt and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Manrodt, Mr. Mullen, Mayor O'Neil, Mr. Bahrs, Mr. Nolan,
Mr. Cefalo

NAYES: None

ABSTAIN: None

Mayor O'Neil offered a motion to adjourn the meeting, seconded by Mr. Nolan and all were in favor.

The Meeting adjourned at 8:37 P.M.

CAROLYN CUMMINS, BOARD SECRETARY