

**Borough of Highlands
Planning Board Meeting
Regular Meeting
March 11, 2010**

Mr. Mullen called the meeting to order at 7:14 p.m.

Mr. Mullen asked all to stand for the Pledge of Allegiance.

Mr. Mullen 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 Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board.

ROLL CALLL:

Present: Mr. Mullen, Mr. O'Neil, Mr. Parla, Mr. Roberts, Ms. Peterson,

Late Arrival: Mr. Stockton arrived at 7:18 p.m.

Absent: Mr. Schoellner, Mayor Little, Mr. Bentham, Ms. Ruby

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

**PB#2006-1 Fleming, Daniel – Informal Discussion RE: Prior Subdivision Perfection
Procedures
Block 26 Lots 12.01 & 12.02**

**Present: Arthur Sorenson, Esq., Filling In for Mr. Wolff
Dan Fleming**

Mr. Sorenson explained that as set forth in Mr. Wolff's letter dated February 26, 2010 the Board has previously issued a Resolution approving a subdivision and that Resolution is still in full force because of the Permit Extension Act. There are two lots thanks to the subdivision with one house. He wants to build a new foundation on lower section of the property and move to that foundation, move the existing house. At the same time he would like to do underground work like sewers because now would be the right time do dig it all up.

Dan Fleming – he had an Architect prepare the drawings for the new foundation for the existing house.

Mr. Serpico explained that this is an informal and what the applicant wants to really do is do this prior to perfecting the subdivision.

Mr. Sorenson explained that the subdivision is not yet perfected because the Resolution calls for it to be held but not perfected but not filed. The subdivision deeds are prepared but the Resolution anticipates that conditions will be added to the subdivision deeds. Therefore the subdivision deeds would be approved fluid.

Mr. Stockton arrived to the meeting.

Mr. Sorenson stated that the applicant wants to get a building permit to build a foundation on the lower lot and then to move the existing house on to the foundation that currently straddles the two lots.

Mr. Serpico said that the Resolution speaks for itself. He then read through the resolution which states that the applicant has to comply with conditions before perfecting the subdivision.

Mr. Fleming stated that he would be moving foundation to the lower lot. He then spoke about moving the existing house now before perfecting subdivision.

Mr. Serpico explained that perfecting the subdivision comes first.

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Discussions continued between the board and the applicant about moving the house and how the subdivision has to be perfected first.

Mr. Serpico stated that perfecting the subdivision comes first which he further explained to Mr. Fleming.

Mr. Fleming then questioned if moving the house met all of the zoning conditions then would he be able to do the house move without perfecting subdivision.

Mr. Serpico stated that he does not understand why the sequence of events is not going in the sequence of events that the applicant represented to the board when the applicant asked for the subdivision. He cautioned the applicant about moving house before perfecting subdivision.

Mr. Sorenson – okay, step one is perfect the subdivision and do what the resolution says to do, step 2 apply for building permit for foundation on the lower lot.

Discussions continued.

Mr. Serpico advised the applicant to read through all of the conditions of his resolution.

Mr. Keady explained the resolution compliance procedures and how the conditions of the Resolution must be complied with before he could write a letter to the board indicating that conditions have been satisfied.

Discussions continued between board and applicant.

Mr. Serpico informed the applicant to have his engineer call the Board Engineer to make sure that nothing is being done that would go against the conditions of the subdivision.

Mr. Mullen informed the applicant that if he wishes to change any of the conditions of his subdivision approval he would have to make application to the board and have a public hearing and serve public notice.

Resolutions:

Mr. Stockton read the title of the following Resolutions for approval:

Mr. Roberts 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, 2010 through June 30, 2010; and

WHEREAS, such Professional Engineering Services can only be provided by licensed professionals and Jack Serpico, Esq. of the firm 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 2010 on January 14, 2010; and

WHEREAS, Jack Serpico, Esq. of Jack Serpico, Esq. has submitted the attached 2010 contract for approval; and

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

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

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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 \$ \$4,000.00
For Legal Services for the Period of January 1, 2010 through June 30, 2010.

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, 2010 through June 30, 2010 for an amount not to exceed \$4,000.00 and that the attached contract for 2010 is hereby approved and the Board Chairman and Secretary are hereby authorized to sign contact.
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. Parla and adopted on the following roll call vote:

ROLL CALL:

AYES: **Mr. Mullen, Mr. O'Neil, Mr. Parla, Mr. Roberts, Ms. Peterson,
 Mr. Stockton**
NAYES: **None**
ABSTAIN: **None**

Mr. Parla offered the following Resolution and moved in its adoption:

**RESOLUTION
AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES
TO T & M ASSOCIATES**

WHEREAS, the Borough of Highlands has a need for professional engineering services as a non-fair and open contract to be provided to the Planning Board for the calendar year 2010 pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, such professional engineering services can only be provided by licensed professionals and **Robert Keady, P.E.** of the firm of **T & M Associates, 11 Tindall Road, Middletown, NJ** is so recognized;

WHEREAS, the Board Secretary has determined and certified in writing that the value of the contract will exceed \$17,500; and

WHEREAS, T & M Associates has completed and submitted a Business Entity Disclosure Certification which certifies that T & M Associates has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous

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one year and that the contract will prohibit T & M Associates from making any reportable contributions through the term of the contract; and

WHEREAS, T & M Associates has completed and submitted a Political Contribution Disclosure Form in accordance with P.L. 2005, c271; and

WHEREAS, T & M Associates has submitted that attached contract for Professional Engineering services for the calendar year 2010; and

WHEREAS, the Planning Board has reviewed attached contract for Professional Engineering Services for 2010; and

WHEREAS, certification of the availability of funds is hereby provided by the Chief Financial Officer.

Planning Board Budget
Account #1141-3757 - \$2,200.00
For the Period of January 1, 2010 through June 30, 2010

Stephen Pfeffer, Chief Financial Officer

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;

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

1. Robert Keady, P.E. of T & M Associates is hereby appointed as Planning Board Engineer for the calendar 2010 and is awarded a professional service contract for an amount not to exceed \$2,200 for professional engineering services provided for the period of January 1, 2010 through June 30, 2010.
2. The attached Professional Engineering Contract is hereby approved and the Board Chairman and Secretary are hereby authorized to sign the contract.
3. This contract is awarded without competitive bidding as "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 persons authorized by law to practice a recognized profession.
4. A copy of the Resolution as well as the contract shall be placed on file with the Board Secretary.
5. The Board Secretary is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

AYES: Mr. Mullen, Mr. O'Neil, Mr. Parla, Mr. Roberts, Ms. Peterson,
Mr. Stockton
NAYES: None
ABSTAIN: None

**PB#2009-1 Highlander Development Group
Block 105.107 Lot 1.01
Unfinished Public Hearing**

Present: Paul Drobbin, Esq.

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Conflict: Mr. Stockton stepped down

Mr. Serpico stated that last months February 25th Planning Board Meeting was cancelled due to the snow so the Board Secretary put notice of the meeting cancellation on both the front and rear doors of the building as well as the bulletin board, as well as the website and we have hear an affidavit from the Board Secretary that will be marked into evidence.

The following documents were marked into evidence this evening:

- B-31: Affidavit from Board Secretary RE: posting meeting cancellation notice;
- B-32: Affidavit of publication from the Asbury Park Press dated 2/27/10;
- B-33: Fire Official Report dated January 13, 2010;
- A-74 – A-78 were moved into evidence.
- A-80: Drobbin letter dated 2/17/10 to Jack Serpico;
- A-81: Freehold Soil Letter dated 1/7/10

Mr. Serpico then spoke about the conflict of interest issue with regard to Councilman Richard O'Neil. He stated that Mr. McOmber has withdrawn such a claim against Council O'Neil.

Mr. McOmber stated that yes, he has withdrawn his claim of potential of conflict of interest.

Mr. Serpico further explained his legal research on this conflict issue and finds that there is no conflict of interest based on the campaign literature.

Mr. Drobbins agreed.

Mr. Serpico then spoke about the submission to the board by Mr. Stober, resident of Eastpointe. He stated that the Board Members did not review the material based on his recommendation.

Mr. Drobbin stated that he has reviewed the Stober submission and does not find the information to be reliable, it's not evidentiary and there is no foundation therefore the information should not be forwarded to the Board Members but he has no issue with the Board Engineer reviewing it.

Mr. Serpico recommended that the Board not see the information.

Mr. Keady stated that he did receive the information and forwarded it to Geotechnical Engineer.

Henry Stober of 1 Scenic Drive stated that he was not sure what Mr. Drobbins said. He then spoke about submitting the information for the Boards awareness that there are safety factors.

Mr. Drobbins explained that the appropriate method to present information is to the engineer or hire his own expert.

Mr. Stober again spoke about the information that he submitted.

Mr. Serpico advised Mr. Stober not to say what the documents were.

Mr. Stober then referred to Planning Board Minutes and stated that there is a 1.5 safety factor.

Mr. Drobbin stated again that the appropriate method by which to use that document would be do deliver it to the Board Engineer or hire his own experts.

Mr. Mullen agreed.

Mr. Drobbin stated that there were a couple of other clean up items

Mr. Mullen explained that the Borough changed the Steep Slope Ordinance and therefore this application no longer seeks a waiver from the steep slope ordinance. It is now a variance that is required from the steep slope ordinance. He stated that there is a memo from the Board Attorney

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on this matter. He stated that this ordinance was not developed based on this application, it is an ordinance that was developed several years ago.

Mr. Drobbin – upon receipt of Mr. Serpico’s memo dated February 3, 2010 on the issue of the change in the Steep Slope Ordinance changing it from a design waiver to a variance. One of the first things he did was check the notice that was provided by himself and those notices cover the eventuality that occurred and that is that the design waiver for steep slopes became a variance. So the notice covers the fact that it’s a variance so he does not have to renote. The ordinance does not change the substance of the rules of the steep slope it’s just places it in a different place in the ordinance. Mr. Serpico eludes to the Time of Decision Rule which is generally enforced by the Courts. He stated that he will still proceed with variance testimony and the variance application. At the next meeting he will bring his Planner back so he can testify as to the Steep Slope Ordinance and that what we have requested is appropriate for a variance. He then requested that Exhibits A-74 through A-78 be moved from identification into evidence.

Mr. Mullen – so moved.

Exhibit A-80 – Drobbin’s letter dated 2/17/10 was marked into evidence.

There was no objection to the marking of the exhibits into evidence so they were marked.

Dan Busch who has been previously sworn in stated the following during his testimony and response to question from the board:

1. He has been here for every hearing.
2. He spoke about a Freehold Soil approval letter dated 1/7/10 and the attached second page that is for the Stormwater discharge authorization.

Mr. Drobbin requested that the Freehold Soil letter dated 1/7/10 be marked into evidence as Exhibit A-81. There was no objection so it was marked.

Dave Parker, Fire Official was sworn in and stated the following during his testimony and response to questions from the board:

1. He is the Borough of Highlands Fire Official and the Fire Chief of the Highlands Fire Department.
2. He spoke about his report dated January 13, 2010 which was marked as Exhibit B-33 as follows:
 - * Turning Radius Issues – he stated that this issue was previously addressed in an email dated July 2, 2009 and that he agreed with Dr. Carter’s reference to this.
 - * Modern Fire Dept. – he agreed with Dr. Carters comments
 - * Mutual Aide – he agreed and commented that we are a member of the Mid Monmouth County Mutual Aide Association.
 - * Review of Floor & Roof Plans – he agreed with Dr. Carter’s statement.
 - * O’Haig in 1977 – he agrees with the information provided which he further explained. A high rise fire by design makes fire fighting strategies more difficult.
 - * Buildings beyond the reach of portable ladders and hose streams constitute difficult problems, he agreed which he further explained.
 - * NFPA Handbook reference 20th Edition – he agrees with information in Dr. Carter’s paragraph that refers to high hazard occupancy responses through automatic and mutual aide high hazard alarm responses. The Highlands Fire Department currently provides sufficient protection in accordance with NFPA Fire Protection 20th Edition. These response protocols are most closely exhibited in Eastpointe Condominiums, 15 floor high-rise.
 - * O’Haig 1977 another comment – he agreed and said that we actually have we have a high hazard response policy that we currently have with Eastpointe Condos.
 - * Staging Area Paragraph – he agrees with information that was provided however Highlands Fire Department has pre-plan staging protocols for one Scenic Drive. The area is in the rear of the Eastpointe Plaza located on Hwy 36.

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* Potential Evacuation of People Paragraph – he agrees with the information however, these hazards can be reduced by the required fire and safety features that will be a part of these buildings, which he further detailed. Possible relocation of residents we may be able to relocate to other buildings that would be in the area. This would be addressed in the Fire Departments Evacuation Plan of a particular building and of a particular floor.

* Sufficient area of immediate vicinity to stage fire apparatus – for a first responding apparatus, they would stage at the potential fire building.

* Fire Dept. access to parking garage paragraph – he agrees with Dr. Carter however, the condition stated in this specified environment can be found during most structural fire fighting operations. Additionally automatic fire suppression systems in the location of adequate water supply within this area can reduce the hazards associates within the parking garage area, which he further explained. This was addressed in the July 2, 2009 letter. He further spoke about the systems for the garage area.

* Snow & Motor Vehicle Accidents Blocking Access to Site Paragraph – this could be relative to any building or complex within the Borough of Highlands. Snow removal, it would seem to him that sufficient space exists for the removal and placement of the snow.

* Negative Impact of this project paragraph – this could be applied to any community project, which he further explained. He then spoke about how he listed four items in his report to reduce the hazards associates with high rise fire fighting. Item 1, Proper Construction through closely monitored building inspections to ensure that building fire protection systems are installed as per code, he feels this is an important factor. He then spoke about lock box systems and other methods that are used in other large buildings in the borough. Item 2, was enhanced high rise operation training for the Fire Department and automatic and mutual aide. He stated that this is something that is done now but it would be a good idea to get some enhanced training on fire protection systems, which he further explained. Third Item, was enhance fire fighting communications with the proposed buildings through the use of radio repeater systems installed in the building, which he further explained. Fourth Item, plan replacement of a thirty year old Aerial Truck that does not support climbing and rescue efforts or water pumping capabilities with modern aerial ladder that has enhanced rescue and climbing capability, water pumping capabilities and necessary high rise equipment, which he further explained.

3. Entrance to the site is in adequate coming into the site and that was actually addressed on July 2, 2009 having to do with the relocation of a pole.

4. He believes that a first alarm assignment which would require four engines and two ladders into the location would be adequate. The second and third alarm assignments would not, they would need to set up somewhere outside the complex.

5. He is confident that if there was a fire at the proposed development that they could respond.

Mr. Drobbin began his cross examination of Mr. Parker.

Mr. Parker stated the following during his cross examination testimony:

1. There is a Committee that was formed to address the 30-year aerial ladder. They are currently interviewing contractors at this time to solicit cost estimates so that it can be presented to the Governing Body in the early summer.

2. The new truck will be larger by three feet in length. The turning template does refer to a larger vehicle then what they are looking into.

3. Items 1,2,3 of Parker Report would be undertaken with fire protection engineer or sub code.

4. He has not reviewed the applicants Fire Protection Engineer Testimony.

5. Since Eastpointe was constructed there are new requirements which are required in today's buildings such as fire suppression systems sprinklers, smoke removal systems, fire communication centers and basically enhanced fire pump on location, smoke detection locator systems, etc.

6. Life Safety Systems are encompassed into what he just referred to.

7. A Fire Protection Engineer would be involved in the design of a building with life safety systems.

8. He is not a licensed Fire Engineer.

9. Mutual Aide – there is existing agreement for over past 26 years.

10. Changes to his testified recommendations, there are none to date unless he sees a final version of building plans.

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11. He does have a copy of the Dan Busch letter dated July 30, 2009. Item 1 the pole and Item three the inner circle. Item 3, the main inner circle has been designed for emergency apparatus and large vehicle access and circulation as illustrated on the ladder truck turning template, sheet 3 of 3 dated June 17, 2009. The outer loops are designed for pick up and drop off only and cannot support large vehicles. He believes that he had an issue with the pickup and drop off zones. We are looking to have adequate turning space in those outer loops.

Dan Busch stated that the inner circle is designed for the larger apparatus. The outer portion is designed just for pick up. This would not accommodate a ladder truck.

Mr. Parker continued as follows:

12. Buildings one and two would not have the adequate area that we need. The main entrance would be served in the front, that's for building three. Buildings one and two, the main entrance would not be served by the fire apparatus.

Dan Busch stated that the truck could get into building one and building two but couldn't go through.

Mr. Parker stated that for building one west corner and building two on the east corner, we need to make sure that we can get a ladder truck to serve the entire front of the building. The issue that we may have is that if we go in there and have two or three apparatus that are inside that circle, will they be able to maneuver to get back out? They do not want to back out of the complex, which he further explained.

Dave Parker suggested a fire lane from Scenic Drive and be able to come in one way and out another.

Mr. Mullen – but that is not addressing your proximity to the building issue.

Mr. Parker – no that's addressing the issue with the apparatus with maneuvering.

Mr. Busch stated that there could be consideration to change enter of loop more mountable for fire truck. Inner parking on circle will not encroach in roadway which he explained.

Mr. Mullen – so we have talked about maybe making those outer rings where the parking is more mountable curb situation so that it would increase the circulation of the outer loop as well.

Mr. Busch – yes, we can certainly make these more mountable which he further described.

Mr. Parker wants ladder truck template to show amendments.

Mr. Parker then read through items that he had requested be identified and read through the response from Mr. Busch.

The board took a brief recess at 9:14 pm.

Mr. Mullen called the meeting back to order at 9:20 pm.

ROLL CALL:

Present: Mr. Mullen, Mr. O'Neil, Mr. Parla, Mr. Roberts, Ms. Peterson,

Absent: Mr. Schoellner, Mayor Little, Mr. Stockton, Mr. Bentham, Ms. Ruby

Mr. McOmber began his cross examination of Mr. Parker.

Mr. Parker stated the following:

1. The cost of a new ladder truck in between \$800,000 and \$850,000.
2. He is familiar with Dr. Harry Carter and he is well respected.

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3. Exhibit A-13 he expressed his concerns with regard to emergency vehicle access to buildings one and two. He stated that it could be improved upon based on the information that was discussed tonight.
4. Staging of equipment, if major fire would call in mutual aide, which he further explained.
5. As designed right now, he is not one hundred percent satisfied with access to buildings one and two.
6. A three alarm fire would have four ladder trucks and eight engines, four command vehicles and ambulances. All vehicles would not be on the site which he further explained. He also spoke about staggering of vehicles to allow vehicles to get in and out of site and to no congest the area.
7. 282 Units – does not have concerns with only one way in and out because they meet the requirements. Would another means of egress and ingress be better, of course.
8. Yes, it's possible that they may need more than one ladder or water pump truck at one time.
9. Based on this design, yes its difficult for trucks to park.
10. Yes, he is not one hundred percent satisfied with site circulation adjacent to buildings one and two.
11. This would have to be redesigned for him to be confident in fighting fire.
12. He stated that they currently stage in the back of the CVS Parking lot for Eastpointe Condo. That would be one location and another would be on Ocean Blvd, probably on the east side.
13. There would be personnel pools that may be directed to walk into entrance or be on standby, it all depends. The shorter the distance the easier it is to walk.
14. The distance of entrance route and staging area does concern him.
15. With Eastpointe they do have access to all four points of the building.
16. He does not have access to four sides of buildings one and two of proposed.
17. He would prefer design change.
18. Snow Removal does not know where snow will be put.
19. Snow is a problem with any fire.

Mr. Drobbin redirect of Mr. Parker.

Mr. Parker stated the following:

1. With regard to loop inner and outer making them mountable would address his concerns.
2. If those concerns were addressed for buildings one and two would be satisfied.
3. Its easier to fight a one unit fire verses a 10 unit fire.
4. With regard to buildings one and two if mountable curbing would feel confident that they could fight fire.
5. Eastpointe building, yes they can get to waterside of building through a fire dept access gate.
6. Keys allow fire department access to fire dept. connection and access to ladder.
7. He will work with Fire Engineer to determine the location of the connections.
8. He is not an expert in designing sites.
9. Staging, if there was a fire at Eastpointe most of the equipment would be staged off site and that it part of the protocol in the plan.
10. Eastpointe Condos, there is more than one entrance which he further explained.
11. Fire Plan, they have plan in place for other high hazard locations and there is mutual aide response.

Mr. McOmber redirect of Mr. Parker.

Mr. Parker stated the following:

1. Delivering trucks parked in the inner or outer circle would impede access.

Mr. Mullen asked if there were any questions from the public for Mr. Parker but there were none.

Mr. Parker was excused.

Exhibit B-33 was moved into evidence with no objections.

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Mr. Drobbin stated that he will bring his Planner to the next meeting.

Mr. McOmber stated that he doesn't believe that he has anymore witnesses.

Mr. Drobbin stated that they may have amended plans based on the testimony and they will be reviewed by Mr. Parker and Board Engineer.

Mr. Serpico – with that in mind there may be additional testimony of Mr. Busch and Mr. Parker.

Mr. McOmber - based on that he reserves the right to have Dr. Carter back.

Mr. Serpico asked if the attorney felt that it was time to have attorney Wendall Smith of Eastpointe to come to the next meeting.

Mr. Drobbin – why don't we see where we are in two weeks and then move from there.

Mr. Parla offered a motion to carry this hearing to the April 8th Planning Board Meeting, seconded by Mr. O'Neil and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Mullen, Mr. O'Neil, Mr. Parla, Mr. Roberts, Mr. Peterson

NAYES: None

ABSTAIN: None

Mr. Mullen informed the public that this hearing will be continued at the April 8th Planning Board Meeting at 7:00 p.m. and that no further public notice will be given.

Mr. Drobbin consented to grant the Board and Extension of time to act on this application.

Approval of Minutes:

Mr. Mullen stated that on page 2 of the December 2, 2009 Executive Session Minutes Mr. Stockton was not present so that needs to be corrected.

Mr. O'Neil offered a motion to approve the December 10, 2009 Executive Minutes, seconded by Mr. Mullen and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Mullen, Mr. O'Neil, Ms. Peterson

NAYES: None

ABSTAIN: None

Mr. Mullen offered a motion to approve the December 10, 2009 Planning Board Regular Meeting Minutes, seconded by Mr. O'Neil and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Mullen, Mr. O'Neil, Ms. Peterson

NAYES: None

ABSTAIN: None

Mr. Mullen offered a motion to approve the January 14, 2010 Planning Board Regular Meeting Minutes, seconded by Mr. O'Neil and approved on the following roll call vote:

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ROLL CALL:

AYES: Mr. Mullen, Mr. O'Neil, Mr. Roberts, Ms. Peterson

NAYES: None

ABSTAIN: None

Communications:

Smart Growth Planning Grant

Ms. Cummins stated this was something that Mayor Little wanted to speak about.

Meetings

Mr. Parla questioned what was going on with regard to the John Bentham emails.

Mr. Mullen explained that this is what Mr. Serpico spoke about earlier in the meeting regarding a possible conflict.

Mr. Serpico explained that he does not agree with Mr. Bentham's opinion. He explained that no, if a member of the governing body sits in the audience during a board meeting public notice is not required. He further explained that it does not constitute a Council quorum.

Discussion continued.

Mr. Parla – does Mr. Bentham's written statement mean anything?

Mr. Serpico – no, it does not change his legal opinion.

Mrs. Cummins questioned if the Bentham statements are subject to OPRA.

Mr. Serpico explained that it's subject to OPRA.

Discussions continued.

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

The Meeting adjourned at 10:08 pm.

CAROLYN CUMMINS, BOARD SECRETARY