

**BOROUGH OF OLD TAPPAN
PLANNING BOARD
REGULAR MEETING
WEDNESDAY, December 11, 2013- 7:30 p.m.
MINUTES**

In compliance with the Open Public Meetings Law, notification of this meeting has been sent to our official newspapers and other publications circulated in the Borough of Old Tappan, and notice posted on the bulletin board at Borough Hall as well as on the (www.oldtappan.net) web site.

MEETING CALLED TO ORDER at 7:35 PM:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Present:

William Weidmann	Chairman
Nick Mamary	Vice Chair
Charles Maggio	
Police Chief Shine	
Karen Nilsson	Financial Secretary
Michael Alessi	Alt. #1
David Keil	
Thomas Gallagher	Alt. #3
Gary Mascolo	
Anna Haverilla	Mayor Rep.
Dan Eller	Alt. #4

Also Present:

Robert Regan, Esq.	Board Attorney
Sean Moronski	Board Planner
Thomas Skrable	Board Engineer
Robike Noll	Land Use Administrator

Absent:

Victor Cioce	Council Liason
Julie Katz	Alt. #2
Laurel Carnazza	Recording Secretary

OPEN TO PUBLIC: None Present

FINANCIAL SECRETARY'S REPORT:

Ms. Nilsson stated that the bills are as follows: \$ 475.00 from budget and \$1264.40 from escrow for a total of \$ 1739.40

Mr. Maggio made a motion seconded by Ms Nilsson, to approve the bills as stated. On roll call vote, all in favor, none opposed.

ENVIRONMENTAL COMMISSION REPORT:

Mr Keil reported that the Environmental Committee last met on November 19, there is no December meeting scheduled; next meeting will be Third Tuesday of January .. EC hosted Paper Shredding day on November 16

At November 19 meeting Discussion:

- 1) OT will take part in first Annual Northern Valley EarthFest, held on 4/26/14 in Norwood with all Valley EC's participating
- 2) Discussed invasive species Kudzu (*) found in Old Tappan
(*Kudzu, a Japanese vine *species invasive* -- found mostly in the southeast United States
- 3) EC in support of Girl Scouts Project Sneakers

4) Also at November 19 meeting,

EC heard from Dr Nalbandian and Mr. Brennan regarding the tree clearing activity on the subdivision (Hidden Court). Several EC members visited site, reviewed aerial photos, as well as PB original resolution. A tree by tree inventory was also done, to accomplish a direct comparison of current conditions vs the site plan approved/pre construction plan..

EC determined 94 trees were removed, including

24 damaged by various storms, according to arborist DeCarlo's Oct 2013 report,

7 were under 8 inches in diameter (borough ordinance silent on these)

Remaining 63 trees had diameters of 8" or greater and the EC feels should be replaced.

Mr. Keil quoted OT Boro Ordinance 234-15, re: formula of species and diameter of removed trees, and if not practical, developer may chose to deposit funds into the Tree Trust fund.

Based on this ordinance, the EC recommends the replacement of 101 trees, including ash, beech, birch, cherry, elm, locust, mulberry, spruce, etc.

Mr Keil noted that due to ongoing construction, the report is subject to limited findings. Also, should the developer be dissatisfied with EC's findings, he is encouraged to do his own before/after comparison

Chair Weidmann asked if discussion has taken place with developer regarding this report, Mr. K reported no, his understanding is that the EC recommendation and report is sent to the PB and the PB will notify developer of decision. EC is asked to forward report to the PB office for distribution, as well as the Shade Tree/DPW (Artie Lake) for determination of replacement vs fund (and amount of deposit to fund to be determined by Shade Tree as per ordinance)

Floor open to Discussion

- a) Councilwoman Haverilla questioned clarification that it seems recommendation is to replace all trees and NOT put money into Tree Trust Fund? Mr. Keil reiterated that this is not a “recommendation” by EC, but rather a direct application of the ordinance to the site.
- b) Chair Weidmann speculated that not all trees could effectively be replaced
- c) Mr. Skrable offers that ‘shade tree’ is different than Tree Trust Replacement, and that the Board can direct replacement vs funds to be determined by Shade Tree. Additionally, replacement may be difficult, as the lots are now under private ownership, no longer the developer (Brennan) and the new owners cannot be bound to accept planting/replacement trees should they not want them. Conversely, remanding funds placed in Tree Trust, rather than requiring replanting may not please the owners who would like trees replaced.
- d) Mr Keil offered that he spoke with one of the new owners who was under mistaken impression that many more trees were removed from his property than actually were taken away. Mr Keil showed aerial view and satisfied new owner. Mr. Skrable reconfirmed confirmed that new owners cannot be forced to allow replacement., and again, reviewed ordinance, stating if the replacement trees required are too numerous for site, the planning board can approve funds be placed into Tree Trust, (amount determined by Shade Tree).

Vice Chair Mamary voices that the ordinance should be revisited to avoid this in the future, Chair Weidmann agreed, and accepted Vice Chair Mamary’s comment as volunteering to head the committee. Vice Chair Mamary was nominated by Chair Weidmann , seconded by Mr Maggio, and encouraged to choose his committee members, VC Mamary chose Chair Weidmann.

Mr Mascolo questioned who determines the amount of deposit into Tree Fund, Chair Weidmann reiterated that the longstanding borough Ordinance leaves that decision/formula to the Shade Tree/Artie Lake.

Mr Gallagher queried if a new owner of lots(s) in question did desire trees to be replaced, might they be entitled to funds from Tree Trust/Shade Tree. Mr. Skrable confirmed funds are NOT available for private request and that the borough would and could NOT replace trees on private property. Councilwoman Haverilla and Mr. Regan clarified that the fund is not strictly for replacement, but is also used for maintenance, trimming, etc.

Mr. Eller requested clarification of point of discussion if problem is not alleviated. Chair Weidmann explained that Developer had removed extensive number of trees without permission, (as per requirement of the subdivision resolution, requiring landscaping/tree plan before any action took place).

Councilwoman Haverilla, seconded by Mr. Keil opened the floor to hear public present

Mr. Brennan, 39 O'Connors spoke, explained that he did not sell the properties and then cut the trees down. New owners purchased lots after the trees were removed, property was sold as is, and he feels no one is entitled to more trees "from his end". Mr. Brennan feels the "law is funny", as it does not clarify land seller vs actual developer. Mr. Brennan admitted his crime was the trees were cut prior to "permission" (plan approval) but feels the amount of funds to go to Tree Trust, should be largely reduced since the new owners will likely do landscaping, etc. Mr. Brennan suggested new owners be bound to present landscaping plans, since they cannot get CO's until then anyway, and then re-evaluate, to discount his liability as former owner/developer. Chair Weidmann asks to clarify what Mr. Brennan is requesting, and feels this is not possible, Mr. Skrable agrees that this is not how the ordinance reads. Mr. Brennan also mentions that he voluntarily planted some trees on his own property and that should be taken into consideration of the final count he is liable for.

Mr. Keil responds that this concept was brought up at EC meeting and the EC did not accept this, as they have repeatedly requested Landscaping plans and have not see one.

Mr. Weidmann agrees that the ordinance can be re-evaluated, concerning developer vs seller vs owner, however, at this point Mr. Brennan's obligation stands at 101 trees currently. Mr Skrable agrees and reconfirms that seller was liable, not new owners, and the new owners cannot even be bound to submit plans beyond normal building department requirements. Mr Skrable also reiterates, if the PB votes tonight to approve the EC recommendation for either replanting of 101 trees or the funds be deposited to the Tree Trust, then the issue is over with no further requirements of new land owners.

Mr. Bill Howe (member of Environmental Comm) would just like it noted, that if Mr. Brennan is given "credit" for trees replanted on his own current property, a recount must be done as well, including the trees removed from the same property. Mr. Brennan corrects Mr. Howe that he is looking at the wrong property, that is not part of this parcel.

Chair Weidmann calls for a vote, and Mr. Keil does interject that a more precise count must be done, as daylight was fading on the day of the EC's incomplete count. Welcoming Mr. Brennan's arborist to attend, Mr, Keil would like to be sure a reexamination is done prior to finalizing any amounts

A vote is taken, members can vote for tree replacement or contribution to Tree Trust

Nine (9) Members vote Contribute to the Fund

Chair Weidmann, Vice Chair Mamary, Mr. Maggio, Ms. Nilsson, Mr. Mascolo, Mr. Keil, Police Chief Shine, Councilwoman Haverilla, Mr. Alessi

Zero (0) Members vote for tree replanting/replacement

Mr. Regan reiterates and strongly recommends that No further permits, CO's or CCO's be released on any of the properties until contribution is made.

Mr. Brennan objects that the new landowners be penalized while he negotiates.. Mr. Brennan asks if he disputes the amount he is charged, should he decide to sue the town, why should new owners wait on CO's and permits, etc if they had nothing to do with the situation at hand. Councilwoman Haverilla clarifies he means "appeal the decision?"

Mr. Regan clearly states that those same people are further along in the process, because this should have been resolved prior to the perfection of the subdivision, and the new owners should have done their due diligence as per the developer's agreement prior to purchasing.

Mr. Skrable suggests holding Bond Releases rather than hold up permits for new owners. Mr. Regan still recommends nothing happen until this is resolved; however it is possible to amend the bond to include this issue of the trees. Mr. Regan again suggested that no action be taken, no permits released, etc until this bond is amended. Mr. Brennan will meet with Mr Lake asap to resolve.

COUNCIL LIAISON'S REPORT:

Councilwoman Haverilla

Some ordinance review and perfecting

Dumpster Ordinance is being perfected, only change is that a separate permit is not needed if part of a construction permit.

Monday January 6th at 6:30 pm is Reorganization meeting for Mayor and Council

Chair Weidmann questioned a rumor of a special needs housing being approved by Mayor and Council. Councilwoman clarifies that the United Way has been looking at a property near Chestnut Field, which is currently on the ROSI list and would need a lot of work and also needs to appear before the Planning Board (Sean Moronski clarifies Recreational Open Space Inventory/Green Acres) Chair Weidmann reports that he was told the Mayor and Council already approved it and will donate the property.

Councilwoman offers that IF the Planning Board approves the application, the Mayor and Council would consider the donation of the property.

CONSTRUCTION OFFICIAL'S REPORT:

Robike Noll reads report supplied by Alyson Lazarus/Nick Lepore

32 Construction permits and updates/ 11 CCO Resale/2 Soil Movement /3 Road Opening/10 Zoning

BOARD ENGINEER REPORT:

Mr. Skrable reconfirmed from November meeting, DOT formally approved award for (grants) to finish sidewalks on Orangeburg Road, as well as small gaps on DeWolf, Old Tappan Road, in front of Pearson and also on Westwood Avenue by the park. Additionally, OT is proceeding with Hazard Mitigation Grant, for emergency generator for Police and DPW facilities. (Federal Fema funds) a package is being prepared to apply for Resilient Energies for additional funding, to provide off-grid inverters for the solar system. Also add a quick connect for the temporary generator at the Golf Course, (site of emergency secondary police station) Princeton Power is preparing a package to get exact idea of \$\$, package to be submitted by Monday. Vice Chair Mamary asks for explanation of Resilient Energy, Mr. Skrable explains any technology to function when major power is down. Discussion of Natural Gas vs Fuel for Generators

MINUTES OUTSTANDING: none

MINUTES APPROVED:

September 11, 2013, with amendments motion Mr. Alessi, second Mr. Keil

Chair Weidmann, Mr. Mascolo, Mr Keil , Councilwoman Haverilla, Mr Gallagher, Mr. Alessi, Mr. Eller all in favor

November 13, 2013 motion Alessi, second Mr. Nilsson

Chair Weidmann, Vice Chair Mamary, Ms. Nilsson, Mr. Mascolo , Mr. Eller all in favor

OLD BUSINESS: None

NEW BUSINESS:

Question from Mr. Alessi, regarding repairs to footbridge on Haring . Mr. Skrable reports contract has been awarded and repairs have been approved, to repave path, repair railings, concrete curb, water remediation, etc. will be addressed.

Additionally, Mr.Skrable addressed the Westwood Avenue Bridge repair, waiting on State Permits, for the County to restore what needs repair.

COMMUNICATIONS:.None

RESOLUTIONS:

Approving 2014 Meeting dates *motion Eller, second Maggio*
10 yes, unanimous
Chair Weidmann, Vice ChairMamary
Mr. Maggio,Ms Nilsson,Mr Mascolo,Mr Keil,
Police Chief Shine, CouncilwomanHaverilla,
Mr Alessi,Mr Gallagher,Mr Eller

APPLICATIONS: None

OPEN TO PUBLIC: None

ADJOURNMENT:

Upon motion of Mr. Eller, seconded by Ms Nilsson all in favor,
the meeting was adjourned.

Respectfully submitted,

By: _____

Robike W Noll , Acting Recording Secretary

Date Approved _____

cc: Mayor and Council
Robert Regan, Esq.
Thomas W. Skrable, P.E.
Construction Official
Fire Official
Board of Health
Burgis Associates