

Franklin Borough Planning Board
Meeting Minutes for
January 23, 2013

The meeting was called to order at 7:28 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: Mayor Crowley, Mr. Suckey, Mr. Zschack,
Mr. Zydon, Mr. Foulds, Mr. Nidelko,
Mr. Lermond

ABSENT: Mr. Christiano, Mr. Cholminski

ALSO PRESENT: Mr. Ken Nelson, PP/AICP
Mr. James Kilduff, Director

APPROVAL OF MINUTES:

Mayor Crowley made a motion to approve the **Franklin Borough Planning Board Meeting Minutes for December 17, 2012**. Seconded by Mr. Zydon.

Upon Roll Call Vote:

AYES: Crowley, Zydon, Foulds, Lermond

Mayor Crowley made a motion to approve the **Franklin Borough Planning Board Executive Session Minutes for December 17, 2012**. Seconded by Mr. Zydon.

Upon Roll Call Vote:

AYES: Crowley, Zydon, Foulds, Lermond

APPROVAL OF RESOLUTIONS:

There were no resolutions to approve.

APPLICATIONS FOR COMPLETENESS:

There were no applications for completeness.

ADJOURNED CASES:

There were no Adjourned Cases.

APPLICATIONS TO BE HEARD:

There were no applications to be heard.

PAYMENT OF BILLS:

Mr. Lermond asked if anyone had questions. Mr. Foulds questioned Courter & Kobert bills. Mr. Kilduff advised they're Borough attorneys who have changed firms.

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Mr. Foulds made a motion to approve the **Franklin Borough Planning Board Escrow Report** for January 23, 2013. Seconded by Mr. Suckey.

Upon Roll Call Vote:

AYES: Suckey, Zydon, Foulds, Nidelko, Lermond

NAYS: None ABSTENTIONS: Crowley, Zschack

Mr. Lermond asked Mr. Kilduff if there's any other business other than the discussion item. Mr. Kilduff responded, no. Mr. Lermond inquired about the form received. Mr. Kilduff advised he will explain.

OTHER BUSINESS:

DISCUSSION:

Mr. Kilduff spoke about the Highlands grant with secured funding and without obligation. He said the planner completed the first three modules.

Mr. Kilduff said under former Executive Director, Eileen Swan if a municipality proceeded to the fourth module, it was a non-reversible commitment. Since her departure, the Highlands tune has changed and spoke of a conversation with Herb August, Grants Manager.

Mr. Kilduff said Franklin is 100% in the Highlands planning area, if "we" become part of the Highlands and don't like it, we can retract. Mr. Kilduff said he suggested Highland's representatives come for the February meeting to lay out their plan. If there are no objections, he will do that. Mr. Zydon asked if anything needs to be done and if there are strings attached. Mr. Kilduff responded "no" to both.

Mr. Lermond commented with all the changing, and now it's different. Mr. Kilduff said it's more liberal as presented to him via telephone. Mr. Lermond questioned it not having a guideline or chart. Mayor Crowley explained the political changes and the (Highland's) Council's stance.

The Board briefly discussed flexibility, going forward along with assurances, listening to their offer and consideration of it. Mr. Kilduff said he sees it as grant money with no strings attached and get planning done for the town. It was agreed to have it presented next month.

Mr. Nelson said the final drafts of the reports were distributed. Mr. Nelson provided a recap of "Areas A, B and E." Mr. Nelson said a Public Hearing on "Areas C and D" can be scheduled and forward reports to the Council with a recommendation regarding their designation. He discussed his report of "Area C" and said the "Area D" report is as was previously seen.

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Mr. Nelson said it's up to the Board to schedule the public hearings and needs to discuss "Area D" notification with Mr. Brady. He said once hearings are done and a recommendation has been made to the Council, it's out of the (Planning Board's) hands and Council designates "Areas A, B, C, D" and part of "Area E" not designated.

Mr. Nelson talked about outside assistance at no charge to perform some planning. If achieving it was successful, he could be involved in a supervisory capacity at minimal cost ensuring its proper direction including Board involvement. He spoke of two routes, what's involved and said neither have guarantees. Mr. Nelson said the DCA is better of the two, explained its offering and spoke of his contact with Mr. Tessier. He said though it takes work away from him, he prefers the Borough utilize the service than to not get work done. Mr. Nelson explained what NJ Chapter of the American Planning Association has to offer and believes "Area D" may be a good candidate for this one. However, it has a March deadline and spoke of it being focused on the Jersey shore area though not exclusively.

Mr. Nelson said at this point it has to be something Council is in agreement with. He said if the Board wants him to investigate further then revisit the discussion in February, a recommendation to proceed with either possibility can be made to the Council. Mr. Nelson said it's critical the Borough move ahead now that the areas are ready to be designated and do actual planning. He said the rest of "Area E" should be on hold and explained why.

Mr. Nelson said the site plan approved by the Board of Adjustment comes down to "Areas A, B and D" as targeted areas the Borough needs to proceed with, get plans done, set up an implementation program and explained why. Mr. Lermond asked if implementation would be another fiscal burden. Mr. Nelson said it's not going to be, a cost is involved and there are different ways to do it. He said volunteer time can be utilized but there will be legal and other unavoidable costs.

Mr. Lermond asked how it's being done in "Area E". Mr. Nelson said he doesn't know if anything moved ahead with "Area E" other than Wal-mart hopefully moving ahead on its own. Mr. Lermond said but we have a plan. Mr. Nelson agreed and said he doesn't know what's been discussed at Council level about implementation. He explained the redevelopment agency process.

Mr. Kilduff talked about the reason for implementing the study through scheduling a Public Hearing. He said it incurs expense for the town and mentioned Mr. Knutelsky and Mr. Brady's services excused this evening. Mr. Kilduff said (the town) is at a point of deciding to move forward with public hearings of the two areas and explained the steps thereafter. He also spoke of his concern for available resources.

Mr. Lermond commented if it's not followed through then maybe you don't want to designate. He said the Board's responsibility was to investigate and bring back

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recommendations. He said the decision and the consequences fall on the Council. He thought it's gone this far, his opinion is to have the Public Hearing and make it clear then although they (the Board) recommend, the Council takes action.

A brief discussion regarding money, services and work done was had. Mr. Kilduff said he appreciates those concerns and has the additional perspective of finances involved to get it done. Mr. Lermond referred to "Area E" where everything was done and can move forward.

Mr. Nelson said one hearing could be had for "Areas C and D" to save money. However, the Board of Adjustment approved a Site Plan for the old Kulsar's Garage which is in the middle and is the biggest property. At this point, a discussion regarding area designation, de-designation, zoning and Kulsar's Garage was had.

Mr. Kilduff said he was thinking of other properties involved on Route 23 like the old ski shop in need of redevelopment and doesn't want to see it left out. Mr. Lermond said unfortunately, there's a piece of property in between those two making it difficult to tie up.

Mr. Lermond suggested at least have a Public Hearing, provide a recommendation, a final recommendation, make a report and present it to Council. Mr. Nelson agreed. Mr. Kilduff addressed his concern of having the Public Hearing, designation of the areas, forwarding it to the Council and their decision. If they choose to not go forward, what does it do for those areas; are they now stigmatized. Mr. Nelson said potentially there's a problem and explained.

Mr. Suckey commented, here we are 25 years later, been on this Board for 26 years and still arguing/talking about what to do with the town. He said we finally got a plan, it's the closest we've ever been to doing something and we're talking about do we do something or we just leave it blank the way it is. Mr. Suckey said if that's what we're doing then I don't need to be here because I'm getting tired of it. We have to make a decision. If Council doesn't want to do anything, than it's up to the Council but we did our job.

Mr. Nelson acknowledged Mr. Zschack and the Mayor who will convey to the Council and also thinks the Planning Board should go on record after the Public Hearings are held and what they think the Council should do in writing.

Mayor Crowley talked about a woman who was questioning the dilapidated areas along Route 23. He said each property have their own history and reason. He's in agreement with Mr. Suckey that Council should have tools to start doing something about them and without a plan you can't move forward except hope someone with finances buy and fix them. Mayor Crowley thinks it won't happen on some of the properties.

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Mr. Zydon asked if development soliciting of the available properties start after Council makes a decision. Mr. Nelson said there are a number of ways to doing it and gave suggestions. Mr. Lermond said that's actually the implementation phase which was agreed by Mr. Nelson. At this point a discussion regarding possible pursuant steps, property owner interest/improvements, EDC Committee usage and Borough improvements made was had. The Board also discussed work done thus far and of previous designations made.

Mr. Lermond said to Mr. Nelson, with all this work, history and effort, do we remove the discussion about why we included or excluded an area; specifically in "C" and referred to (Mr. Nelson's) cover letter about the report modification. Mr. Nelson said he didn't exclude it completely and said he made reference that they looked at additional properties but decided not to include them and explained. A brief discussion on this followed.

At this time a discussion regarding a meeting date was had. It was agreed to have the meeting on March 18th. Mr. Kilduff said March 18th is a good day. Mr. Lermond said everybody's in agreement to set a Public Hearing for "Areas C and D".

Mayor Crowley made a motion to have a Public Hearing for "Areas C and D" on March 18th. Seconded by Mr. Suckey.

Mr. Kilduff said the Board took action to set March 18th as a Public Hearing for "Areas C and D." There will be a notice in the paper prior to that. Mr. Lermond asked if there are further discussions by Board members, and said there is no correspondence.

OPEN PUBLIC SESSION:

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

Dick Durina, 23 Lozar Road read page 25 of the Master Plan as well as a section regarding acreage in the Route 23 corridor. He spoke of his nearly 50 year volunteering and efforts for Franklin, the covenant in his deed, his home value and five families affected by the (Walgreen's) application. He provided his opinion of the impact of the (Walgreen's) building's size, businesses blending with residential homes along 23 and expressed his desire to move Franklin forward. He doesn't want this fight but is willing to stand up for his property value and the other neighborhood people. Mr. Durina wants some answers and knows it's before the Zoning Board. He advised he's retained an attorney as he doesn't want it to happen to his neighborhood and thanked the Board.

Dan Dougherty, 26 Auch Drive asked who's directly responsible for removing the covenant off the deed of the Elekes's property. Mr. Kilduff said Superior Court. Mr.

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Dougherty asked if it went through the proper channels. Mayor Crowley said it was not from the town and had no idea it was being done. A brief discussion regarding this matter was had. Mr. Dougherty asked how to obtain information regarding this case. Mayor Crowley advised he go to Superior Court for a transcript.

Mr. Lermond inquired if our professionals have any insight or who has jurisdiction. Mayor Crowley said it wasn't done through any of our professionals and said it's through the Superior Court who made that determination. They indicated the town had been notified; I don't remember the town being notified of anything.

Mr. Durina said they're a community tied in with the Laurel Hill Subdivision involving 40 families under a Community Plan which links them together. He said he was never noticed about the covenant removal from the deed. He felt the attorney made an error in the 200' notice which he should have been noticed, had a hearing and voted on it. Mr. Durina was aware of his property's placement upon purchase and did what needed to be done for its future. He spoke of a neighbor being approached with a monetary offer. He gave his opinion on highways and possible business encroachment in the neighborhood. He said the Zoning Board will decide and they'll take the next step then.

Mr. Zydon inquired if it's like an association. Mr. Durina said yes but it was not a condominium association. They each brought their property and are individually owned. He provided a brief history of home purchasers and the area's development.

Mr. Lermond commented it's essentially a subdivision which was agreed by Mr. Durina. Mr. Zydon asked if the deed restriction was removed from everyone. Mr. Durina said not all of them. Mr. Zydon commented the town isn't at fault and he should fight with that lawyer to which Mr. Durina was in agreement. Mr. Durina commented to look at residential areas before moving commercial properties and deeds.

Mr. Lermond said re-zoning was done after other legal ramifications were done. Mr. Durina commented it was a three step plan and explained it. Mr. Lermond explained the reason he's sitting in on the application. Mr. Durina mentioned he wasn't aware of the application till a couple of months ago. Mr. Lermond commented Mr. Durina brought forth awareness, thanked him. Mr. Durina said he'll proceed with legal representation. Mayor Crowley asked him when the Superior Court action was. Mr. Durina said it started in 2009 and provided information history regarding that notice.

Mr. Lermond referred to Mr. Durina's 3-step plan saying it was presented at the Zoning Board as part of the testimony. Mr. Kilduff cautioned Mr. Lermond it's an active application, is sitting on that Board and to wait for Planning.

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Mr. Durina said we're talking as friends and people and don't want to be adversaries but there's a problem created and offered his opinion.

Mr. Dougherty commented he was probably the third owner and wasn't aware of the covenant until it got taken off which poses another problem. He believes the wording was changed after it changed hands. Mr. Lermond commented on the glare of Mr. Dougherty's property. Mr. Dougherty agreed and said the building is going to be right in my front yard.

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

Mr. Nelson talked about the east and west side of Route 23's development and said it's difficult to come up with a uniform buffering requirement due to their individual uniqueness. In response to Mr. Lermond's comment, he said it can be done through a limited and specific Master Plan Re-examination Report that looks at current regulations, unique circumstances and come up with tailored regulations. A brief discussion regarding use and bordering zones was had.

Mayor Crowley thinks the solution has to be in the Site Plan when it comes before both Boards, and buffering should be reviewed then.

Mr. Zydon said the one size fits all doesn't work, as Mr. Nelson said, each little spot on the west side of 23 have their own little variables, then run into a wall. Mr. Lermond said I agree with the mayor that it depends on the site plans. He talked about viewing site plans with diligence and scrutiny; as members come and go keep them informed.

Mr. Nelson said in some cases, buffering requirements in the ordinance may not be enough to satisfy the neighbors; in other cases, they may not meet the buffering requirements then you have the power of granting or not granting a variance; but if by not granting the variance, you're going to kill the project which then becomes a problem.

Mr. Lermond said he never knows how to bring it up and asked Mr. Nelson if he could do it in June. Mr. Nelson said he can talk to Mr. Kilduff about this issue.

A discussion regarding site variability, reviewing of design requirements and the zoning ordinance was had.

Mr. Nelson said he will talk with Mr. Kilduff and Mr. Brady about putting in something simple to alert developers. Mr. Lermond commented to Mr. Kilduff "it's something that would help both Boards." Mr. Lermond asked if there were any other comments, discussions, points. Mr. Durina asked if it was too late for him to say anything else. Mr. Lermond advised they closed to the public.

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ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 8:59 PM on a motion by Mr. Zschack. Seconded by Mayor Crowley. All were in favor.

Respectfully Submitted,



Ruth Nunez
Secretary