

Franklin Borough Planning Board
Meeting Minutes for
February 19, 2013

The meeting was called to order at 7:25 PM by 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: Mr. Christiano, Mayor Crowley,
Mr. Lermond, Mr. Suckey, Mr. Zydon,
Mr. Foulds, Mr. Nidelko

ABSENT: Mr. Zschack, Mr. Cholminski

ALSO PRESENT: Mr. David Brady, Esq.
Mr. Thomas G. Knutelsky, P.E.
Mr. Ken Nelson, PP/AICP
Mr. James Kilduff, Director

APPROVAL OF MINUTES:

Mr. Nidelko made a motion to approve the **Franklin Borough Planning Board Reorganization Meeting Minutes for January 23, 2013**. Seconded by Mr. Suckey.

Upon Roll Call Vote:

AYES: Crowley, Lermond, Suckey, Zydon, Foulds, Nidelko

NAYS: None ABSTENTIONS: None

APPROVAL OF RESOLUTIONS:

There were no resolutions to approve

APPLICATIONS FOR COMPLETENESS:

PB-01-13-1 Sante Bus, LLC and Franklin Square Health & Wellness, LLC. Preliminary and final Site Plan (C Variance) Block 702, Lots 4 and 11.

Michael Gaus, attorney for the applicant stepped forward. Mr. Gaus said their engineer Michael Kolody has reviewed (the town) engineer's report, Mr. Kilduff's Administrative Review and Mr. Nelson's email regarding landscaping and other items. They don't have a problem with most of completeness items.

Mr. Suckey asked (Mr. Gaus) about reference to Mr. Nelson's report submittal. Mr. Gaus said it was an email. Mr. Nelson said he was going to give him a verbal report.

Mr. Knutelsky referred to his February 13, 2013 report:

- **Section B, Item 1.** He found incomplete items needing the applicant's attention. He didn't know if at this point Waivers and Temporary Waivers were being acted upon at this meeting or since he'll be recommending the application be found incomplete at the end of discussion. He will leave it up to the Board whether or not they want to act individually on the items. Mr. Lermond asked if Mr.

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Knutelsky suspects it could change. Mr. Knutelsky said he believes once the information is submitted, recommendations for temporary waivers for completeness only and full waivers (will be made). He doesn't believe it would change by the next meeting as more information would be added. Mr. Lermond recommended it be put on record. Mr. Knutelsky said other than items found incomplete will be looked at next (month) and then reviewed individually.

Mr. Suckey referred to Mr. Kilduff's letter regarding Check Items 4, 5 & 7 and asked if they've been rectified. Mr. Kilduff said they will be provided at the time of Notice and Mr. Brady is to review the corporation/partnership information determination to satisfaction. A brief discussion regarding LLC membership was had. Mr. Brady said he will review and advise Mr. Gaus.

Mr. Gaus inquired of a prior Resolution regarding Notice method to individual units in the condominium and of their cost. (Mr. Brady said he will have to review both).

- Mr. Knutelsky continued with **Section 1, Item 1, Checklist Item #14**. Recommends a temporary waiver for completeness only with applicable information provided on any revised plan as part of an approval granted and then explained. Mr. Kolody, Engineer said he didn't see anything of important nature as the easement of the property and as a bare minimum to add a note to that effect. Mr. Knutelsky said recommendation is for temporary waiver for completeness only.
- **Checklist Item #16**. He knows the plat information is from an older "I" "Y" utilized during property development which was recently completed and believes the parking lot's completed. Nothing has changed on-site and recommends a temporary waiver for completeness with the applicant providing testimony on any changes on-site and their environmental expert provide information on wetlands on-site. Mr. Gaus said that's fine.
- **Checklist Item#17**. He reviewed it with Mr. Kolody today. Mr. Knutelsky explained information to be on the title page and what Mr. Kolody provided. He recommends a waiver be granted.
- **Checklist Item #20**. Recommends temporary waiver for completeness with the information provided by the applicant regarding wetland information during a public hearing.
- **Checklist Item# 23**. Recommends temporary waiver granted for completeness only with the applicant providing an aerial photo of adjacent structures within the 200' structure area during the public hearing. Engineer Kolody said he prepared the aerial exhibit showing all the structures. Going back to the list, he'll put owners' names in each slot.

Mr. Suckey requested to return to Item #20; the applicant said is complete and Mr. Knutelsky said it's to complete. Mr. Knutelsky said in regards to their indication there was a 2006 NJDEP letter of interpretation that's good for five years. He said though the plan information is old he doubts it's changed much. Mr. Knutelsky said

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their environmental expert can talk about the current site and the testimony provided during the hearing would be valuable vs. the official document. Mr. Lermond asked if it would affect the EPA as nothing's changed. Mr. Knutelsky said correct but would like confirmation from the applicant.

- **Checklist Item #24.** As no major development will occur on the property even with the redevelopment of the building and improvements, he recommends the waiver be granted and said there won't be any storm water effect.
- **Item #27.** He finds the item currently incomplete and wants to find out about vehicular travel in/out of the parking lot and how pedestrian travel will occur between sites. Additional information is needed and placed on the plans; and recommends it incomplete.
- **(Checklist Item #28).** He believes there are notes saying services would not change for the site. Recommends temporary waiver for completeness with applicable information provided during the public hearing. A separate Public Works application recommended during technical review whether agreed upon the fact they would keep services the same. If so, there would be no future use of water for the site and will wait for the public hearing to comment. Mr. Kolody said they would also provide a list of their expected usage prior to the hearing.
- **Checklist Item #30.** He said specific lighting detail has not been provided. Mr. Knutelsky said a large portion of an existing parking lot will be used and he will visit later tonight to see if lights are in use. He thinks they're using existing on-site parking lot lights which may or may not provide correct coverage per ordinance. Lighting in the new parking area is specifically for warehouse use and said a full lighting plan be required. Mr. Gaus advised the lighting plan was submitted for completeness purposes to satisfy the checklist and said the engineer's concern is understood, fully agree and will provide a more complete lighting plan. Mr. Gaus reiterated the reason for lighting plan submission. Mr. Lermond said we like to look at all of it and not go back over them. Mr. Gaus said he will get it in as part of the hearing process. Mr. Knutelsky said he'll go with a new lighting plan being submitted and said he wants to see the intensity levels at the property lines and within the walking area.
- **Checklist Item #33.** He said specific landscaping details haven't been provided, finds it incomplete and will be looking for foundation and parking lot plantings. He will be looking for the specific location to verify certain landscaping not provided in the parking lot. Mr. Christiano asked if parking lot to the building's being modified or the parking lot they're planning to use. Mr. Knutelsky said both. At this time a discussion regarding proposed landscaping was had. Mr. Gaus said as with the lighting plan, they submitted a landscaping plan for completeness purposes. They understand what's needed and will supply a full comprehensive landscaping plan for review at the public hearing.
- **Checklist Item #37.** Recommends temporary waiver with the information provided during testimony. Mr. Gaus agreed and said they're in the process of gathering it.
- **Checklist Item #38.** Recommends waiver be granted.

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- **(Checklist Item #39).** Recommends temporary waiver for completeness only be granted with appropriate traffic and parking testimony provided during the public hearing. He said being a building and parking lot are there though not currently used, is within the Borough's roadway system. The immediacy of a Traffic Impact Statement now may not be required based upon testimony and expected site usage which the Board may require in the future. Mr. Lermond agreed. Mr. Suckey said it's a change of business with traffic and delivery changes, and may look for a traffic study. Mr. Lermond said they would want to hear testimony on the study to back it up. Mr. Knutelsky said that should be information provided during the public hearing. Mr. Suckey said to advise the applicant the last business was concerned about the school children's bus stop which should be included in the study. Mr. Gaus said it was seen on prior Resolutions.
- **Checklist Item #43-47.** It's a preliminary and final coupled together and recommends waivers be granted with applicable information provided as any condition the Board may grant through approval.

In summary, Mr. Knutelsky said, Temporary Waivers recommended for Checklist Items: 14, 16, 20, 23, 28, 37 and 39. Full Waivers (Checklist Items): 17, 24, 38 and 43-47 which the Board may act upon. The Incomplete Items requiring additional information: 27, 30 and 33 are information the applicant intends to bring for next (month's) review. If information is sufficient, the recommendation will be the applicant goes directly to a public hearing.

Mr. Gaus disagreed with Item 30 and 33. Mr. Knutelsky advised the missing items be submitted 14 days prior to the meeting. Mr. Suckey asked Mr. Knutelsky about #27's completeness status. Mr. Knutelsky said #27-incomplete. Mr. Lermond asked if they're asking for more time. Mr. Gaus said he believes the schedule can be met. Mr. Knutelsky said the information is needed 14 days in advance of the next Planning Board hearing in March.

Mr. Nelson said his comment pertains to the architectural plans which technically are complete as submitted and felt there wasn't enough detail or information regarding the building's interior on-goings. His recommendation is to consider that item incomplete and the applicant provide additional information before the next meeting.

Mr. Gaus said he briefly spoke with the architect and is unsure how much more detail can be supplied as they have no layouts or tenants for the medical space and don't want to bifurcate. They'll work with Mr. Nelson on the information and details wanted. He believes the Checklist requirement for completeness purposes was met. Mr. Lermond explained Completeness. A brief discussion regarding hearing time availability was had.

Mr. Lermond said in looking at the plans, he felt a lot was going on with not much detailed explanation of what's the draw and what's going to happen; such as hours

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of operation, etc. which the (Board) wants to hear. Mr. Gaus agreed to provide more information.

Mr. Suckey asked what Sante Bus stands for. Mr. Gaus said he didn't know but Dr. Bonnet could respond. Dr. Bonnet presented himself and explained the background for naming it Sante Bus through the property purchase and its intended use. He talked about finances, work being done in the building, its future use and of Franklin possibly partnering with them.

Mr. Lermond asked if Mr. Kilduff had input regarding completeness. Mr. Kilduff explained the correspondence content; that of which he provided to Mr. Gaus. Mr. Gaus said if the (Board) likes, he can supply them a package and gave content information. Mr. Brady said he would like it. Mr. Kilduff suggested five sets for administration and the professionals.

Mr. Brady suggested [the motion be] as per Mr. Knutelsky's recommendation. A brief discussion on this matter followed.

Mayor Crowley made a motion to find **PB-01-13-1 Sante Bus, LLC and Franklin Square Health & Wellness, LLC** incomplete. However, we find the waivers Mr. Knutelsky mentioned be adequate for the next meeting. Seconded by Mr. Foulds.

Upon Roll Call Vote:

AYES: Christiano, Crowley, Suckey, Zydon, Lermond, Foulds, Nidelko

NAYS: None ABSTENTIONS: None

ADJOURNED CASES:

There were no adjourned cases

APPLICATIONS TO BE HEARD:

There were no applications to be heard

OTHER BUSINESS:

PAYMENT OF BILLS:

Mr. Suckey made a motion to approve the **Franklin Borough Planning Board Escrow Report** for February 19, 2013. Seconded by Mr. Foulds.

Upon Roll Call Vote:

AYES: Christiano, Suckey, Zydon, Lermond, Foulds, Nidelko

NAYS: None ABSTENTIONS: Crowley

DISCUSSION:

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Mr. Kilduff presented Gene Feyl, Mary Jude Weiler of the New Jersey Highlands Council. He gave a brief overview of Franklin's entering the Plan Conformance Grant through his conversation with Mr. Herb August, Grant Administrator at Highlands regarding their outlook change and how the Borough may continue working with them.

Gene Feyl, Executive Director thanked the Board for the invitation. He said there are numerous misconceptions about the Highlands. They are changing the way they do business. Their goal is good regional planning which doesn't necessarily go to Planning Conformance. He thinks at some point their sound and flexible ordinance model will be recognized, and are wide open to what (Franklin) wants to do. Mr. Feyl said they take Franklin's vision coupled with various studies to hopefully end up with ordinances that work for (Franklin) and the community. He provided his government background and said he knows what (Franklin) goes through.

Mr. Feyl said he's here to talk about Land Use and what Franklin envisions for Route 23, downtown, historic sites, lake maintenance and is wide open to (Franklin). He said though they put some discipline and connectivity, it's about what (Franklin) wants to accomplish. If Conformance comes out if and they do the Model Ordinances, it's great but (Franklin's) success and town vision are their drive.

He spoke of Franklin's initial contact with Eileen Swan and said COAH is secondary to good regional planning and ideas which make the Borough of Franklin. Mr. Feyl said Maryjude (Haddock-Weiler); Principal Planner will talk about the process and some details. He talked about their talks with various professionals and the misunderstanding in Highlands' requirements; the greatest being, once you sign in, ordinances are locked in and you can't get out. He said the modules can be completed and the (grant) money taken. He talked about how performance is measured and said if the objective was delivered they see themselves as successful. Mr. Feyl said at any time (Franklin) goes into Plan Conformance, join and adopt ordinances; (Franklin) can walk away anytime with no commitment. He said a number of towns love the Highlands Ordinances and talked about two of them and what they're doing. He briefly talked about the Highlands reference book.

Maryjude (Haddock-Weiler) thanked Board and said she's here to answer questions. Ms. Weiler said their real focus is balance. They see it in each community; some more than others and gave examples. She said they are trying to find the balance in Franklin but find the balance larger for the Highlands region as a whole. She said as Mr. Feyl said there are a lot of things in the Regional Master Plan but there's also a lot of flexibility particularly in economic development and some activities may not be strictly environmental protection but more towards redevelopment. She's aware of the Borough reviewing some redevelopment options and if there's an opportunity for (Franklin) to take advantage of what it has that's unique. Ms. Weiler said she looked at (Franklin's) Initial Assessment Report and saw an interesting well thought out

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vision for the community. She wants to look at what the town wants to accomplish, how to work with, and meet its goals.

Mayor Crowley asked for the \$200,000 option. Mr. Feyl said \$100,000 has been allocated. At this time a brief discussion regarding used and available funding balance was had. More is available if the town proceeds through the modules. Ms. Weiler further explained funding programs and processes. She spoke of other municipalities awarded funding for other plans which she named. Ms. Weiler said the next step is what else can they do to help implement what (the town) wants to achieve. Mr. Feyl said they help and guide through Waste Water Management Plan and planning for adequate water for the State.

Mayor Crowley explained and talked about the northwestern area's natural resources, the inner cities usage and their old infrastructures. He asked about recipient end use tax and other areas' conservation and of their old infrastructures. Mayor Crowley sees the Highlands impetus is to protect water.

Mr. Christiano commented Mr. Corey Booker's revamping Newark's waste water and water supply. Mr. Feyl said there's many similar conversations whose need out runs payment ability. He said their position is compliance of the Highlands Act and their Master Plan further refines it. Mr. Feyl said it's a legislative decision, they recognize the infiltration, and hope to remedy it on an individual basis through a credit program and further explained. Mr. Feyl also spoke of the projected water supply shortage for Newark and doesn't have the answer. He said funding is the Legislature's job. Theirs is to manage and pass on ideas and don't have the authority or right to tax.

Mr. Christiano inquired if Mr. Feyl replaced Eileen Swan and if he was appointed. Mr. Feyl said yes and explained his appointment. Mr. Christiano asked how long Ms. Weiler has been with the Council. She said from day one. Mr. Feyl added his planning background.

Mr. Kilduff asked Ms. Weiler to highlight Modules 4-6 and the deliverables. He believes the \$50,000 is correct through his conversation with Mr. August. Ms. Weiler identified each module and their processes. Mr. Kilduff asked her if the deliverable has to be adopted by the Planning Board. She said no and explained. Mr. Feyl said model ordinances can be viewed at their website which includes an interactive map. Mr. Kilduff asked if the Implementation Plan is part of Module 7. Ms. Weiler said yes and the one (Franklin) got doesn't look anything like the one actually being acted on.

Mr. Nelson said the zoning map is largely in conformance with Highlands' goals and objectives. He talked about the Council's behest to investigate the municipality's five areas and their designation. Mr. Nelson said designations will be acted upon by the Borough Council in the near future. He questioned Highlands' resource availability for the Redevelopment Plans prior to the Plan Conformance process.

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Ms. Weiler said the Highlands Council talks about redevelopment with a small "r" as opposed to redevelopment law. They recognize there are areas prime for redevelopment or reconfiguration. Regarding assistance prior to Plan Conformance, she said planning dollars are offered as the lead to conformance and will help (Franklin) figure out what it wants to achieve. Ms. Weiler said there's some flexibility, explained it and gave a town's example. She said there's flexibility where money can be spent, but larger items won't come till after Plan Conformance is at least agreed to. Mr. Feyl talked about The Highlands Center tool and explained it. Mr. Feyl said they can work with (Franklin), but not with the robust level they can once we get through Conformance.

Mr. Zydon read 1 Part IV of the Highlands Plan and Table 2.1. He commented it sounds once the Highlands is in you're finished. Mr. Feyl said not at all. He said there are two basic areas; Preservation and Planning and explained. He said Franklin is in the Planning Area. He talked about the updates being made and of a Policy Committee being started to make it understandable.

Mr. Zydon said it sounds like Agenda 21. Mr. Feyl said he doesn't think this does because they have control of what's going on. They have a 15 member Council with their policy committee writing it. (Franklin) has control and can stop anytime they don't like something in the Ordinance. Mr. Lermond said when you say stop, you're stopping Planning Conformance. Mr. Zydon commented "no strings"; Mr. Feyl said "no strings". Mr. Zydon wanted it in writing to which Ms. Weiler said they could.

Mr. Feyl talked about the benefit for (Franklin) and talked about planning. Ms. Weiler talked about a community in the Preservation Area. She said if Franklin finds valuable material whether or not it proceeds, it's a win/win.

Mr. Zydon asked what if Franklin doesn't want it. Mr. Feyl said it could be said tonight. Mr. Zydon said that's it. Ms. Weiler said it's been up to (Franklin) the entire time. Mr. Feyl briefly talked about what Franklin has done till now and where it's at. He said they're willing to work with our planner and want to dispel myths.

Mr. Knutelsky asked if there's any future revision to the Highlands Act requiring the Planning Area be mandatory, or will it always be optional. Mr. Feyl said it's a legislative decision. He talked about the impact from the Act in the Preservation areas. A discussion regarding Planning and Preservation Areas and Highlands Open Water was had.

Mr. Feyl said each plan is different, they have a template and governing bodies have different visions for their community and their job is to help with proper ordinances. Mr. Nelson asked about the Highlands Master Plan element. Ms. Weiler said they have a model. Mr. Nelson said then you give it us, we review, make suggestions and halt if the requests can't be agreed to, then there's no point in proceeding to the next module. Ms. Weiler said at any point you find something unpalatable, then yes

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as Mr. Feyl said, you can stop. Between Mr. Feyl and Ms. Weiler it was said it has not happened.

Mr. Nelson said he presumes the Borough Council gets involved in requesting. Ms. Weiler said she thought it was already passed to initiate the process. Mr. Feyl said (Franklin's) the customer and the mayor is the contact point.

Mr. Lermond said just as we go through ordinance changes as the need arises, in joining Plan Conformance and accepting Highlands ordinance, would (Franklin) be subjective to (their) changes. Mr. Feyl said it hasn't happened and they've just finished the first Land Use Ordinance and further explained.

Mr. Lermond commented until legislature says we need more. Mr. Feyl said yes and they (Highlands) will say "we recommend this to change." Mr. Lermond questioned ordinance change and its affect with another. Mr. Feyl said I would see that being optional unless it was driven by DEP or legislature. Ms. Weiler agreed and further elaborated. A discussion on this matter, Highlands's involvement with the DEP and exemptions followed.

Mr. Kilduff thanked Mr. Feyl and Ms. Weiler and said he learned a lot about the Highlands and the changes. He said the next step would be to have our Planner look at the remaining modules. In particular, Module 4 the Environmental Resource Inventory and have Board discussion for possible recommendation to Mayor and Council to go forward with that Module and then the others successively.

Mr. Feyl said they're conducting a refresher course for professional planners and engineers at the Highlands office in Chester. They welcome professionals to contact Ms. Weiler for a slot. They have 100% attendance. He said he hopes this is the beginning of a new partnership; we're their customers and are there to serve us. Ms. Weiler will be our contact. They will be happy to answer any questions.

CORRESPONDENCE:

OPEN PUBLIC SESSION:

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

Judy Stampone, 59 Woodland Road said she owns a hair salon on Main Street. She talked about her desire to make Franklin a destination, community safety, job opportunities, Route 23's perception, ratable, taxes, school ranking comparisons and Franklin's reputation. She made note of the upcoming 100th Anniversary and questioned the celebration with her opinion of having the county's highest taxes and crime. Ms. Stampone expressed her thoughts of Route 23 being a dumping ground, abandoned buildings and of Main Street being a ghost town. She gave her opinion

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regarding the past generation holding on to an era past, what Franklin is known for and it being time to relinquish to the young, build businesses, homes and make the town something to be proud again while holding on to its well known memories. Ms. Stampone said she has a booklet depicting abandoned properties with employment potential.

Mr. Christiano suggested she present it to Council and Mayor. Ms. Stampone said she has, named every Board and said she'll talk to anyone who will listen. Mr. Christiano explained the pictured properties she presented are inclusive of a large plan which the Board is currently working on. She maintained her opinion of the difficulties experienced by businesses desiring to locate in Franklin; but is skeptical due to its reputation of jumping hoops wherein she provided a couple examples. She said anybody who wants to put a business should be granted full reign and helped with what's necessary. At this time a discussion regarding Ms. Stampone's issues of Main Street, taxes, affects on her business, previous applicants, the town's negative reputation, dilapidated business/buildings and violations was had. The Board responded to the issues she addressed and of their efforts and relief executed by the Boards and Town Council. Ms. Stampone reiterated she will continue coming to meetings, wants to get things moving and live in a town to be proud of.

David Fanale, 59 Liberty Lane commented on the Highlands Act, Highlands Council and Agenda 21. He referenced and read Mr. Vohden's speech of Section 6 of the Act. Mr. Fanale made reference to Senator Bob Smith's March 30, 2004 commentary at a public hearing in Ringwood State Park regarding guaranteed funding. He gave his opinion of the Acts deficit effects nine years later and said he cannot in good conscience vote yes. He would vote a "No" on this Resolution and said in his opinion, it would be a regression in Economic Development. Mr. Fanale said he volunteers on the Economic Development Committee and spoke of co-member Judy Williams' stride for the committee. He gave his opinion of the (Highlands) program, advised he obtained Mr. Vohden's permission and said he has a disdain for a sustainable anything.

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

Mr. Nelson brought up the scheduling issue regarding notice for the public hearing and the available time for the applicant. At this time a discussion on scheduling regarding the applicant and Areas C and D was had. The Board also discussed a time limit on the public hearing.

Mr. Kilduff asked Mr. Brady about Redevelopment Law regarding re-noticing. Mr. Brady gave his opinion and said he'll check. A discussion regarding venue and crowd accommodation for both hearings was had.

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Mr. Lermond reiterated agreement of 7:00 meeting commencement and of affording the applicant an hour and the time to be determined then.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned at 9:34 PM on a motion by Mr. Christiano. Seconded by Mr. Foulds. All were in favor.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Ruth Nunez", is written over a faint, illegible printed name.

Ruth Nunez
Secretary