



**MIDDLE TOWNSHIP ENVIRONMENTAL COMMISSION
MINUTES OF MAY 16, 2018**

Meeting called to order at 6:30 PM

Reading of Open Public Meetings Act Statement by Chairman
I hereby declare that notice has been given to the Herald Times and posted on the bulletin board of the Middle Township Municipal Building, stating the time and place of the following meeting, as required in P.L. 1975, Chapter 231 of the State of New Jersey. (Sunshine Law).

ATTENDANCE:

MEMBERS: Vilma Pombo, Dawn Stimmel, Rachel Shepherd, Amanda DeVico, Tarin Mason, Josh Nemeth, Larissa Smith

ABSENT: Shannon Feltwell, Betsy Haskin, Jim Amenhauser

Also in attendance was Pete Lomax of Lomax Consulting Group

MINUTES OF LAST MEETING:

Approval of Minutes - April 18, 2018

On Motion By: Rachel Shepherd Seconded By: Larissa Smith

Approved by all

Pete Lomax:

Pete wanted to know exactly what we wanted to know. Vilma told him we were considering updating our ordinance for the Township. The Committee is not happy with all of the clear cutting that goes on in the Township for new developments. Pete said he can give some insight as to why sites are cleared and what can be done to replant. There are some practical considerations about the construction process that necessitates clearing in some areas.

Some of the reasons sites are cleared when development occurs are:

- Those that are closest to tidal water bodies or low lying

areas, which are either within or adjacent to flood hazard areas.

FEMA went through a remapping of all the flood zones of NJ, it was in the process when Hurricane Sandy hit, and that process was accelerated after Hurricane Sandy. The Feds were trying to advance grant funding and trying to make sure the latest flood mapping was in place and it took into account things that were not included originally, specifically sea level rise, the intensification and frequency of coastal storms and new dynamics in terms of the way the wave runoff was modeled. Originally when they ran the flood hazard mapping to figure how far in a wave would run, they used certain types of modeling that was available at that time, and those maps dated back to the 1970's, so obviously with better technology and computer modeling available, they wanted to redo those maps. AT the same time the maps were redone, NJ had implemented a new regulatory program called the Flood Hazard Area Control Act. If you want to do something within the wetlands, you have to go to the DEP and get a Wetlands Permit. In the CAFRA Zone, if you have development over a certain intensity, you have to get a CAFRA Permit. In the late 90's, Central NJ and Northern NJ were having terrible flood control problems and flood damage that was occurring....it was similar to what we see on the boulevard where there is an old development, in the form of fishing shacks, but these were fishing shacks built within the flood plain along the rivers, they were summer residents and if they got flooded out it was really no big deal because there was not a whole lot of valuable assets contained within those buildings. Overtime they were converted into permanent residences and when you have floods you have massive insurance claims. The DEP then put money into the Blue Acres Program to start purchasing those properties to get people to move out of the flood plain. That happened in the inlet waterways. In the coastal zone, the Flood Hazard Control Act was geared to try and start to mandate permit authorizations for development, which meant having to build above the base flood elevation. If you have never seen a flood map, it basically shows zones that will flood within 100 year storms, zones that won't flood unless there is a 500 year storm and zones that will flood at every full moon/high tide. With the Flood Hazard Area Control Act, in places where the flood zone is mapped and properties have to build to an elevation to 1 foot over the base flood elevation, they then have to fill these sites to develop them.

Tarin questioned what base flood elevation was and how do they know what the base flood elevation is .

Pete explained that it is the height of the land that will be covered by water in "x" number of year storm, So if you are in a 100 year storm, if you are in a base elevation of 9, it means that that area can be flooded. The requirements are that you build 1 foot above the base flood elevation so that you are building above the worst storm conditions. They know what the base flood elevation is from a lot of computer modeling. What they look at is the current elevation of sea level, the incremental sea level rise and then they run computer models to figure out if it is an area where there is a large fetch, where you could have wind driven waves, then that flood elevation could be higher and that flood area will be deeper into the land because of the wind driven wave. This is listed on the maps from the Federal Government and every developer must know the base elevation, which the construction department has requirements that you cannot build below 1 foot above the base flood elevation. This can be done by adding land...in a coastal zone you can add fill to a property to increase elevation, in the inlet portions of the state, you cannot do that. We have the advantage of taking care of flooding in a much larger area than the central and northern parts of the state, where flooding within rivers occurs in a very narrow area, so if you create fill in a river system in central NJ, you also have to create cut in that same river system so the net volume of flood displacement does not change. We do not have that requirement down here.

- Another reason is utilities. You can have a situation where you have a development that is all on septic. In order to build a standard septic system, you must have a certain separation between the bottom of that septic system and seasonal high water table. Otherwise, the nitrate inputs into the water table are too intense. So, sometimes what they will do, they will fill a site to get the elevation up high enough to be able to build a septic system to get that separation between the two. Other times it might be the storm water management for that area where the bottom of the basin, unless it is a wet pond, also has to have that minimum separation. Those are some of the reasons that trees get cleared out during development.

To your point, where we don't like to lose trees, what can we do about that? There is not really anything within a Township Ordinance that necessarily mandates the preservation of trees, unless they are also within a regulated area. If you have trees that are in a buffer zone, a transition area from wetlands, they are protected by the State Law. If you have trees that are in wetlands, they are also protected by State Law. In the flood hazard areas you have a flood hazard area and then you have the riparian zone which is a buffer from the edge of that flood hazard area which is also regulated, so all the vegetation in those areas are protected. The question is what happens outside of those areas. That is where the development is occurring because they cannot get a permit to build within those restricted areas. Bodies like this that are looking to implement policy change at the governing body level, you start with a concept, and if the governing body is supportive of the concept, you build the ordinances around that concept. Middle Township has a Community Forestry Management Plan and previously, as part of some of the Sustainable Jersey Actions that they were going through, they developed a tree canopy goal. This was done when Elizabeth was the Planner. As the Recreation Open Space Plan was put together, right about that same time, when the ordinances from the Plan Endorsement Process, when Middle went through the Plan Endorsement, set up the centers...DEP decided what was going to be a center and what was not going to be a center...at the end of that Middle had to write new Zoning Ordinances for the new Zones that were created that established density and setbacks. One of the things that was required at that time was the Environmental Assessment Ordinance, so prior to that Middle Township did not have an Environmental Impact Statement requirement. The reason was because Middle Township is entirely within the CAFRA Zone... development of a certain intensity already requires an Environmental Impact Statement to be done for the DEP's review, so the Township thought it was redundant to have to go through another local review if you were already doing the CAFRA Review. What DEP pointed out is that you can have development that is not CAFRA regulated, that doesn't go through an Environmental Impact Assessment, and therefore they required the Township, through the Plan Endorsement Process, to adopt the Environmental Assessment Ordinance, which is like a cursory Environmental Impact Statement, it is a cursory review of the natural resources that are on the site that is proposed for development and then it is basically a narrative analysis of what types of detriments can occur or

will not occur to those environmental resources. There are no alternative analysis required, nor are there quantification of impact. The Zoning Office has discretion as to when there is an EA required for a project.

Back to the tree canopy goal, at the same time that all of these new ordinances were being written, the EA Ordinance being one of them, a Tree Canopy goal was also spoken about and some numbers were run for the Township to assess what the current tree canopy was. The thought was that at some point, if and when the Shade Tree Commission was re-implemented, or if the Green Team from the Sustainable Jersey efforts was going to get more involved, that the Tree Canopy Goal, if it were adopted, we would have provided a base idea on how to build the ordinances. Say 45% is our current canopy in Middle Township and we want to be 50%, if the governing body is willing to take on that challenge, then you start to build ordinances around that, that is how you move on to a tree protection ordinance or a tree replacement ordinance, so if you go into an area and you take down trees, then there is a landscaping plan that is required of all site plan application and sub division applications.

Josh questioned if we a tee replacement ordinance, seems like something that would be easy to implement without having that base idea in the first place, it seems like something that could be standard, like in Cape May Point where it is 2 to 1.

Pete said if we are looking for expediency, in municipal government, getting from point A to point B is circuitous in order to get there. There is a foundation philosophy that if you get buy in into that, that is how you then have the momentum and support to get the type of ordinances that you are speaking of. Josh questioned getting something out there with teeth to prevent all of the big clear cuts that are going on. Pete feels that is a heavy load, when you think about the magnitude of that, different towns take on different responsibilities of development. The Zoning is different in West Cape May and Cape May Point...it is structured in a way that the development that is there is single family, residential, maybe duplex, and maybe once in a while commercial. It is easier to establish a box footprint for a house and that is pretty easy when you are only dealing with the footprint of a home. However, in Middle, we have a different type of development intensity, much more substantial population, much more robust economy,

so for the type of housing stock that typically happens in our area, it would be difficult to replace trees under the same guidelines that they have in West Cape May and Cape May Point...they are very different animals. The key in Middle Township is if you went to the governing body, Planning and Zoning with an ordinance that mirrors Cape May Point's, you would get no where. If you go to the governing body with a goal creating your ideas incrementally over time, you create a habit of acceptance of what it is you are trying to achieve, you create a habit of acceptance in what you are trying to achieve...so something that is shocking this year is not as shocking next year. The more you build that understanding, developers start to account for that in their design and their budgeting, start to build that into their sale price and it becomes part of a system. You look for the end point you are looking for then figure out how to build up to that so that you get buy in along the way so that you don't get cut off at the pass.

Josh suggested if there was not enough room to put in number of trees required, then you could be required to donate those trees left over to residents that wanted them. Questioned if he thought people would do the right thing if you asked them.

Pete said no, he did not feel they would do the right thing. Being in the Environmental Consulting Business where he works on projects for municipalities, for developers, for habitat restoration and conservation, as well as shopping centers. Feels he has a good handle on the pulse of that mindset, and if it is incentivized on the front end or the back end, where they are not required to do it, it is not happening. You could create a voluntary mitigation bank, that developers could contribute to, but there is nothing that requires them to do that. He feels if we want to make policy changes in a governmental body, the best way to do that is to agree on a concept and then when you get buy in on the concept then you start building around it.

Pete spoke about how Sea Isle City was dealing with a loss of street trees after Hurricane Sandy and the challenges they were having with the loss of many of their trees. Municipalities can apply to the State of New Jersey for a Green Communities Grant and get grant money from the state to write a Community Forestry Management Plan that puts into place a series of objectives of goals, which Middle Township has. This plan puts into place a series of objectives and

goals that are implementable year by year to focus on street trees, national forest areas, parklands...it has public education components, it has tree planting components, it has Arbor Day Celebration components, it has ordinance change components to it and the idea is that municipalities have to write these plans and as long as they have that plan in place and they maintain approved status in the state, there are liability protections that the municipality now enjoys from damage that results from trees. Say a tree in a park falls on someone and the municipality has the Community Forestry Management Plan in place, there are state protections that limit the liability that the municipality can be held to so long as they are implementing that plan. Also, it opens the municipality to community stewardship incentive program grants. At the same time the no net loss project that Middle Township had was funded from the Parkway Project. They replanted what they could and what they couldn't they had to pay into a fund. That money goes into the No Net Loss Fund and then it is available for municipalities to apply for those dollars and some of those No Net Loss Funds, if they stay in that program and are not used for a period of time, they then go into the CSIP Program, so there is a pool of money that municipalities can get for street planting, insect infestation management, etc...Middle Township has that. Sea Isle City saw other municipalities doing it so they brought Lomax in. A lot of the trees planted in SIC back in the 60's and 70's were done by the Shade Tree Commission, which his grandfather was a member of. The Bradford Pears were great for street planting, and at the same time the state was planting Japanese Black Pine all up and down the coast of New Jersey in the dune system because that was going to help with dune stabilization. You plant the wrong tree in the wrong place and it is going to die. SIC wanted to get on board and plant the right tree. However, all along JFK Blvd, they planted 76 European Hornbeam, 0 salt tolerance....not a good choice. They hired an engineering firm from central NJ that picked a hearty plant that does great in every interior NJ Street Tree Environment, but not in coastal areas. Now they have to be replaced. They have now decided to start to require more tree planting with all projects. They are also requiring that if you are required to plant 6 trees, but only have room for 2, you then have to contribute dollars of what you would have paid to get those trees planted into a fund and then the municipality uses that fund to plant trees in other places. It started with this understanding and recognition at the Shade Tree Committee level that moved up the ranks...their Shade Tree Committee

reports to their Environmental Commission, their Environmental Commission reports to their combined Land Use Board...it goes up the chain of command from there. Their Shade Tree Committee also has a council member on it also. You build that understanding at this level and then you pull that up all the way into the policy that starts to create regulations. Another interesting thing they did, which he thought never had a chance, their construction office, developers have responsibilities to plant trees, but they would pick a puny tree that was in a container, and they would plant these small trees...if they survived fine, if not fine...they never got replaced. They went back to implementing different standards for the type of trees that now get planted in town and they are doing oversight of their enforcement of that landscaping plan over time. Every single landscaping plan that the Township reviews has some type of survivability requirement and maintenance requirement in it. SIC is going back to look at the resolutions and landscaping requirements that are passed, not every single condition, but they are focused on trees, and they want to make sure the landscaping plan is followed as written. So, you have to give the committee something to buy into and it cannot be so far out that you are fighting a losing battle. Pete will email a copy of the Community Forestry Management Plan to Dawn who will in turn email to the committee members. It runs from 2017 to 2021.

In 2018 the implementation goals are to provide training to the Planning Board, Public Works Department, Parks and Recreations Department, Shade Tree Commission, Environmental Commission and Green Team concerning the scope and provisions of the Community Forestry Management Plan to facilitate implementation. Tarin wanted to know who was in charge in doing the training. Pete said it is at the Township's discretion...it is up to them as to who will implement this...it is different in every town. It is expensive to do some of the things in the Management Plan, but the state has a grant program, every year right around March, the state releases the CSIP grant announcements...go to NJDEP - Community Forestry...tab called Information for Municipalities....

Amanda questioned it being a 5 year plan...what if nothing happens on this plan. Pete said the Township would go into unapproved status and they would not have access to the grant funding or the liability protection. There is an annual accomplishment report...a summary that is done at the end of

every year...thinks Nancy Sittineri is involved in this on some level...not sure if she is the point person for implementation, but she has generally been involved in the discussions...maybe on the grant funding portion only is why she was involved. There are requirements, so every municipality that has one of these, they have to get 8 CEU's per year by 2 different people, one an employee and one an involved volunteer. Pete's requirement is 40 or 50 CEU's every year to maintain his credentials. There are a lot of opportunities to get educational training for this in our state. This program is what you can follow to get some of the things done that you are working on.

Josh questioned what the rationale was in planting arborvitaes over Virginia Junipers. Pete explained that the DEP gives, in the No Net Loss Program, a list of acceptable evergreens and we did not expect Leland Cypress originally, we had a mix of arborvitaes and something else, and because the state, through the No Net Loss Program, there is a 2 year survivability requirement, some of the funding is the state and some is federal, and they cannot close out their funding unless the project is complete and they cannot reimburse unless the project meets the survivability requirements. They were having better success with certain evergreen species than others. Some of that he thinks was nursery stock quality that was coming in, some was not. There is a page on their website that lists all of their evergreen plantings. Eastern Red Cedar is difficult to get healthy in nursery stock. Tuckahoe does not grow Eastern Red Cedar stock. They have fields that go through natural succession with evergreens that propagate by themselves, they do nothing to them, and when they need an Eastern Red Cedar, they go to those fields and field dig them because they cannot get their nursery grown stock to survive a transplant. It is amazing, because if an Eastern Red Cedar decides it wants to grow in your yard, nothing will stop it. They grow along the edge of the boulevards where they are getting inundated with salt water constantly and they are incredibly strong as a pioneer species. If you look at the No Net Loss Project as a whole, you will see that the arborvitae is only used for a very specific type of planting.

Pete told Josh he could get the info about the rule that applies to the longevity of the trees on the DEP website under the No Net Loss section, and you can download all of the guidance documents, how the program works, what the survivability requirements are, everything is in there.

Pete also spoke about the Sand Barrens being purchased by the Philadelphia Union League and what their future plans are for that area. They are trying to create a more natural aesthetic for the course, putting emphasize on native plants, including an onsite nursery.

Communications

- Cooper Levenson – Applicant: Grassy Sound Marina, LLC – Address: 4001 N Wildwood Rd. – Block 1298 Lot(s) 2, 2.01, 3 – Revised Plans for Restaurant – Going before Zoning Board May 10th – **POST PONED**
- Guzzi – Applicant: BME 932 LLC –Address: 3124 Rt 9 S – Block 1436.01 Lot 12 – Minor Site Plan – Use Variance – Going before Zoning Board May 10th – **POST PONED**
- William McManus – Applicant: Kevin and Paula Clark – Address: 623A Stone Harbor Blvd. – Block 313 Lot - Hardship Variance – Going before Zoning Board May 10th – **POST PONED**
- Junetta N. Dix Consulting, Inc – Applicant: Kevin & Paula Clark – Address: 623A Stone Harbor Blvd – Block 31 - Lot 26 – CAFRA Permit
- MV Engineering – Applicant: Bucket Brigade – Address: 205 N Main St – Block 216 Lot 7 –Use Variance – Going before Zoning Board May 10th – **POST PONED**
- RD Green Engineering – Applicant – Anthony Galdi – Address: None listed – Block 17 – Lots 53 & 53.01 – Application to NJDEP for Waterfront Development Application to legalize an existing Pier, Floater and Boat Lift – **NO COMMENT**
- CMCMUA – Applicant – CMCMUA – Notification to file a Treatment Works Approval with the NJDEP – Dewatering System Equipment Upgrades at Various Wastewater Treatment Facilities – **NO COMMENT**
- NJDEP – Applicant – CMCMUA – Application for a Solid Waste Facility Permit Renewal – **NO COMMENT**
- David Scheidegg – Applicant – Vision Property Group – Address: 7 North Wildwood Blvd. - Block 983 – Lot 1 – Major Site Plan Approval – Going before Planning Board – No date given. – **NO COMMENT**
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**Old Business -
Reports - None**

Comments -

Next meeting is June 20, 2018 at 6:30.

Meeting adjourned 8:00

On Motion By: Josh Nemeth

Seconded By: Amanda DeVico Motion passed to adjourn meeting.