

September 15, 2009

The regular meeting of the Andover Township Land Use Board was called to order at 7:30 p.m. on Tuesday, September 15, 2009 by the Chairman, Stan Christodlous.

Present: Members      CeCe Pattison  
                                  Suzanne Howell  
                                  Gerald Huelbig  
                                  Gail Phoebus, Class III  
                                  Bob Smith, Class I  
                                  Lois deVries, Class II  
                                  Diana Boyce  
                                  Stan Christodlous, Chairman  
                                  Ellsworth Bensley

Secretary:              T. Linda Paolucci

Professional:          Bob Guerin, P.E.  
                                  Joe Golden, P.E.  
                                  Russell Stern, P.P.  
                                  Thomas Germinario, Esq.  
                                  Chuck McGroarty, P.P.

### **FLAG SALUTE - RULES - OPEN PUBLIC MEETINGS ACT**

**OPEN TO THE PUBLIC** – The Chairman opened the meeting to the public and read the rules of the act. No one stepped forward from the public.

**CAMBRIDGE PAVERS, INC./LIMECREST QUARRY DEVELOPERS LLC** – Block 108, Lot 4.02, Preliminary and Final Site Plan – Completeness Hearing

Phoebus and Smith recused themselves from this hearing. Christodlous addressed the public, applicant and Board members to advise that although the applicant is requesting simultaneous preliminary and final site plan approval, it has been the practice of the Board, and with a project of this magnitude, simultaneous approval will not be granted. He stated that the two requests for approval will be considered in two separate hearings. Secondly, he continued, because of the potential use variance, the completion process is more complex than usual. Christodlous stated that it is his opinion that before granting completion approval, the Board needs to decide if this project is proper use within the “light industry” zone. Therefore, he continued, he suggested that the application address the performance standard as per the township ordinance e.g. “Noise, Vibration, Particulate Matter, etc.” in order to allow the Board to make a judgment as to the appropriateness of this application for the “light” industry zone. He continued that the Board would also like to hear testimony regarding why the applicant believes each of their requests for completion are so warranted.

Bernd Hefele, Esq., of Lake Hopatcong, N.J. stated that he is the attorney for the applicant/owner and is here tonight for completeness with regard to preliminary approval for Block 108, Lot 4.02. He stated that the application is to construct and operate a paving and wall stone facility which will be a modern pulley, automated fully enclosed paving manufacturing facility. It is a 77 acre site, a portion of the Limecrest Quarry site, and is located on the north side of Limecrest Road. He continued that the current condition of the site is one of complete disturbance as a result of the former limestone quarry operations and sand and gravel that were

taking place. He stated that it is visually unappealing, economically unappealing and the property in its current state is not providing anything positive and is an eye-soar which needs to be redeveloped. He stated that this application will bring redevelopment to a blighted and in a state of decay.

Hefele stated that he has received three separate reports from the Board's professionals, engineer, Bob Guerin, planner, Russell Stern, and the Environmental Commission. He suggested that he answer to the statements outlined in Guerin's report and if need be will answer any other statements in the other two reports.

Hefele stated that the first comment in Guerin's report is the request of a waiver from the town's ordinance regarding the water yield study for the entire application. Hefele stated that the applicant believes that sufficient information with regard to the property already exists with prior studies having been done and is with the DEP and that everything that the ordinance study would require, the information already exists. Hefele continued that when the information already exists the Land Use Law allows you to request a waiver because the municipality can be satisfied that they have the information that they need. Hefele went over the requirements of the ordinance that needs to be satisfied, there is sufficient water potability for this particular project, that the magnitude of the aquifer draw-down is not going to impact adjoining properties, the effects of long term pumping will be . He continued that due to the pumping that took place at the quarry, there is a lot of history with regard to this particular aquifer that will be used as this site is within the same aquifer. He stated that the applicant hired a Hydrogeologist who looked at the previous studies to address the Board and show that the water criteria meets the ordinance and would like him to speak to the Board and public tonight of his studies. Germinario reminded Hefele that tonight the applicant is just being heard for a "completeness" hearing and, therefore, the public has not been notified and the public needs to have the opportunity to ask questions of the witnesses if they so choose. Therefore, it is his opinion that at most, the Board should be looking at whether or not to grant approval for completeness only tonight and to present proofs and witness during the subsequent noticed hearings.

DeVries stated that it is not the sufficiency of the aquifer that is being tested, it would be the sufficiency of a well to be drilled on the applicant's lot. The information, she continued, currently available is from wells that are in the quarry lot, which is not in Andover Township. DeVries stated that the information she reviewed is that of other peoples work to prove certain points that in her opinion are not proven. DeVries questioned the waiver requested for the application. Andrew Mulvihill of Perona Road, Andover, NJ was sworn in and made a statement with regard to the pumping history of the water. Germinario stated that we are listening to this application for "completeness" only and are limiting the information to that this evening.

Germinario asked Hefele if his client would agree to the Board's hiring of Hydrogeologist Matt Mulhall to be paid for his services out of the applicant's escrow account and Hefele agreed.

Hefele went over the other comments in Guerin's report which had to do with signage detail, providing sealed surveys (which he stated has already been done), provide additional architectural for the small shipping area on site, and Hefele agreed to supply the items requested. Hefele stated that the final site plan checklist requirement items outlined in Guerin's report can be condition of when the applicant comes back for the final site plan approval.

Hefele commented on the issue of requiring a height variance for the accessory structure and the principal structure. Christodlous pointed out that there is a difference in what the application states as to the height and to what the township engineer stated. Hefele agreed with Guerin's calculations.

Germinario asked Stern if he had anything else in his report that needs to be addressed. Stern said not as it pertains to completeness. Hefele stated that he looked at the comments in

Stern's report and he will give an overview at the public hearing as recommended in Stern's report.

Germinario asked DeVries if she had any comments as to anything that she believes was not covered. DeVries stated that although she believes that the applicant may not be aware of the acquisition of open space on the adjacent land, she believes that the applicant should provide some type of documentation on how they will address this. Hefele stated that he is not aware of this and if he needs to amend the application to address it and provide documentation, he will. Germinario stated that this matter is now premature and if in fact it moves forward then Hefele will be made aware of it and he can address the matter then.

DeVries stated that there needs to be a plan submitted for the type of water system being used. Hefele stated that he looked into this since receiving Environmental Commission report and he has looked into the requirements to provide the necessary plan and permit information which can be a condition of approval.

DeVries also stated that there was no flagging of wetlands on the property and that it would be hard to obtain a Letter of Interpretation without the flagging. Hefele answered that the property had to have been flagged in order for Matrix Engineering to do their report and to apply for the L.O.I. and that perhaps the flags have disappeared. Germinario pointed out that it might be useful to re-flag some of the area in order for someone from the committee to walk the property for their reports to the Board. Hefele stated that the wetlands line is clearly defined on the survey, but they will go out and re-flag some of the areas of the property.

Germinario reiterated the facts before continuing with the hearing that this is a "completeness hearing" and, therefore, public notice was not given. He continued that the issue of determination of either "heavy industrial" or "light industrial" needs to be quite clear but if it is not clear to the Board this evening, then the applicant can notice for the variance for determination to be made at the hearing. Hefele went over some of the details with regard to what is considered a "nuisance potential" to qualify for "heavy industry" and stated that in the overall sense he submitted to the Board very extensive reports with regard to the elements of the application. Hefele asked the applicant, Robert Toedter, to address the Board to give a brief overview of what happens in the facility.

Robert Toedter of Cambridge Pavers, stated that the process is very simple, you take sand, a very fine aggregate, water, cement and some colored powder agents which gets proportioned and mixed and is placed in molds that are subject to depression in order to shape the individual pavers, etc. He went over the rest of the process and stated that the product is cured for twenty-four hours and then taken to the shipping yard until being loaded onto flatbed trucks. Christodoulos asked how you get from whatever is mined in the earth to the powdered substance that you are mixing. Toedter responded that it comes already crushed which they purchase from a number of sources, one of which they are expecting to purchase a bulk of the product from the Limecrest Quarry. Toedter stated that his company does not treat the raw material, they receive the raw material in its final form and all they do is mix it, compress it, shape it and cure it.

Germinario stated that the applicant's environmental study mentions emissions that have to be controlled and questioned what it is. Toedter answered that the only emission that needs to be controlled is the cement emission from the cement silos, which are fully sealed, and on top of the silos is a small dust collector so that during transfer operations there is no dust from the atmosphere.

Germinario asked Toedter if he will require any state or federal air or pollution control permits. Toedter stated that he would have to get permits for each of the dust collectors that they would be installing.

Stern questioned whether or not the dumping of the truck into the hopper will create any noise. Toedter stated "no" and stated that a study was done to determine the volume of noise

from it. Boyce questioned how often the air filters are examined and/or changed. Toedter stated that they are checked on a weekly basis and changed approximately every three months. Germinario questioned whether or not the dusts present a fire hazard? Toedter answered “no” there is no material used in the process that is flammable or toxic materials.

Germinario referred to the Noise Study that was done with regard to the application by the applicant and asked if he would like to address the issue. Toedter stated that he looked at the State regulations with respect to noise generation, as well as the township’s ordinance specifications, and took the information from their Lyndhurst plant and reviewed whether or not the noise from the Lyndhurst operation would be equal to or less than the proposed operation and found it to be less. Toedter stated that they will be using higher insulation standards for the noise suppression techniques on the proposed site which noise will be lower than the Lyndhurst plant.

There was further discussion with regard to noise suppression techniques and ambient background noise. Hefele stated that the applicant’s reports indicate that they do not have any noise that is above the township’s noise standards. Germinario said that the Board will need to take a vote from the Board members on whether or not they believe there needs to be additional review by the Board’s noise expert.

Hefele stated that he would like to have the Board make a determination on whether or not the application is a “permitted use” or not this evening. Christodlous said that he would poll the Board members on whether or not they are prepared at this point to determine whether this application is to be classified as “light industry” or not. Boyce stated that she is not prepared to make the determination tonight; Pattison stated that she is not, as she feels she needs more information; Bensley stated that he would need more information; Howell stated that she could determine it this evening; Huelbig said that he would need more information; Christodlous stated that he would need more information; DeVries had more questions that needed to be answered.

Hefele requested that the application be deemed complete tonight for waivers “completeness only” and will proceed with the application, without prejudice on the part of the Board, as a “use” variance. Hefele agreed to have the Board use an independent noise expert and Guerin will coordinate that with the applicant’s engineer.

Christodlous reiterated that the applicant and the Board agree that the applicant apply for a use variance, with no prejudice, on the part of the Board. Christodlous asked for a motion that that the applicant will come back to the Board for a hearing with a use variance, without prejudice, and height variance. Germinario added that the waiver with respect to the aquifer recharge test is for completeness only and the Board will consider whether an absolute waiver is appropriate based on testimony from the applicant. Christodlous stated that all of the waivers will be for “completion only”. Motion was made by Huelbig, second by Howell. In favor: Pattison, Howell, Huelbig, deVries, Boyce, Bensley, Christodlous.

A date was set for the application to be noticed and heard for October 20<sup>th</sup> 2009 meeting.

**ALMA LANE ASSOCIATES** – Block 156, Lots 1, 2 & 2.02 – Preliminary and Final Site Plan and Preliminary Major Subdivision – Motion was made to carry the application with no further notice in accordance with the applicant’s request to November 10, 2009. Motion granted.

**JCP&L** – Block 60, Lot 5, Route 669 (Limecrest Road), Amended Site Plan.

Phoebus and Smith returned to their seats for this hearing.

Tom Beyel, Esq., stated that he is the attorney for the applicant. He stated that this property was subdivided in accordance with a resolution that was adopted by this Board in the year 2006. The Board also granted approval for construction of a substation, which there was a pre-construction meeting in September 2008. In November of 2008 Golden inspected the site

and noticed that there was a difference in what was built as compared to the drawings submitted. Beyel explained that there was a difference in the pieces of tubing, known as “bus work” and that the orientation of them was changed which was driven by safety concerns. Beyel requested that the engineer, Todd Cobaugh, give testimony on behalf of JCP&L. Todd Cobaugh of First Energy of Redding, PA was sworn in. Cobaugh stated that he received the final design information from PSE&G and changed the design equipment layout after receiving the final design. The layout equipment changes were made to the substation, which consists of two bus structures, one set of bus runs parallel to Limecrest Road and the other runs perpendicular to the road. The changes were made by reconfiguring the original high bus and the original low bus. He continued that the original high bus was 29’ to a reconfigured 31’ original low bus is presently reconfigured to 20’ with a difference of 2 ft. He continued that the original orientation of the parallel and perpendicular lines were switched in order to accommodate the elevation structure of the attachment point which was made higher in order to maintain clearance of the wires, than the original preliminary design and, therefore, the bus needed to be raised. There was further discussion and a video was produced showing the plan view of the bus structures, original design as it appeared on the original site plan and the revised section view. Beyel stated this is the reason for coming back to obtain permission to amend the site plan approval.

The meeting was open to the public and people from the public stepped forward with questions with regard to with items of previous approval. Beyel informed the public that the applicant is not here to re-litigate the matter that was previously approved and the only issue for this evening’s consideration is the two structures. Germinario explained to the public that the Board is meeting this evening with regard to the higher and lower buses only. Dave White of Limecrest Road asked a question with regard to a memo that he viewed between Cutler and Germinario. Germinario explained that that is a totally separate issue which has to do with a project “Stop the Lines” and not the application at hand.

There were further comments from the public with regard to radiation, electro magnetic frequencies and what effect it would have on the adjacent properties.

At the end of public session, DeVries asked that Germinario summarize for the Board what are the considerations that will be to evaluate for this evening’s approval is being requested. Germinario stated that the Board needs to focus strictly on an amended site plan approval that involves the design change that took place at the substation and as a result of the physical connection to the PSE&G line being ultimately specified in a way that is somewhat different than originally anticipated. He continued that it is a safety generated concern to provide the required clearances between the wires of the National Electric Safety Code and it resulted in basically flip-flopping the upper and lower buses with a relatively minimal change of the elevation of the upper bus. He stated that the Board is in a position to look at whether or not the changes are inconsistent with our ordinances or if it generates any new safety concerns that we have jurisdiction over, which does not include the issue of EMF.

Motion was made to approve the application in accordance with Germinario’s summation that the Board is approving the change and all other conditions are not affected by the design change of the original approval which will remain in tact. Motion made by Howell, second by Huelbig. In favor: Pattison, Howell, Huelbig, Phoebus, Boyce, Bensley, Christodlous. Opposed: Smith, DeVries. Motion carried.

**DINA’S LLC** – Block 106, Lot 19, Amended Preliminary and Final Site Plan.

Ben Wasserstrum stated that he is the attorney for the applicant. Owen Dykstra, P.E. of Dykstra Walker Engineering was sworn in. Jason Dunn, Professional Planner and Architect of Dykstra Walker Engineering was qualified and also sworn in.

Dykstra went over the issues raised in Golden’s report of September 9<sup>th</sup>. Dykstra addressed the issues of the re-developed drainage plan and the proposed pipe plan [pointing to *Sheet No. 3*] from the submitted site plan. Dykstra stated that they have applied for a

transitory waiver from the DEP for disturbance of an existing disturbed area. Dysktra went over the area of the parking lot and the requirements for parking and the lighting requirements and stated that they meet the ordinance requirement.. He stated that the revisions will alleviate the issue with the adjacent neighbor and the problems across the street.

Golden stated that the applicant has agreed to make the required changes or revisions as outlined in his report and the engineer concurred that this is so.

Stern went over the comments in his report of August 15<sup>th</sup>. He stated that with regard to the gravel parking area there will be a design waiver for not having it curved nor paved. He stated that the applicant needs to identify the new parking requirements for restaurants that was adopted in March 13<sup>th</sup> year and to provide it on the drawings. He continued that it is a favorable recommendation that the gravel area not be utilized for storage or any other materials or equipment. Stern stated that the Board needs updated information regarding the County's approval on paving and that approval is conditioned upon Sussex County Planning Board approval. Stern went over the landscaping of the property.

The application was open to the public for comments or questions and no one from the public stepped forward. The Chairman asked for a motion to approve the application. Phoebus made a motion to approve, second by Huelbig. In favor: Pattison, Howell, Huelbig, Phoebus, Smith, DeVries, Boyce, Bensley, Christodlous. Opposed: None. Motion carried.

#### **MASTER PLAN PRESENTATION BY CHUCK MCGROARTY OF BANISH & ASSOCIATES.**

Christodlous stated that McGroarty is here tonight to give the Board an update on the Master Plan and the Board is not expected to vote on anything tonight. He continued that there will be a public hearing subsequent to the COAH substantive approval and at that time McGroarty will come with the full program and whatever input the Board members give to him between now and then.

Chuck McGroarty of Banish Associates introduced himself and stated that tonight is not designed to be a proposal of what Andover might do towards its new land use plan but what it is to give the Board an idea of what has gone on thus far in terms of looking at the township's land use plan and to set the stage for foundation for the zoning and other regulations. McGroarty stated that he will touch on three topics, which is not intended to be an exhausted analysis of all the work that has been done, but hope to get it started. He stated that those three points are identified in the handout that he just distributed to the Board [5 page document entitled "Land Use Plan, Discussion: Land Use Board, September 15, 2009]. He stated that the first thing is what are we doing now? He continued that what we are doing at the present time is looking over the land use plan based on recommendations that was reported in the 2007 Master Plan and Re-Examination Report, which this Board has adopted. He continued that every six years the Land Use Board is required to re-examine the Master Plan and to see whether or not there are any recommendations for any changes. In fact, he stated, in that document there were a number of recommended changes and one of which reiterated a point which has been gleaned throughout planning history which essentially calls to the fact that there are areas within the township which are referred to as the "environs". These are, he stated, the outer lying areas that are undeveloped and still remain some of the rural characteristic of the township and they are so identified as "environs" in what we know as the State Development and Redevelopment Plan. He continued that he has underlined the 2<sup>nd</sup> page of the report hand out as such "Zoning in the "environs" should be established to protect and preserve existing rural and agricultural characteristics. The Planned Retirement Community (PRC) and Mount Laurel (ML) zone districts are incompatible with this policy and therefore should be changed. The Township should explore various mechanisms to implement low density zoning in the environs including, but not limited to, a Transfer of Development Rights (TDR) program and non-contiguous clustering.

Secondly, McGroarty continued, essentially the same point but more on historical sources, the theme environmental protection and protecting the characteristics of providing for the quality of life that Andover enjoys, going back a couple of years ago to 2005 Land Use Plan that was adopted and there were changes made to that subsequent to its adoption by the 2007 Report that he just referenced. It too, he stated, called for these areas of town of reserved sensitivity with respect to how it is zoned and to minimize the environmental impacts, preserve farmland, secure and preserve open space, etc. There is a continuous link going backwards, he stated, to at least the 1989 Master Plan, if not even earlier, and when the full Land Use Plan is drawn out and presented, he will present the entire chronology and it will become a part of the document so that a history is there. As an example, from the May 2000 Re-Examination Report there is an excerpt on the bottom of *Page 3*, again talking about the environmental sensitivity of land and such, McGroarty stated, and the need to protect. McGroarty stated that he believes it is clear that throughout its history Andover has made its attempts to address these questions. McGroarty McGroarty stated that the changes in density over time reflected an emergent desire to get a handle on sprawl and make sure that the development of the township was not at the expense of these important characteristics.

Lastly a recent phenomenon is the New Jersey Department of Environmental Protection in its quality management rules has come out with standards that will apply throughout New Jersey, McGroarty stated. He continued that there are standards that have been established based on what is known as nitrate dilution models which will put a limit on the number of individual subsurface disposal systems and septic systems. Therefore, he said, there will no longer be the case that a municipality will have as many as its own zoning will accommodate. The rules are saying that a municipality will have to examine its zone to the extent that that zoning is consistent with the new rules and regulations and, therefore, the zoning will have to be modified. The position of the DEP's regulations now state that based on the subwater shed areas, which is known as HUC11, of which in Andover there is essentially two areas that are so designated, there are "x" number of systems that you can ultimately get growth out of, he stated. This is not counting existing systems or replacement of existing systems, this is talking about undeveloped land at this time, which applies to not only residential but non-residential. Therefore, he stated, Sussex County is the agent that will be doing the countywide wastewater management plan and in concert with the DEP will be doing a build-out analysis. The intention was on the part of the County and the DEP was to have the build-out analysis done a while ago to look at each municipality and to come out with a number. This process has not been completed yet but over the past number of months he said that he has many conversations with the Sussex County Planning Department along with the township engineer and has a fairly good idea of where it is going, he stated. Where it is going is the number of, for the sake of presentations, septic systems. He continued the total number of septic systems would be 1,197. There were further comments from McGroarty as to the calculations of the septic systems allowed.

McGroarty concluded that what we are trying to do is to look at the Land Use Plan in Andover Township, looking at the historical trends and the efforts to protect and preserve environmentally sensitive lands. We are also looking at, he continued, the other end of the spectrum which is a top-down requirement from the State which is saying that you are limited to only so many of these individual systems and beyond that if your zoning shows that you are going to exceed that number you need to start changing your zoning.

McGroarty pointed to a map and went over the items that are considered environmental constraints, such as freshwater wetlands, flood plains, C-1 streams and steep slopes (using 25% or more) and stated that what he did was do an overlay of the entire township and then focused in on the land. The point of this exercise he said was to see how much unconstrained land

comes out of the analysis that was done. The concern is to look at the developable capacity of what is left of the land in Andover Township. This exercise was done, said McGroarty, and without factoring in the critical habitat rankings of 3, 4, and 5 as this would show no developable lands left. Only using the wetlands, steep slopes and stream encroachments and looking at some of the zoning districts, he determined where the concentration of vacant land and farmland assessed land is located in the township and stated that primarily the largest is in the R-2 Zone. There is 2,041 acres of lands that are either vacant or in the farmland assessed category, he stated. At the zoning that exists today the potential yield is over 1000 units he stated, in rough numbers. There was further discussion regarding the zones and potential units that will be allowed. Further discussion was had with regard to clustering, township center, infrastructure and an overlay of affordable housing. He continued that with all of the latest information the zoning is not sustainable at 2 and 3 acres. The zones he stated that he is highlighting is the zones that he feels should really need attention such as the R-2 Zone he would recommend that it be 1 unit per 6 acres zoning, likewise in the R-3 Zone. He continued that the zoning in the Planned Retirement Community is way too dense that too should go to the density of 1 unit per 6 acres and the other residential zones really don't need to be changed. However, the affordable housing locations need to be modified at some later date depending on what happens there.

There was further discussion regarding the creation of FAR (floor ratio area) with regard to non-residential area and that it is the equivalent of density and stated that without the FAR township would not have a handle on the septic.

McGroarty then asked if there were any questions from the Board. Phoebus asked about the affordable housing obligation. Smith questioned McGroarty on the HUC11 and pointed out the fact that most of this is dictated by the State statute and the rest pretty much becomes a mathematical exercise and the real decision that the township has is how the township wants to allocate between the residential and commercial. McGroarty said that that is a fair analysis. Christodoulos stated that the bottom line is that we have roughly 1200 units in terms of septic to work with that will have to be divided between commercial and residential. There was further discussion regarding nitrates, builders remedy, affordable housing, etc.

Germinario said that what McGroarty has done is an important first step and has given the Board the conceptual ground work for how this plan is going to proceed from here. He stated that he has given the Board some of the options, which the township is obviously constrained very much by State regulations and McGroarty have shown us the boundary lines of those regulations and there is a certain amount of latitude to work within those. He continued that what the Board wants to do within the coming weeks is flesh out how they want to concentrate on some of the specifics and then when the Board reaches the point where they agree on the appropriate densities for the various zones and floor area ratios for the commercial zones, McGroarty will put together an actual written Land Use Plan Element and the Board would then discuss a draft of that, perhaps one or more times. He continued that once the Board is satisfied with the way that it is all put together, just as we did with the Re-Examination Report, a public hearing would be scheduled and then vote to adopt or not the Land Use Plan Element. Germinario stated that this would be a public hearing where the new element would be available to all the public and they would have an opportunity to comment about it, criticize it, endorse it or whatever it would be.

Smith had question as to the basic element which he understands to be the nitrate solution model and asked if this is concrete at this time with no change to it, which leads to the 1197 EDU's. Phoebus explained that the plan has not been adopted by the County yet and it is sitting at the County level and what it means is that any applicant coming before the Board prior to the adoption does not fall under the new plan but will fall under the old plan. Phoebus continued that until the new plan is adopted by the County this is not what we are dealing with.



Christodlous asked Golden for the anticipated date of the adopting by the County. Phoebus said that at a County meeting she said the anticipated date was November 1<sup>st</sup> but was before it was put on hold and, therefore, it may be at the beginning of next year.

**RESOLUTION – Piccolo – Block 158, Lot 14.06 – Steep Slope Variance –**

Motion was made by Pattison to approve the resolution, second Howell. In favor: Pattison, Howell, Smith, DeVries, Boyce, Christodlous. Opposed: None. Motion carried.

**MINUTES – July 7, 2009.**

Motion was made by DeVries to approve the minutes, second by Boyce. In favor: All in favor. Opposed: None. Motion carried.

**OLD BUSINESS/NEW BUSINESS –**

Stern discussed the Rolling Hills resolution condition of approval with regard to construction of the foot lights on a motion sensitive system and stated that the applicant has requested that the lights remain on for safety surveillance and ask that the Board waive the motion sensitive requirement. A motion was made to amend the resolution to delete the requirement of the motion sensor on the flood lights. Motion was made by Howell, second by Pattison. In favor: Pattison, Howell, Huelbig, Phoebus, Smith, DeVries, Boyce, Bensley, Christodlous. Opposed: None. Motion carried.

**VOUCHERS** – Motion was made to approve the vouchers by Pattison, second by Heulbig. All in favor. Opposed: None. Motion carried.

**RESOLUTION -Authorizing Closed Session Discussion of Potential Litigation In Connection with the Rannou Application.** Motion was made by DeVries, second by Boyce. All in favor: Aye. Opposed: None. Motion carried.

**ADJOURNMENT** – Christodlous asked for a motion to adjourn. Motion was made to adjourn the meeting by DeVries, second by Howell. In favor: all. Opposed: None. Meeting was adjourned at 11:54 p.m.

Respectfully submitted,

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Stan Christodlous, Chairman

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T. Linda Paolucci, Secretary