

**TOWNSHIP OF PARSIPPANY-TROY HILLS  
TOWNSHIP COUNCIL SPECIAL MEETING**

**June 2, 2014**

**MEETING CALLED TO ORDER by Council President Carifi at 6:00 p.m.**

**FLAG SALUTE**

**PRESENT:** Council President Paul Carifi, Jr.  
Council Vice-President Robert Peluso  
Council Member Michael J. dePierro  
Council Member Louis Valori

**ALSO PRESENT:** Mayor James R. Barberio; Joseph Kovalcik, Jr., Acting Business Administrator/ CFO; Paula Cozzarelli, Assistant Business Administrator; John Inglesino, Esq., Township Attorney; Yancy Wazirmas, Township Clerk;

The agenda of this meeting, to the extent known, is as follows:

**Public Hearing and Adoption of Ordinance 2014:16 - An Ordinance of the Township of Parsippany-Troy Hills, County of Morris and State of New Jersey Amending the Zoning Ordinance of the Township of Parsippany-Troy Hills in Order to Re-Zone Certain Properties to the RCW Recreation, Conservation, and Wildlife Zone District.**

**FORMAL ACTION MAY OR MAY NOT BE TAKEN.**

**STATEMENT OF COMPLIANCE**

Adequate notice of this meeting has been provided in accordance with the requirements of the Open Public Meetings Law by filing the notice in the Office of the Township Clerk and by posting the meeting notice on the bulletin board at the Municipal Building on May 22, 2014 where it has remained posted since that date. A legal notice appeared in the Daily Record on May 29, 2014 and was forwarded by fax to the Star Ledger and Parsippany Life on May 22, 2014.

**ORDINANCES - SECOND READING & PUBLIC HEARING**

**ORDINANCE NO. 2014:16  
AN ORDINANCE OF THE TOWNSHIP OF PARSIPPANY-TROY HILLS, COUNTY OF MORRIS AND STATE OF NEW JERSEY AMENDING THE ZONING ORDINANCE OF THE TOWNSHIP OF PARSIPPANY-TROY HILLS IN ORDER TO RE-ZONE CERTAIN PROPERTIES TO THE RCW RECREATION, CONSERVATION, AND WILDLIFE ZONE DISTRICT**

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**WHEREAS**, it is the intent and purpose of the Municipal Land Use Law to encourage municipal action to guide the appropriate use or development of all lands in the State, in a manner which will promote the public health, safety, morals, and general welfare; and

**WHEREAS**, it is also the intent of the Municipal Land Use Law to promote the conservation of open space and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land; and

**WHEREAS**, the Troy Meadows serves as a large natural storage area for flood waters within the Whippany River Watershed in the Passaic River Basin including the Rockaway River and Troy Brook, and includes waterways, substantial wetlands and buffer areas, floodplains, unfavorable soil types, and documented habitat of threatened and endangered species; and

**WHEREAS**, the Troy Meadows area wetlands are specifically recommended for protection and preservation in the Goals and Objectives section of the Township's 2004 Master Plan Reexamination Report and Land Use Plan. Troy Meadows is recognized as a vast environmentally sensitive and critical ecosystem for the region that encompasses approximately 3,100 acres with over 1,740 acres of that total in Parsippany-Troy Hills. As noted in the Open Space and Recreation Element of the Master Plan, this area consists of swamps, marsh and floodplain habitats that have been recognized by the NJDEP's Environmental Information Inventory as a National Natural Landmark, as well as noted in the Morris County Natural Resource Inventory as an I-A Exceptional Ecological Area. It is also noted that the current State Development and Redevelopment Plan (SDRP) designates Troy Meadows as a PA-5 area, and that this natural resource should be protected and preserved as part of this large contiguous tract of open space that extends across municipal boundary lines. It is the Township's policy that the lands of Troy Meadows represents an invaluable natural resource that should be preserved in its natural state, and development in these areas should be avoided in order to promote the public health and general welfare of the Township and the region; and

**WHEREAS**, the Planning Board of the Township of Parsippany-Troy Hills granted minor subdivision approval for Application #13:002, which created two lots, Proposed Lot 1 and Proposed Lot 2, from a portion of existing Lot 81 of Block 765, which had a lot area of approximately 741 acres; and

**WHEREAS**, Proposed Lot 1, is an approximately 5.2 acre lot that is located within the R-3 Zoning District; and

**WHEREAS**, Proposed Lot 2 is an approximately 21 acre lot that is located within the R-1 and R-3 Zoning Districts; and

**WHEREAS**, the remaining portion of existing Lot 81 of Block 765 has a lot area of approximately 715 acres; and

**WHEREAS**, portions of existing Lot 81 of Block 765 are located in the R-1, R-3 and LIW-5 Zoning Districts, as opposed to most of Lot 81 being designated in the RCW Zoning District in its entirety; and

**WHEREAS**, portions of existing Lots 79 of Block 765 are located in the LIW-5 Zoning District, as opposed to most of their lot areas being designated as part of the RCW Zoning District; and

**WHEREAS**, the entirety of Lots 68 and 81.8 of Block 765 are located in the LIW-5 Zoning District, situated between the neighboring parcels of the RCW and are integral parts of the Troy Meadows ecosystem; and

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**WHEREAS**, the Governing Body of the Township of Parsippany-Troy Hills has determined that it is in the best interest of the Township to re-zone Proposed Lots 1 and 2 that were created from the approved Application #13:002, the remaining portions of Lot 81 of Block 765 that are designated for the R-1 and R-3 Zoning Districts, the remaining portions of Lots 79, and 81 of Block 765 that are located in the LIW-5 Zoning District, and the entirety of Lots 68 and 81.08 of Block 765 that are located in the LIW-5 Zoning District, to a zone that would provide for recreation, conservation, and wildlife purposes in order to protect the area's environmentally sensitive, wildlife, and historic features, as well as to reduce potential impacts to the drainage area of Troy Brook, thereby furthering the goal of the Master Plan to protect the environmentally sensitive areas of Troy Meadows.

**NOW, THEREFORE**, it is hereby duly ordained by the Township Council of the Township of Parsippany-Troy Hills, County of Morris, State of New Jersey, that the following amendments and revisions are made to the Revised General Ordinances of the Township of Parsippany-Troy Hills, Chapter 430 entitled "Zoning":

**Section 1.** §430-5. Zoning Map is hereby amended as follows:

- a. Rezone the following property from the R-1 Residential Zone District and R-3 Residential Zone District to the RCW Recreation, Conservation, and Wildlife Zone District: Block 765, Proposed Lot 2 created from the approved Application #13:002;
- b. Rezone the following property from the R-3 Residential Zone District to the RCW Recreation, Conservation, and Wildlife Zone District: Block 765, Proposed Lot 1 created from the approved Application #13:002;
- c. Rezone the portions of the following property that are currently in the R-1 Residential Zone District and R-3 Residential Zone District to the RCW Recreation, Conservation and Wildlife Zone District: Block 765, Lot 81;
- d. Rezone the following properties from the LIW-5 Light Industrial Warehouse 5 Acre Zoning District to the RCW Recreation, Conservation, and Wildlife Zone District: Block 765, Lots 68, and 81.8; and
- e. Rezone the portions of the following properties that are currently in the LIW-5 Light Industrial Warehouse 5 Acre Zoning District to the RCW Recreation, Conservation and Wildlife Zone District: Block 765, Lots 79 and 81.

**Section 2.** Severability. The provisions of this ordinance are hereby declared to be severable. Should any section, paragraph, subparagraph, provision, sentence, or part hereof be declared invalid or unconstitutional, said finding shall not affect any other section, paragraph, subparagraph, provision, sentence, or part thereof.

**Section 3.** Repealer. All ordinances or parts of ordinances of the Township of Parsippany-Troy Hills which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 4.** Effective Date. This Ordinance shall take effect immediately upon final passage and publication according to law.

*The Notice for the Ordinance above was published in the Daily Record, the official newspaper of the Township of Parsippany-Troy Hills on May 23, 2014.*

## **TOWNSHIP COUNCIL SPECIAL MEETING JUNE 2, 2014**

Motion to accept that Ordinance 2014:16 be heard in its second and final reading by title only, by Mr. dePierro, seconded by Mr. Valori.

### **ROLL CALL:**

**YES** – Councilmembers dePierro, Peluso, Valori and Carifi

### **PRESENTATION**

Mr. Inglesino provided a brief history of the Township's dealing with the Wildlife Preserves in regards to this property going back to 2011. He also explained the ordinance and the procedures for it.

Mr. Inglesino requested that the record reflect correspondence received from the following (on file in the office of the Township Clerk):

- Correspondence from Wildlife Preserves by Len Ferriolo addressed to Mrs. Purzycki
- Letter from Mrs. Mary Purzycki to Mr. Ferriolo.
- Email from Mrs. Purzycki (using Mr. Ken Purzycki's email address) and acknowledgement from Mr. Ferriolo.
- Copy of the May 12, 2014 Planning Board review memorandum.
- Letter from Counsel for Wildlife Preserve, Mr. Fiore (Meyner and Landis, LLP), dated May 19, 2014, which raises notice defects issues with regards to the prior ordinance 2014:09. It also alleges that the ordinance amounts to a taking.
- Planning report from Wildlife Preserves' Planner Mr. Steck received on May 19, 2014 which alleges that the ordinance amounts to spot-zoning.
- Letter from Mr. Fiore dated May 30<sup>th</sup> which encloses a protest petition with respect to tonight's ordinance.
- Letter dated June 2, 2014 from Anita Austenberg Shotwell, Trustee for the Wildlife Preserves, addressed to the Mayor.
- Letter dated today from Stephanie Silva of Florham Park

Mr. Inglesino advised the Council that the ordinance 2014:16 that is the subject of tonight's hearing, with respect to the properties that are currently zoned R-1 and R-3, is exactly the same as 2014:09 and therefore he finds that the Planning Board memorandum of May 12<sup>th</sup> is very much applicable in its findings in terms of consistency with the Master Plan. He also explained that procedurally, in order for this ordinance to pass, it would require four affirmative votes of the Governing Body. He believes that Wildlife Preserves has filed a valid protest petition under applicable law and therefore three votes will not suffice.

Township Planner Ed Snieckus provided a presentation to explain the spot-zoning issue that was raised by Mr. Steck, what the ordinance seeks to do, consistencies with comprehensive policy dating back to 1978, MLUL and Master Plan recommendations, and conservation of open space.

### **PUBLIC HEARING 2014:16**

Motion to open the public hearing for Ordinance 2014:16 by Mr. Peluso, seconded by Mr. Valori.

### **ROLL CALL:**

**YES** – Councilmembers dePierro, Peluso, Valori and Carifi

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**\*Council President Carifi noted a three-minute time limit per speaker.**

- Anita Shotwell, North Road, Flanders: stated that she is a Trustee of the Wildlife Preserves and addressed her concerns about the ordinance and the devaluation of the property. She asked that the Township negotiate and have a dialogue regarding this ordinance.
- Nancy Brighton, 24 Maplewood Dr (Chair of the Historic Preservation Advisory Committee): reported that the committee is in favor of the ordinance because they feel it will protect the cultural and natural resources of the area.
- Jackie Puglis, 9 Howell Ct: stated her belief that letters should have been sent to all the property owners surrounding the preserves to make them aware of the meeting; She suggested that the Township purchase and preserve the property instead of re-zoning it. Mr. Inglesino responded that pursuant to NJSA 40:55D-62.1, all property owners within 200 feet were notified by certified letter.
- Nick Homyak, Lake Hiawatha: spoke in favor of the ordinance and that this is about more than just money. He suggested that they get national landmark recognition as a national park.
- William Eames, Hanover Township: addressed concerns about open space and personal property rights. He stated his belief that it is wrong to take away the value of the property without compensation to the owners.
- Len Ferriolo, land manager for Wildlife Preserves: stated that at the May 20<sup>th</sup> Council meeting he spoke about cooperation and it seemed like everyone was in agreement. He sent a letter to the Mayor and Council the following day requesting a meeting to foster cooperation and to work out differences. He is now requesting that the Council table this ordinance and meet with the property owner before proceeding. He stated that Wildlife Preserves has no plans to develop property but has been forced to file limited site plans to protect the property values against this confiscatory zone amendment. He also stated that this ordinance seems to have been conceived when the Wildlife Preserves filed a minor sub-division of its upland property in order to do a wetlands delineation, which is what their engineer testified to at the Planning Board. He stressed to the Council that the uplands area which is being re-zoned is not environmentally sensitive but have no desire to develop it. He concluded that the ordinance devalues the property.
- Jack Puglis, 9 Howell Ct: asked the Council is considering this ordinance without speaking to or negotiating with the landowner and urged them to table the ordinance until they have done so.
- Dave, Denville: stated that he a professional nature photographer, a conservation photographer for the Audubon Society and other organizations and a friend to the Wildlife Preserves. He is asking the council consider permanent conservation easement on the land for permanent preservation without development. This will ensure that no construction ever takes place on the land. He spoke in favor of Len Ferriolo and his work for the Wildlife Preserves.

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Motion to close the public hearing for Ordinance 2014:16 by Mr. dePierro, seconded by Mr. Valori.

Before the roll call vote a discussion took place amongst the Council regarding permanent conservation easements, deed restrictions, Ms. Shotwell’s letter, time of submission rule and placing restrictions in a zoning ordinance.

**ROLL CALL:**

**YES** – Councilmembers dePierro, Peluso, Valori and Carifi

**WHEREAS**, the above ordinance was read in title on second reading and a hearing held thereon;

**NOW, THEREFORE, BE IT RESOLVED** that said ordinance be passed on final reading and that a Notice of Final Passage of said ordinance be published in the newspaper according to law.

Motion to approve the Resolution above by Mr. dePierro, seconded by Mr. Valori.

**ROLL CALL:**

**YES** – Councilmembers dePierro, Peluso, Valori and Carifi

Prior to casting his vote, Mr. Peluso stated that he is an advocate of conserving the property and not building on it. He is also asking to sit down with Wildlife Preserves to discuss the purchase of the property.

Prior to casting his vote, Mr. Carifi also stated that he is in favor of preserving the land and also likes the idea of sitting down with Wildlife Preserve and try to come to a negotiation for resolution.

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**CLOSED SESSION**

**RESOLUTION**

**WHEREAS**, the Open Public Meetings Act, P.L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

**WHEREAS**, the Township Council is of the opinion that such circumstances presently exist; and

**WHEREAS**, the Township Council wishes to discuss: Attorney/Client Privilege and Pending Litigation.

**AND, WHEREAS**, minutes will be kept, and once the matter involving the confidentiality of the above no longer requires confidentiality, the minutes can be made public.

**NOW, THEREFORE BE IT RESOLVED** by the Township Council of the Township of Parsippany-Troy Hills that the public be excluded from this meeting.

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**Motion To Adjourn Into Closed Session by Mr. Carifi Seconded By Mr. dePierro**

**ROLL CALL:**

**YES – Councilmembers dePierro, Peluso, Valori and Carifi**

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**Motion To Reconvene Into Open Session by Mr. Valori Seconded By Mr. dePierro**

**ROLL CALL:**

**YES – Councilmembers dePierro, Peluso, Valori and Carifi**

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**PUBLIC HEARING**

Motion to open the public hearing by Mr. dePierro Seconded by Mr. Peluso.

**ROLL CALL:**

**YES – Councilmembers dePierro, Peluso, Valori and Carifi**

**\*Council President Carifi noted a five-minute time limit per speaker.**

- Jonathan Nelson, 202 Patriots Rd: asked about the golf pros at the Knoll. Ms. Cozzarelli responded that there is an Assistant Golf-Pro at the East and a Golf-Pro at the West. Mr. Nelson asked if it has always been that the Golf-Pro at the West is an outside contractor and the Golf-Pro at the East is a Township Employee. His other concern is that there are currently a dozen employees that are over the salary cap in the white collar salary ordinance. Of those twelve, six were overpaid last year. He asked what happens in this situation, how this happened and who is responsible for making sure that the employees are not paid over the cap. Ms. Cozzarelli responded that the Knoll West Golf-Pro is a contracted bid item and the Knoll East Assistant Golf-Pro falls under the Golf-Pro and is a 10 month seasonal position. Mr. Kovalcik responded that in regards to the salary ordinance, the way it usually works is upon the adoption of the budget, the ordinance will be introduced. As long as the salary ordinance is amended prior to 12/31 then there will be compliance. He will look into the 2013 white collar salary ordinance and provide a response later.
- Roy Messmer, 10 Drumlin Dr: asked the following: to consider alternates for handing out candy at the parade next year; has the state approved the letter for the occupancy tax to be sent out with the tax bills; and do employees have to give money back if their salary exceeded the salary ordinance (No.).
- Pat Petaccia, 182 Hawkins Ave: stated that she had received a letter in the mail that the work on Ball Ave was supposed to begin today. She asked why work has not started yet. She also asked that they do a better job reviewing the salary ordinance, and all ordinances before approving them so they don't waste tax-payer money.

Motion to close the public hearing by Mr. Valori Seconded by Mr. dePierro.

**ROLL CALL:**

**YES – Councilmembers dePierro, Peluso, Valori and Carifi**

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**ADJOURNMENT**

**Motion To Adjourn Meeting By Mr. dePierro Seconded By Mr. Valori.**

**ROLL CALL:**

**YES – Councilmembers dePierro, Peluso, Valori and Carifi**

**MEETING ADJOURNED: 7:38 pm**