

JANUARY 16, 2012

The regularly scheduled meeting of the Mansfield Township Land Use Board was called to order by William Edleston, Esquire at 7:30 PM.

The meeting was opened by stating that adequate notice of this public meeting had been provided in accordance with the Open Public Meetings Act by:

1. posting a notice of this regular meeting on the bulletin board of the Municipal Building;
2. causing said notice to be published in The Star Gazette;
3. furnishing said notice to those persons requesting it pursuant to the Open Public Meetings Act; and
4. filing said notice with the Township Clerk.

The new and reappointed members of the 2012 Land Use Board were sworn in by William Edleston, Esquire.

Present: Barton, Myers, Mayor Tomaszewski, Watters, Smith, Hazen, Creedon, Vaezi, Mills, Hight, Spender, Farino.

Absent: None.

Also present: William Edleston, Esquire; Drew DiSessa, PE; Joseph Layton, PP

The Pledge of Allegiance was recited.

MOTION was made by **HAZEN** to nominate **John Barton** as **CHAIRMAN** of the 2012 Land Use Board.

SECONDED: CREEDON.

MOTION was made by **HAZEN** to close the nominations for Chairman.

SECONDED: SMITH.

Those in favor of Barton as Chairman: Myers, Mayor Tomaszewski, Watters, Smith, Hazen, Creedon, Vaezi, Mills.

Opposed: None.

Abstained: Barton

MOTION was made by **HAZEN** to nominate **Richard Myers** as **VICE CHAIRMAN** of the 2012 Land Use Board.

SECONDED: VAEZI.

Those in favor: Mayor Tomaszewski, Watters, Smith, Hazen, Creedon, Vaezi, Mills, Myers, Barton.

Opposed: None.

Abstained: None.

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MOTION was made by **BARTON** to appoint **Patti Zotti** as **CLERK/SECRETARY** of the 2012 Land Use Board.
SECONDED: SMITH.

Those in favor: Watters, Smith, Hazen, Creedon, Vaezi, Mills, Myers, Mayor Tomaszewski, Barton.
Opposed: None.
Abstained: None.

MOTION was made by **HAZEN** to appoint **William Edleston, Esquire** as **Board Attorney** for the 2012 Land Use Board.
SECONDED: MYERS.

Those in favor: Smith, Hazen, Creedon, Vaezi, Mills, Myers, Mayor Tomaszewski, Watters, Barton.
Opposed: None.
Abstained: None.

MOTION was made by **SMITH** to appoint Drew DiSessa, PE as Board Engineer for the 2012 Land Use Board.
SECONDED: HAZEN.

Those in favor: Hazen, Creedon, Vaezi, Mills, Myers, Mayor Tomaszewski, Watters, Smith, Barton.
Opposed: None.
Abstained: None.

MOTION was made by **HAZEN** to appoint Joseph Layton, PP as Board Planner for the 2012 Land Use Board.
SECONDED: CREEDON.

Those in favor: Creedon, Vaezi, Mills, Myers, Mayor Tomaszewski, Watters, Smith, Hazen, Barton.
Opposed: None.
Abstained: None.

MOTION was made by **VAEZI** to approve the **meeting dates** for the year of 2012, and the meeting being set as the third Monday of every month.
SECONDED: MYERS.

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Those in favor: Vaezi, Mills, Myers, Mayor Tomaszewski, Watters, Smith, Hazen, Creedon, Barton.
Opposed: None.
Abstained: None.

MOTION was made **MYERS** to designate **The Star Gazette** as the primary legal newspaper for the 2012 Land Use Board, and **The Express Times** as the secondary source.

SECONDED: CREEDON.

Those in favor: Mills, Myers, Mayor Tomaszewski, Watters, Smith, Hazen, Creedon, Vaezi, Barton.
Opposed: None.
Abstained: None.

MOTION was made by **BARTON** to appoint **Myers, Hazen, and Vaezi** as the **Financial Oversight Committee** for 2012.

SECONDED: MYERS.

Those in favor: Myers, Mayor Tomaszewski, Watters, Smith, Hazen, Creedon, Vaezi, Mills, Barton.
Opposed: None.
Abstained: None.

MOTION was made by **HAZEN** to approve the minutes of the December 19, 2011 meeting, as written.

SECONDED: CREEDON.

Those in favor: Mayor Tomaszewski, Watters, Hazen, Creedon, Vaezi.
Opposed: None.
Abstained: Smith, Mills, Myers, Barton.

MOTION was made by **CREEDON** to approve the executive session minutes from the December 19, 2011 meeting, as written.

SECONDED: HAZEN.

Those in favor: Hazen, Creedon, Vaezi, Myers.
Opposed: None.
Abstained: Watters, Smith, Mills, Mayor Tomaszewski, Barton.

MOTION was made by **CREEDON** to approve the resolution for Case #11-06, Meadows at Mansfield, LLC, as amended.

SECONDED: HAZEN.

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Those in favor: Hazen, Creedon, Mills, Hight, Spender, Mayor Tomaszewski, Watters.
Opposed: None.
Abstained: None.

MOTION was made by **MYERS** to approve the resolution for Case #11-09, Mansfield Commons II, LLC, as amended.

SECONDED: VAEZI.

Those in favor: Creedon, Vaezi, Spender, Myers, Mayor Tomaszewski, Watters.
Opposed: None.
Abstained: None.

MOTION was made by **MYERS** to approve the resolution for Case 11-10, Jeff Caputo C/O CHS.

SECONDED: CREEDON.

Those in favor: Vaezi, Spender, Myers, Hazen, Creedon.
Opposed: None.
Abstained: None.

Case #11-07, Garden Solar, LLC

Present for the applicant: Walter Wilson, Esquire; James Chmielak, PP, PE; Timothy Ferguson, Principal; Chris Nusser, PE

Watters and Mayor Tomaszewski recused from hearing the application.

Wilson offered a brief history of the application, and explained the applicant was before the board to establish a re-vote. Wilson explained the re-vote would be an acceptance of a settlement, and any re-vote would be after a public hearing was held. Wilson explained the public hearing would be held on the possibility of the re-vote, and not the underlying application content.

The board established there were now seven eligible voting members available.

The hearing was opened to the public for comment.

Carol Borden of Cheerio Lane expressed her opinion of the possible re-vote.

Betty Ann Roseberry Wright of Asbury-Anderson Road gave a brief history of the Butler Park Road area, and expressed her opinion of the possible re-vote.

Carol Thompson of Route 57 read a prepared statement giving her opinion of the possible re-vote.

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Richie Gault of Karrassville expressed his opinion of the matter.

Ken Rogers asked questions regarding the operation of the system.

Borden and Thompson stated the board members should visit an operational system.

Ferguson explained the invertors do emit some noise, but they are located within the site. Ferguson stated testing will be done after the installation, and mitigation measures installed if necessary.

Vaezi explained the application approval process, and the obligation of the board members to listen to the testimony and make decisions based on the testimony presented.

Bill Thompson indicated the fire suppression proposal is inadequate.

Wilson stated the board professionals would be included in any post construction testing of noise.

Farino asked if there would anything powered by diesel fuel, or any back-up generators. After the applicant responded there would be no generators or diesel fueled motors, Farino stated the noise level would probably be minimal.

Thompson asked questions regarding upkeep of any plantings at the site. Borden asked questions regarding hours of operation for the construction workers.

Scott Ward of Jackson Street stated the board members wouldn't want the operation in their back yards.

Earl McKinnis of 57 Gulick Street stated the area has always been peaceful and quiet.

The hearing was closed to the public since there were no more comments.

Wilson further explained this hearing is the result of litigation. Wilson explained the original application met the Ordinance standards in place, and amendments were made to the proposal in order to comply with the neighbors' comments. Wilson stated that if no vote is taken, the applicant will return to court and have the case remanded back.

Hight stated she was afraid a precedent was being set, and any farm over 20 acres will look to do the same thing. Hight mentioned the tax benefit to the Township might not be as was presented by the applicant.

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Edleston indicated a portion of the property allows the use, and the other portion would be by variance. Edleston stated the board would have to evaluate each case as it comes before the board.

Barton stated, in his opinion, it was an injustice that the members who attempted to listen to the tapes were unable to vote on the case. Barton stated the three members listened to all but 30 minutes of the meeting, but were still unable to vote.

Vaezi asked procedural questions.

Hazen stated he took the time to listen to the tapes and read the transcripts, and he would like the opportunity to vote on the matter.

MOTION was made by **MYERS** to allow for a Land Use Board re-vote for Case #11-07, Garden Solar, LLC as a result of the litigation settlement.

SECONDED: HAZEN.

Those in favor: Myers, Smith, Hazen, Creedon, Vaezi, Mills, Spender, Barton.

Opposed: Hight.

Opposed: None.

Edleston stated the board had the option of voting to draft a resolution, or if questions remain, the matter can be carried to the next meeting.

Creedon summarized by stated the applicant went over backwards to comply with the Ordinance put in place after they applied, and also to protect the surrounding property owners. Creedon stated the Township would lose the case if it went back to court. Creedon stated by, re-voting, the same conclusion has been reached.

Smith agreed with Creedon's summary, and hoped USA made products would be used.

Vaezi indicated he didn't remember any testimony given regarding any impact to the surrounding property values. Vaezi asked other questions relating to other areas allowing the use, the limestone impact, and decommissioning and restoration of the site.

Chmielak briefly summarized the site details, and answered Vaezi's questions.

Hazen indicated the property could be residentially developed, and that would put a burden on emergency services and the schools. Hazen stated there is little to no traffic being generated.

DiSessa explained the applicant presented as part of their testimony the positive vs. negative criteria.

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Layton stated that solar farms have been deemed inherently beneficial uses by the State. Layton explained the positive criteria has been deemed met, and the board must now only look at the negative criteria impact.

MOTION was made by **CREEDON** to grant a use variance for Case #11-07, Garden Solar, LLC for the solar farm use.

SECONDED: MYERS.

Those in favor: Myers, Smith, Hazen, Creedon, Vaezi, Mills, Barton.

Opposed: None.

Abstained: None.

MOTION was made by **BARTON** to authorize a draft resolution approving the preliminary and final site plan, and use variance for Case #11-07, Garden Solar, LLC, subject to the conditions agreed upon during testimony and in the professional review letters. The draft document being offered for review at the next regular meeting.

SECONDED: HAZEN.

Those in favor: Smith, Hazen, Creedon, Vaezi, Mills, Spender, Myers, Barton.

Opposed: Hight.

Abstained: None.

Wilson indicated the applicant stands by all of the conditions discussed. Wilson indicated he would inform the court that it appears the matter is moving forward.

Watters returned to the board.

MOTION was made by **MYERS** to authorize the Township Committee to pay the invoices submitted by the professionals.

SECONDED: VAEZI.

Those in favor: Hazen, Creedon, Vaezi, Mills, Hight, Myers, Watters, Smith, Barton.

Opposed: None.

Abstained: None.

Mayor Tomaszewski returned to the board.

MOTION was made by **MYERS** to authorize the Chairman to sign the professional contracts.

SECONDED: CREEDON.

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Those in favor: Creedon, Vaezi, Mills, Myers, Mayor Tomaszewski, Watters, Smith, Hazen, Barton.

Opposed: None.

Abstained: None.

MOTION was made by **BARTON** to adjourn the meeting at 10:00 PM.
SECONDED: HAZEN.

Voice vote: ALL IN FAVOR.

Respectfully submitted,

Patricia D. Zotti, Secretary
(as written)