

A meeting of the Township of Hamilton Planning Board was held on the above date with Chairman David Wigglesworth presiding. Other members present were Charles Cain, Wayne Choyce, Aline Dix, John Kurtz, John Percy and Heather Tomasello. Alternate member present was Harry Rogers. Also present were Christopher Carey, Landscape Architect Consultant; Steven Filippone, Engineer Consultant; and John Rosenberger, Solicitor.

Compliance with the Open Public Meetings Law was acknowledged.

Approval of Minutes – Mr. Percy moved, seconded by Mr. Choyce, to approve the minutes of the meeting of July 18, 2013, as published. SAID MOTION CARRIED WITH SIX MEMBERS VOTING “AYE”, NO “NAY”, TWO “ABSTAIN”.

Atlantic City Electric Company – Mr. Percy moved, seconded by Mr. Kurtz, to adopt the resolution prepared by the Solicitor for Atlantic City Electric Company, Application No. 2013-004.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mrs. Dix – Aye
Mr. Kurtz – Aye
Mr. Rogers – Aye
Ms. Tomasello – Aye

SAID MOTION CARRIED.

Hamilton Mall, LLC (Informal Update) – Keith Davis, Attorney; Lisa Pliskin, Chief Operating Officer; Ed Spitel, P. E.; and Dr. Clay Emerson, Engineer, Hydrologist for Princeton Hydro, were present.

Mr. Davis stated that representatives of Hamilton Mall, LLC, were present to informally update the Board with regard to the progress of the storm water basin remediation project. He briefly reviewed the history of the Mall’s addition project approval, and the subsequent appearances before the Board to permit certificates of occupancy to be issued for the two junior anchor stores and the two restaurants before completion of the basin remediation.

Mr. Davis referred to the street scape that had been approved as part of Phase One, and stated that it was the Mall’s hope to seek and receive construction permits for the project in the early part of 2014.

Mr. Davis expressed the opinion that all of the improvements demonstrated KRAVCO’s commitment to the Community, pointing to the investment of considerable funds during a depressed economic period.

Mr. Davis stated that the basin remediation plan had been completed consistent with the approval, and the work had been inspected by the Township Engineer, Steve Filippone. He pointed out that the conditions of the basins were much better and a substantial, marked improvement over how the basins were functioning previously; but they were not infiltrating as they were designed.

Mr. Davis noted that there had been substantial rainfall during the period of construction, and that there was the most rainfall in this region during June since 1958.

Mr. Davis stated that KRAVCO had hired Dr. Emerson in June and Mr. Spitel in July to analyze the issue involving basin infiltration, and to make recommendations as to how to address it. He advised that they would need time to determine what changes to the basins, if any, need to take place. Mr. Davis stated that they would keep Mr. Filippone fully informed as to their findings, and would work out how they would move forward, in terms of working with him, as they continue with the project.

Mr. Rogers questioned the status of the issues related to Basin No. 6, the basin that is located adjacent to the Atlantic City Race Course. Mr. Davis advised that the basin was being monitored by the Mall Staff as to the flow through the pipes from the Race Course property; that the issues related to that flow would be addressed with the Race Course at some future date; that presently that flow doesn't appear to be contributing a lot to that basin; and that KRAVCO's design team would be looking at the situation.

Ms. Tomasello questioned whether the basin would be converted to a "wet" basin. Mr. Filippone described what had been done to the basin to date, and advised as to what would need to be addressed in order to make it a "wet" basin.

Mr. Cain questioned whether all of the basins were having problems, or just particular basins. Mr. Davis responded that all of the basins were not infiltrating at some level and were not functioning as designed.

Mr. Davis stated that none of the basins had overflowed since the work had been done, nor did they believe that any of the basins were in imminent danger of overflowing. He pointed out that the basins were working well, and dramatically better, than how they previously were working, and stated that they would be assessing the situation to make them work even better.

Mr. Percy stated he had noticed that there was some pumping into the street from Basin No. 4, and he questioned whether permission had been granted to do so and to where the pumped material flowed. Mr. Filippone responded that he had been advised by a representative of Cape Atlantic Soil Conservation District that they had the proper permits and that where it was being pumped had been approved as part of the previous design. Dr. Emerson advised that there was a silt bag on the discharge, and he explained that the purpose of the pumping was so the investigation could be done. A discussion took place with regard to the efforts put forth to address silts in that basin, and Mr. Filippone advised that grass was now fairly well established, but the basin was still not functioning the way it was supposed to be.

Mr. Filippone stated that he had expressed his concern and the Applicant had responded by bringing in the new team in an effort to address the issues. He noted that Princeton Hydro was renowned for hydro geology throughout the State, and he expressed confidence in its ability to address the problem.

Mr. Cain stated that it was evident that substantial work had been done to date to remediate the basins, and commented that he had a lot of faith in Mr. Filippone's opinion and confidence in the new team's ability.

Mr. Cain stated that he had noticed that the newly constructed sidewalk was in use all of the time and he did not recall seeing anyone walking along Route 322. Mr. Percy stated that he had witnessed people walking along the Black Horse Pike.

Mr. Davis referred to the previous extension deadline granted by the Board that was established for September 15, 2013, to complete remediation of the basin, and he expressed the opinion that the Applicant had satisfied its obligation by designing the remediation plan and completing the construction. He advised that the bond for the storm water management system was still in effect, without any reductions, and the Applicant did not anticipate requesting reductions or release in the near future, until the results are known from the new team it had hired to look at the issue. Mr. Davis stated that they would like to continue to move forward, working with Mr. Filippone, updating him as appropriate, and eventually developing recommendations to hopefully address the last issue of infiltration. He stated that he wanted to make sure that the understanding is acceptable to the Board on a going-forward basis.

Mr. Davis stated that the team at KRAVCO was actively working to lease space in the remainder of Phase One, the Streetscape, and they needed to be able to make a commitment to potential tenants that they would be able to get construction permits and certificates of occupancy and would be able to open in a timely fashion. He emphasized that, in order to do that, KRAVCO needed assurance it would be able to move forward as outlined above, by the Board recognizing that the Applicant has acted in good faith; that there is a performance bond in place as protection to ensure the work occurs; and that the Applicant would be working hand-in-

hand with Mr. Filippone, who could report to the Board on progress at his discretion. Mr. Davis stated that, if the Applicant has another extended deadline, it would not be able to make the commitments to potential tenants that it would need to make in order to complete Phase One of the project.

Mr. Davis stated that they believed they satisfied their obligations and there was no need for another extension; but the Applicant would make application to the Board if it feels otherwise. He further stated that he would like to make sure it would be the last application they would need to make because another deadline would limit their ability to lease.

Mr. Rosenberger referred to the most recent resolution adopted by the Board which contained a provision that Condition No. 5 of the original resolution remain in effect. He advised that Condition No 5 set forth that the basins must be functioning per the design of the remediation plan and construction documents, and expressed the opinion that the Applicant would need to request relief from that, as opposed to the Board concluding that the Applicant is in compliance.

Mrs. Dix suggested that the Applicant wait until its new team completes its investigation and she questioned how much time would be needed for the team to report its findings and recommendations. Mr. Davis stated that it is not known at this point how much time it would take, as they did not want to make a hasty decision until all the facts are known.

Mr. Rosenberger advised the Board it could consider conceding that the September 15, 2013, deadline is no longer significant because the Applicant had obtained the Certificates of Occupancy it needed at this point and that the remediation plan has been completed; but that the Board is not ready to agree that building permits can be issued for the remainder of Phase One, as Mr. Filippone cannot certify that the basins are functioning as designed. He advised that the Applicant could then make an application for relief from Condition No. 5 at a later date, after which it could apply for building permits, provided the Board agrees to remove the requirement.

Mr. Davis stated that the Applicant would make application to the Board within the next month to seek relief from Condition No. 5 of the original resolution of approval, so that the condition would not be dependent upon the issuance of building permits or certificates of occupancy. He stated that the Applicant's position would be that the Municipality is protected by virtue of the performance guarantee.

Public Comment – Mr. Wigglesworth opened the meeting to public comment and there was no response.

Mr. Cain moved, seconded by Mr. Percy, to close the public portion of the meeting. SAID MOTION CARRIED WITH ALL MEMBERS PRESENT VOTING "AYE". NO "NAY", NO "ABSTAIN".

Adjournment – Mrs. Dix moved, seconded by Mr. Cain, to adjourn the meeting. SAID MOTION CARRIED WITH ALL MEMBERS PRESENT VOTING "AYE", NO "NAY", NO "ABSTAIN".

Respectfully submitted,

Nancy Rainbow,
Planning Board Administrator