

## **1. FLAG SALUTE & CERTIFICATION OF COMPLIANCE**

Chairman Bruce Stern called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Ally Morris read the Certification of Compliance with the NJ Open Public Meetings Act:

"The time, date and location of this meeting was published in the *Asbury Park Press* and posted on the bulletin board in the office of the Township of Lakewood at least 48 hours in advance. The public has the right to attend this meeting, and reasonable, comprehensive minutes of this meeting will be available for public inspection. This meeting meets the criteria of the Open Public Meetings Act."

## **2. ROLL CALL & SWEARING IN OF PROFESSIONALS**

Mr. Gonzalez, Mr. Flancbaum, Mr. Stern, Mr. Isaacson, Mr. Meyer were present.

Mr. Terence Vogt, P.E., P.P., C.M.E. was sworn.

## **3. PUBLIC HEARING**

- 1. SP 2310 The Parke at Lakewood, LLC**  
752 & 688 Cross Street Block 524; 524.23, Lots 2.03 & 77.02; 1

Mr. Stern said we are going to bring the public up and you can speak whatever you are going to speak. Then we're going to let counsel have closing arguments. And then the Board is going to deliberate, and the plan is we are going to vote. We want everybody to be able to speak. If everybody here spoke for 4 minutes, we'll be here until 1 in the morning. If you've heard other people make your points, maybe consider not coming up. If there's a way that we can keep it within bounds, then we can actually try to vote tonight and move it along.

Mr. Stern opened to the public for comment.

Pastor Bob Miller appeared and was sworn. He stated that he doesn't usually write script but there was a lot, so he put it on paper to keep on track. First, I want to thank the volunteer board and Mr. Stern for the way he's conducted the proceedings. He thanked Mr. Robison because both brought up a point that there needs to be negotiation to come to a resolution for both parties. He said had a brief discussion with the applicants and told them that he moved to the Fairways because of the beautiful golf course view. The applicant told him that in fairness to the Fairways they would not get rid of the original 9-hole golf course. As we have heard from the applicant's experts, they made statements that were not correct and they later corrected them based on their attorney and expert witnesses so credibility is something to consider. Each meeting, we salute the flag. We need to practice what we preach, love one another and do what is right in the eyes of God. We need to have peace, shalom, and that comes from fairness and love. Seniors have earned the right to live in peace. It is feasible to permit construction of homes where children will live close to a landfill that is still emitting methane gas? Unfortunately having children there that can't make their own decisions, it's not fair to bring them where chemicals are coming out of the ground. It can kill children and we have a higher authority to answer to.

Mr. Frederick (Rob) Robison appeared and was sworn. He thanked the chairman and the board for their time.

Mr. Jackson asked in what capacity he was appearing. We don't want to have two bites at the apple, so to speak. We don't want to have the same testimony twice.

Mr. Robison said my understanding is the issue of the tax appeal came up on September 9 when I was not present, and it's been arranged so that I can testify on that.

Mr. Jackson said generally when someone is represented by counsel, they do not come up to the mic again.

Ms. Donato said I represent the Homeowners Association. Mr. Robison is a board member. At the last meeting Mr. Stern said no more witnesses to be presented by me, and that he would present during public portion. There is no intent for duplicity.

Mr. Stern said and we are going to be less stringent on your four minutes.

Mr. Robison said I have been the coordinator of the community project to preserve property values and I am the Vice President of the Fairways HOA Board of Directors, but I am also speaking as a citizen and taxpayer tonight. I apologize in advance, if my diction begins to fail please let me know. It is as a result of the traumatic brain injury I suffered in August of 2018. As to the topic I have a packet that I would like to offer to the Board that substantiates my testimony.

Mr. Robison distributed his tax appeal and Mr. Jackson marked it as Robison-1.

Mr. Robison continued and said the very issue that I have been asked to address is the tax appeal that I personally filed that came up during the September hearing when I was not in attendance. As we know the date on all tax appeals is logged on figures based in the prior year. In Dec 2013 we paid approx. 398k for a home on Eagle Ridge. Lakewood completed its comprehensive reevaluation project in February 2017. One month after the golf course was sold. That is confirmed in the final page of the packet. The values throughout the town had been set before this sale became public knowledge. At the conclusion of the revaluation of the entire town, the valuation of our property was listed as 339,800, that is listed on the first page of the packet on the appeal form I submitted to the Lakewood Assessor and County Tax Administrator. I filed an appeal in 2017 which was denied. At the appeal hearing the tax commissioner said at the time that the impact of the sale of the golf course could not be considered because the valuations had already been set. He said to me I expect that we will see you next year. For a host of personal reasons pertaining primarily to my health, I did not file an appeal in 2018 but I did so in 2019. I sought to reduce the ass from \$339,800 to 290,000. This is the first page of the packet I provided, it shows the original purchase price, the revaluation assessment, and then my goal in seeking a judgement of 290,000. After submitting the appeal form by the established deadline I was offered a settlement totaling \$276,600 which was 63,200 reduction in the assessed valuation. I have never seen a settlement amount offered below the amount requested by a tax payer in all my years as a city manager and during my tenure in the office of the state treasurer. The signed stipulation is in the second page of the packet confirming the 276,000. Referring back to my role as the project coord I asked the county tax admin for the results of the Fairways appeals from 2016 through 2019. The third page of the packet is the transmittal from the county tax administrator. The fourth page is a summary of the information provided to me and the remaining pages are detailed information. This is all public information. I ask you to note that the total number of appeals has gone up each year since 2016. The percentage of successful appeals has gone up each year since 2016. The average reduction has gone up each year and in just the four years from 2016 to 2019, the total valuation lost to the township in just the Fairways is a little over 4 million dollars. The summary page does go beyond the presentation of factual data and does include projections based on the historical facts. They range in the potential off loss valuation from 15,000 to 15 million 226 million based on 3 different scenarios. Speaking on my home only as an individual citizen and tax payer I seriously doubt the valuation will return to the 339,000 that the Township assigned in 2017. Or that I will every be able to sell the house near the value that I paid for it. I think this is a good example of a reason why this application is not feasible and it should be denied. Thank you Mr. Chairman.

Mr. Shloma Klein appeared and was sworn. He spoke about conflict of interest. He alleged payments made by Saul Mizrahi to Board members and Board members who were directed to recuse themselves if they were going to vote no on this application. He alleged that the applicant sought yes votes and got rid of no votes. He claimed he has information that Mr. Lichtenstein was pushing during the Master Plan not to include the restriction of the roads on Cross street, and that he colluded with the Township Attorney to get the Ordinance written so that it would be overturned by the judge. He said this is not fair, the cards are stacked as done by the applicant's people.

Mr. Stern said we've been very factual during this proceeding. We've checked the provenance of the evidence. To cast these versions of people's character in public with secret sources is inappropriate. The first amendment is in effect, but I wanted to note that for the record.

Ms. Carol Suckno appeared and was sworn. She presented a document dated November 3, 2016, the NJ Audubon Society recognized Eagle Ridge Golf Course at its annual meeting. She read it into the record, detailing the birds, reptiles, animals, and insects that use the golf course for their habitat. She asked how can this Board determine that the application was complete or that the project was feasible when the environmental inventory was not complete? Thank you.

Mr. Tom Siciliano appeared and was sworn. He said I'm here to give a statement to follow up with Rob about the assessments. I moved in in August 2015. When I got my assessment from the County it was \$460,000. I appealed and they denied the first and second appeal. When I submitted the third, I asked for a reduction to 400,000. They approved, without asking, to 378,000. I look at that as an example of how they're recognizing that the values within the Fairways are being reduced. Mortgages are based on the assessments. If paid 511, and I'm assessed at 378, I will never recoup my money on this.

Mr. Joseph Guardino appeared and was sworn. I came to the Fairways 20 years ago. I came to a resort, that's what they said. I like golf, my wife likes golf. I came here tonight, and I've done maybe four or five other times in the last 6 months, it took me 25 minutes. When I go home at 9:00, 23 minutes maybe. There are more homes today built in the last 7 years than we had 20 years ago. We come to this town 5 times a year. We don't suffer all the parking and traffic that people that come every day do. To put another 2,000 homes, 2,000 cars... please look into your heart and make a good decision about the Fairways. We love the golf course. We'll buy the golf course. We'll put a moratorium on it and keep it as a park. Thank you.

Mr. Vic Mellilo appeared and was sworn. I was told I couldn't say a few things. I want to add to Mr. Miller who spoke first. Constructing high density close to a landfill is not feasible. I took measurements from 11 methane gas vent pipes on the landfill, at holes 24, 15, and 16, which surround the landfill. The measurements I got from the vent pipes themselves. The shortest distance I came up with was 15 feet. The longest was 170 feet, that the houses are going to be built. There are a lot more pipes that can emit methane gas. How can CAFRA and the DEP permit homes to be built this close to a landfill? Traffic studies are important. In January 2017, Mr. Taylor's report, Mr. Stern said the peak time should be certain times. A traffic study was done during Shabbat, with no school buses, this is not a total honest way of doing things. About adverse impact on the environment. 64 homes on the golf course bought because of the open space and views. Every night is a different picture. During the day we see men trying to play golf. Our property values have dropped dramatically already. The 64 homes there are going to be looking at the back of these new houses, with as many families as possible in each dwelling. On the exact day as today, November 25, 2018, a year ago, was the first day of high ground water flooding the golf course. They have two permits to move water from one place to another on the golf course. From November 25, 2018, to September 2019, 10 months of water was pumped through 4" fire hoses. It's the time of year for the course to start flooding again. The vernal pools will start forming. I have many pictures of water on the golf course at all 27 holes.

Mr. Harvey Schurkman appeared and was sworn. He said I have about 425,000 in my home. I lived in the Fairways for over 20 years. According to Zillow.com, my house is worth 237,000. That's a difference of 188,000. I own two

other homes in the Fairways that I rent, they are also underwater. I brought some photos of what the duplexes look like on Williams Street between Prospect and Omni. These photos were marked as PC-3A, B, and C. He said they were taken on one side of the street on Shabbos, there are less cars in front of the homes because a lot of people drive to shul eruv Shabbos and leave their car parked there until the end of Shabbos so they don't have to walk home. If you look at that street tonight, there are cars parked in the street because there are more than 4 cars to every duplex. Now they are building on the other side of Williams Street. There is a shul that's almost finished. And they are putting duplexes up between the shul and Prospect. So you're gonna have more cars there. That's what Parke, LLC, is gonna look like. I know Lakewood was a beautiful community when we moved here twenty years ago. It's a nightmare now, trying to get into town. If you make Cross Street 20 lanes wide, it doesn't make any difference because it all empties into 9. And 9 is not gonna get widened.

Ms. Janet Winey appeared and was sworn. There's been some other brief comments about traffic. I want to make some comments about how it specifically affects me, and that is Cross Street. We have several exits from the Fairways. I find more and more people choosing to go out Massachusetts Avenue and not use the exits on Cross Street, simply because they are so difficult with the traffic. It's difficult to make a right turn. It's almost impossible to make a left turn. I heard testimony that the applicants were going to put in a Boulevard exit to handle the traffic, and I don't think that's feasible because unless the traffic on Cross Street stops, you can't make a left turn. There are bottlenecks on Route 9 and specifically the other day people were crossing coming towards the Fairways making a left into the liquor store. So that holds up the traffic there. And then when they're exiting, they're crossing and coming down towards the Fairways. It's a mish-mosh. So unless you do something about that, that whole corridor is never going to move along. There are several questions I want to ask you. It's supposed to be a grade C traffic pattern, and I don't understand why this application has been allowed to go forward when it doesn't conform to that. You don't know when Cross Street is going to be widened, then it doesn't make sense to approve this application. I would like to know if you aware of how many projects are approved in the pipeline. How many cars and dwellings are to be added? This traffic affects insurance rates. I moved here 6 years ago and was very surprised with my new ins rate. They said it was because Lakewood has a high incidence of accidents. You cannot ignore the limits of construction that are contained in the easement on Augusta. I ask you not to approve this.

Ms. Donato brought up Mr. Siciliano's tax judgement that was presented previously but not marked. It was marked as PC-4.

Ms. Dawn Witka appeared and was sworn. At the last meeting, the Chairman asked Ms. Donato to provide calculations. When is it the responsibility of an objector to do the applicant's work? Did you make the same request for calculations to the applicant? Is there a double standard in play? This last minute revision to the plan without opportunity to review or the submission of calculations is enough to determine that the project is not feasible.

Ms. Diane Burkhardt appeared and was sworn. She said that she moved here 2.5 years ago from Long Island. She retired, they sold their home and bought in the Fairways with the promise of a gorgeous golf course to use and go to. When she lived on Long Island, she was a contractor. When this started taking place, she came to almost every one of these meetings. In Long Island, planners and builders always took into consideration the surroundings and neighborhoods. At that time, there were always situations where builders had to take a step back. Plans had to be reworked or they had to move on. She said I never expected after retirement to be part of that again. Besides the traffic situation, I was upset at the water situation. Every plan that you see is going to be supplied by New Jersey American Water Company. When we moved here, we had no choice but to have New Jersey American Water Company. Our rates on Long Island were \$39 every three months. I just paid \$101 for the month. It is substantially higher. In the copy of my water bill, it shows that New Jersey American Water Company is buying water from other sources. Besides that, they're surcharging us for bringing in water. If they are going to supply other new buildings all over, and now this development, how are our rates going to go up? How is this going to impact our community? We are already being charged a surcharge. That is upsetting to me. We are not against human beings or progress,

but as a former contractor I know that being turned down... you have the power to say no. Just as the town engineer has the power to look at things and say no. If we are meant to live, no matter what our religious or way of life differences are, together in the same Town then we all should be kind. Obey the written laws and work together to put an end to one's thinking that they deserve to build and take over properties that infringe on the rights of others. The senior citizens of this community, the Fairways, have worked hard their whole lives, raised their children to be productive citizens and have put their entire mind, body, and soul and bank accounts to live out their lives. This is being threatened. Take the wonderful way of life away from them, you have failed a generation of people who have fought for and sacrificed for our Country in unpopular wars. Please do not allow their freedom to be compromised by greed and an overabundance of building on such a beautiful land like the golf course.

Mr. Steven Eugene Deutsch appeared and was sworn. He said he's been coming to Lakewood since 1949. We came here because of the air quality. My parents suffered from asthma so we came to the hotels on Lake Carasaljo. I'm upset by the Parke, LLC, website saying welcome to historical Lakewood, without having the approval to build there. The purpose I'm here, is I am a retired public servant, over ten years as a zoning official. The industrial park that backs up to Eagle Ridge Golf Course has doubled in size, increasing density, traffic, and congestion on Cross Street. Directly opposite on Cross Street, land has been cleared for new duplexes that will again increase density, traffic, and congestion. Low density housing and the widening of roads are all methods to consider to help alleviate this traffic problem. However more development such as the one proposed would create a hardship and would be a substantial detriment to the public good. I hope you will listen to us.

Mr. Donald Warren appeared and was sworn. Is it feasible to permit construction of homes for families with children where the groundwater appears to be extremely close to the surface as evidenced by the need to pump water off the golf course? Are we not creating a potential disaster by not even considering the fact that water flows from the Fairways onto the golf course? I remember 50 acre-feet of water that has nowhere to go other than the ponds on the golf course. I have yet to hear a stormwater management plan setting up the proposed method of controlling stormwater on this site. If roads are to be built, where is the water to go. The high possibility of flooding does not make the project feasible.

Mr. Irving Commike appeared and was sworn. I was Assistant Tax Collector for several years in a northern town. I can tell you as fact from my experience that by the time when the golf course was sold, the assessments started to go down. You take away a beautiful site and put up houses, the values go down. You mentioned a fatal flaw. Another bad storm, and if flooding occurred, with all the evidence presented, there's a possibility that parts of the Fairways could flood. The Board has a responsibility to approve complete plans, not half done. There are too many instances of doubt. The complete format hasn't been shown on the Board. I urge you to think about the right thing to do for the public. Traffic is going to get worse and if there's any floods, maybe we'd might be able to sue the Town for approving it.

Mr. Emilio DeRissio appeared and was sworn. The land in question was a mining pit before it was purchased by the Kokes. There is a reason why the water table is so close to the surface. The land in question is a big deep hole. Did you hear from the applicant about the soil sampling that was done before the gold course was purchased. Would you not agree that the highest and best use of an old mining pit is open space or a golf course. Would you not agree that the only reason to purchase an old mining pit was to meet the open space requirement, outlined in the adult community project ordinance. No matter how much fill is trucked in, I do not believe this is a feasible use due to the open space requirement as well as the possibility of flooding. Thank you so much for listening to me.

Mr. Tom Green appeared and was sworn. These are all good people that have legitimate concerns. So do the developers. There are no bad people here. You don't invest in a senior community to flip it, you invest in your quality of life. Having done the most egregious thing as a resident of Fairways, I've spoken with GDMS and have organized meetings. The only way to sanitize things is through light and sunshine. There's been a lot of misconceptions and bias, and a lot of billable hours. I've negotiated deals ten times this size, I'm used to this. Good

people here that have really good concerns are not being told the truth. I will see every one of you guys, you know what I'm saying is true. Transparency will fix it. Communication will fix it. Compromise is part of negotiation. I am not an advocate, I do not work for GDMA, but they have put their hands out and overcome every single objection. Water runoff, traffic, by the way 10-year moratorium on the build, why is that not discussed? They put it in writing, a judge will sign off on it. Your view will not be changed. This is a five-stage development, 25 years to build. The only ones that are benefiting are the attorneys. I don't have much faith in attorneys. I have a law degree, I know how it works. There's been a lot of misinformation to the detriment of the residents here. I care about my neighbors. Most of these people invested in their quality of life. They are not being told the truth. Some of the things spoken by representation on both sides, I will document it and send it to you, some people are not telling the truth and they benefit on a fiduciary level. I want honest and true representation. Think of all these good people who have worked their whole lives to be in this position. Veritas.

Ms. Francis Craig appeared and was sworn. It's not just about the Fairways. It's every resident in Lakewood. When is enough, enough? How much more high density housing, traffic, cars, buses, people using resources, damages to ecology, loss of recreation areas and watershed, damage to Barnegat bay, when is enough, enough?

Ms. Dorothy Holtz appeared and was sworn. I don't agree with the rush to judgement. How is this deemed complete when there are so many factors not addressed? It may be a concept plan, but the concept must be crystal clear. Your only legitimate option is to deny the application because the plan is not feasible. Trying to say a question or issue can be delayed until a site plan is submitted is deceiving to the Board and the public. You must have complete information before any project can be defined as feasible.

Mr. Mark Sarachik appeared and was sworn. I moved here a year and a half ago. I'm happy living there, it's a wonderful, peaceful way of life. We are concerned about the development on the golf course. I came from Staten Island and know about high density. It used to take me 2 hours a day just to get to work. The traffic is getting worse every day over here. On Cross Street, every single piece of open land is for sale or being developed. There is an overabundance of new projects in the works. Traffic flow on Cross, River, Route 9, even going into Toms River, the traffic is impossible. School busses with the high density population, there's going to be more school children. The proportionate amount of houses to the area is way beyond. It has hit a tipping point of no return. Across from Augusta they cleared from Cross to Prospect, it's going to be anywhere from 3-400 houses. Then on Cross street by Veterans and New Egypt, they have kosher town, there must be 1,000 townhouses with 500 new ones there. It's impossible to get around and to shop. There's not going to be enough parking spots for all those people to shop. We're going to be looking at hours of traffic on all your major roads.

Ms. Connie Fossa appeared and was sworn. I've been a resident of Lakewood for 46 years. 5.5 years ago, we moved to the Fairways. We've reinvested in Lakewood 3 times. We felt this would be the best choice of a retirement place because we love Lakewood. We came from diverse communities prior to moving here, and we've always enjoyed the programs in Lakewood that include everybody. We've done a lot of community service and worked in Lakewood. I'm sad to say that since I've been in the Fairways, that we're looking at the Parke which is so huge, is such a massive thing. We have no recreation for our senior people and all of the other that live in this area if we sign this over. It seems to be too much too soon. I ask you and think you will take the time to think this out. We have so many unanswered questions. What about the increase traffic? The water has gotten worse, but we're paying more money. There are so many things to think about. In an already developed area of the Fairways we have flooding between homes because of the poor drainage. What happens when we have such a large basin in the Parke. I think you are looking at this at too early of a time. You need to see what gets built, how the traffic increases, and what happens to the infrastructure in this town. It's not just Lakewood people, its people from Ocean County born and raised in this area.

Mr. Victor D'Angelo appeared and was sworn. I'd like to thank Mr. Stern and the Board for giving us the opportunity to speak. I am licensed by the State of NJ as a construction official, fire subcode official, fire inspector,

and high hazard specialties. In 1993 I was appointed to the State code Advisory Board, in which we review all model codes before they are adopted by the State. I'd like to reference two things. One is there is supposed to be a 75' buffer from our community where nothing is built. In one of the previous Planning Board meetings there was discussion of what is a structure. A structure is the same thing in the International Building Code and in the MLUL and is a combination of materials that are put together for a purpose. My largest concern is that nothing should be put in the 75 foot buffer. My concern here is that the easement that's granted from Fairways to the golf course for access to the golf course, does stay along with real property along with any other lands now or hereafter used in connection with the golf course commonly known as the Eagle Ridge Golf Club. The key words here are commonly known, because what was commonly known then was the 18-hole golf course, not the 9 holes on the land fill. The second phrase, and may not be used for any housing except for two dwellings for use in connection with the golf club. Two dwellings is a far difference from 500. It may be interpreted that if the housing project were to move forward, Augusta Boulevard could not be used to access the development. The applicant may say they have no plans to use it. The only way for that to be verified would be to cut off that access. All the plans that I have seen indicate that what may remain as a golf course is the 9 holes. In that case you would have to drive through the development to get there. But you can't go to the development because the easement says you can't use it for any other purpose but for the golf course. The other thing is the easement is not just a vehicle easement, it also states pedestrian. There was a comment made that they could put up a barrier and leave an opening large enough for a golf cart. But since the easement also applies to pedestrians, then the easement would prevent any pedestrian from walking up Augusta Boulevard and going into the development from where the golf course parking lot is. Another violation of the easement. So I think it was premature of the DEP in their comments to allow the use of Augusta Boulevard in an emergency fashion. That is not addressed in the easement. I think it's important that this is totally reviewed and clarified and that you vote no on this.

Ms. Joanne Scher appeared and was sworn. She said the traffic is one of her chief concerns. Usually you have to sit through 3 lights before turning onto Route 9. We have a State and a County highway, 2 different entities. Rushing to make a decision before the widening of Cross and the lights are put in can make a difference in whether or not you should make a decision. When I moved here 2 years ago Massachusetts and Cross had no light at all. It took 4 years and 4 fatalities before we got a light there. We don't need any more fatalities. Please make sure your decision is right.

Mr. Henry Yurkovic appeared and was sworn. I moved here September 4, 2018. Beautiful community, but really congested. Taxes where I used to live where really low because they had industry. They wanted to put up a complex on the industry side, and told the Board that if they voted for that taxes would go up, they would need more schools, another fire dept. Do we have those here? Taxes are going to go up. Industry brings it down.

Ms. Karen Argenti appeared and was sworn. She is speaking on behalf of save Barnegat bay. She said my standing is that your decision might impact me because I live in the Barnegat Bay watershed.

Mr. Jackson asked what her position is in Save Barnegat Bay.

Ms. Argenti said I'm on the Board of Directors. Good evening. Save Barnegat Bay is a not-for-profit, 501C3, community group of neighbors working to protect and restore the Bay and its watershed. I am your neighbor in Manchester, in a Kokes planned development. We can work together to protect nature, control pollution, ensure enough clean water, and conserve wildlife for today and the future. Many of us moved here because the air and water was clean and healthy. Today it is not. We are at a crossroads of responsibility and accountability. If we begin to act now, it's not too late to make a difference. We can work together as we did in the October stormwater conference charting a course. We appreciate that Lakewood had a representative at each of the three days of our conference. You have the ability to deny this application for many reasons and we will stand with you and defend your actions. You have a responsibility to our future generations as well as the quality of life issues of today. We believe the houses built at the Fairways were clustered, and the extra acres, some of which constitute a potential

brown field, from the golf course stormwater BMP and open space. And both the golf course and the Fairways continue to cross a waterway to this day. With these limited uses, you have an opportunity and good reason to say no to any expansion. In particular, the present project is on a designated recharge area and has a high water table. The entire golf course was designated as a recharge area in 1997 in the stream encroachment documents. Be brave and walk with us on this journey. We can work to make sure you are not the victims of unexpected consequences, and those big construction and health costs. You don't want to be like Lake Acapatong with the harmful algae or Stafford Township flooding issues. Some areas of mutual concern we can work on are sustainable Jersey credit, recycle water to the ground to make it clean, eliminate flooding, connecting growth, congestion, and lagging transportation issues, and new stormwater rules regarding green infrastructure. Thank you very much.

Ms. Carol Suckno appeared again.

Mr. Stern asked her to wait until the end so that everyone else gets a chance to speak.

No one else appeared.

Ms. Suckno said approximately 600 Fairways residents have filed the largest consumer fraud case in the state of NJ. The question becomes whether this Board wants to knowingly perpetuate this fraud. Does this Board want to risk getting added to the complaint. This alone is more than sufficient reason to determine that this project is not feasible.

Mr. Asher Brodt appeared and was sworn. He said his job is a real estate agent. First, he came to a few meetings and thanks to the Board that their concern about traffic is for all of us not just the seniors. He said I don't like to drive in Lakewood when the busses are around. Hopefully Route 9 being worked on will help. If this will help to get this done, thank you everyone. I want to go through a little history, when this application went in and the first meeting was done there were over 800 people from the Fairways. The original amount of units was 922 or something. Thank God it went down to 519. You've added roughly 200,000 square feet of open space with the removal of those units. In this case, it happened, but having development on 519 units on such a large amount of acreage is unbelievable. The back property is not being built for a number of years which is great. I have a living to make as well as everyone else. I thank each of you for helping to speed up the traffic improvements. I know the Board is being careful and doing better than in previous years. I hope this can go through smoothly.

A gentleman from earlier reappeared. He said when we signed a contract to buy our home in 1998 the Fairways couldn't be built without the open space, or the 18-hole golf course. If that is built on, that makes our development out of code, illegal. Am I correct? The Fairways could never have been built unless there was the open space.

Mr. Jackson said that is the subject of a lawsuit that Ms. Donato is prosecuting. It's something the applicant's attorney disagrees with. These exist as separate lots on the tax maps. What the consequences may or may not be to the zoning of your development I am not prepared to address. However this Board is faced with a case where there is a separate block and lot for the Parke development and it's being considered on its own merits. That question that you're asking is going to be decided in a different forum. This Board is not going to look to that as something that is necessarily attached to the other development. In deference to your question, but this forum is for public comment. It is not a debate session, we can't argue back and forth.

Mr. Stern said the Planning Board is quasi-judicial. In the Township Committee, in contrast, it is the right of the citizens to come up and question. You don't come up to a judge and ask them why are they doing that. We are more akin to a judicial body...

Mr. Shmuel Rabinowitz appeared and was sworn. I don't want to get into the issue of whether or not you should or shouldn't approve this. You've heard plenty from the lawyers and engineers. I want to go a different angle. Over a



period of time this has been in front of the Board, a lot of the discourse started going towards them and us. I understand why they are concerned. What bothered me is that unhappiness caused people to go in a direction that I'm sure they didn't mean to. The community next to the golf course is trying to require people to bring id's...

Mr. Jackson asked what bearing this has on this application.

Mr. Rabinowitz said I'm going to get there.

Mr. Jackson said sometimes I ask question to figure out where we are going and what relevance this has.

Mr. Rabinowitz said I would like these issues addressed in the future.

Mr. Jackson said that's not the purview of this board. That will be addressed if it's relevant at the site plan hearings. At the GDP level, that's not relevant for this Board.

Ms. Blima Goldberger appeared and was sworn. Thank you for giving everyone a forum to speak. Thanks to the seniors, I know you've been here many times. You are here for the next generation, and my children that live here will have children and you're trying to make it an environmentally safe environment. I'm a realtor in the area. I just sold a house to my grandmother, I'm familiar with the seniors and their needs and I love working with them. Across the board, the seniors I have dealt with have had one thing that was their primary goal and that is to be closer to their family. If you will have a development nearby, the demand comes if there are young children and shopping nearby. As an experienced person in the field, look at the Enclave. People would like to be close to their children and live peacefully. You'll notice our beautiful shopping centers, etc, and that's the local needs of the community. If you have development that would be approved that has open spaces and parks it will definitely increase values in the area.

Mr. Shmuel Rosenberg appeared and was sworn. Two points, first is as a neighbor. I live in Prospect Vines on Burgundy Way. Eagle Ridge is right across, there's a path I take especially on Shabbos. There are alternative minyanim there. In a development like Prospect Vines, its nice to have places you can go to visit friends and socialize and walk places. I think the development will be great. I'd like to get a carton of milk within walking distance of my house. My neighbors, we want this. We see it as good. Second, we all have heard about Rise Up Ocean County. Today they had an online on Facebook post about this hearing. Some of the comments give an insight...

Mr. Jackson said that's not relevant.

Mr. Rosenberg said I believe a lot of the opposition is not based on the merits but on an overarching agenda. Can I read some of the comments...

Mr. Jackson said that's not appropriate.

Mr. Stern said in all honesty we have had groans and outburst but this has been generally 30 hours of very productive and civilized discussion. Whether someone is writing crazy stuff on a blog, don't read that stuff.

Mr. Rosenberg said focusing on the merits, speaking as a neighbor, the growth we are having, as a business owner, I've found that it's great. It's a great economy and I think this is a wonderful development.

Ms. Susan Wymisner appeared and was sworn. The only thing I want to say is no one has objected to who is going to move into these homes, just that these homes are being built.

Mr. Jackson said this board realizes that.

Ms. Wymisner said this is against the fact that Lakewood is overbuilt.

Mr. Ernie Sanchez Jr. appeared and was sworn. I've only been here 7 months, after working 30 years in New York City, working with the traffic. The traffic here in Lakewood is worse. Me living in Monmouth for 25 years, and being on the zoning board there, I understand the responsibility and power that you have. I ask that you consider everything that's being said. We're all going to reach this age. If I were on the Board, I would make the right decision. Going back to traffic, Lakewood needs to focus on how they can correct the flow of traffic. If there were some devastation would we be able to evacuate? Would we be able to feed everyone? There is not sufficient food. With the water company, back several years ago they tried to pull this surcharge and we told them we weren't going to pay it. Guess what, it was passed and we still have moderate surcharges. You have the power of God, I hope you make the right decision.

Mr. Stern said I agree this has been delightful and thank you for all your time. We are going to take a break and then counsel is going to sum up.

After the break Mr. Stern returned the meeting to order.

Ms. Donato said I'd like to iron out procedural issues. One of the issues has to do with the colored map that we tried to introduce through planner Barbara Woolley-Dillon and there were objections to the map based on the provenance of the map and that has to do with the origin of this map. And I provided today with references to the deposition testimony of John Woestnick who was the leading engineer with Lynch Giulliano Associates, the entity that designed the Fairways and remained as the engineers for the Fairways practically until its completion and in that deposition testimony the... Mr Woestnick explained that he had given the base map, the Fairways base map, to FWH so that they could use it when they were preparing the plans for the Masters collection which was a parcel outside of the Fairways ACP tract and was added to the Fairways ACP tract. They received a use variance and then they merged into the Fairways and a series of things happened thereafter, enlargement of the clubhouse, etc. So the map, after an initial identification I was able to get the current firm of FWH to release all of these maps, the colored maps that they had. They are the business records of FWH. The document is marked as an exhibit on the Township's website and I don't want there being any misunderstanding if there needs to be a record of these proceedings.

Mr. Stern asked what are you asking us to do.

Ms. Donato said I want to make sure that it's submitted as a piece of evidence.

Mr. Stern said this is the one with the FWH.

Ms. Donato said yes it had FWH written on a basemap and prepared by Lynch Giuliano and Associates.

Mr. Stern said didn't we discuss this last meeting?

Ms. Donato said well I was chastised by the Board Attorney for a second time attempting to introduce the maps as evidence, I think it's totally legitimate. I would never have tried to present something that's not a totally legitimate document and I think that Mr. Woestnick's deposition testimony clearly establishes why this map exists.

Mr. Stern said you sent a deposition? When?

Ms. Donato said yes I did, I sent it this afternoon.

Mr. Stern said John did you get this, I shut down at like 2:30.

Mr. Jackson said I have an email of 4:19 PM from Ms. Donato that's addressed to Ally Morris, copied to myself, Mr. Schneider, Marion Parnes, Rob Robison, and Victor D'Angelo.

Mr. Stern asked when did you get the depositions.

Ms. Donato said June or maybe July. But it was subsequent to that... I didn't think there was going to be an issue with introducing the document. When I tried to introduce it through Barbara Woolley-Dillon which was September the 10<sup>th</sup>, it was at that time that it was objected and I then presented it for identification and it... because... you know because why was it a map that was a Lynch Giuliano map, and how did that happen, and I said let me see if I can figure out how to explain why this is a piece of evidence and it's a good piece of evidence. So subsequent to the testimony of Mr. Brian Flannery, I deposed him and he kinda denied any knowledge about the map, I then communicated my subpoena to FWH. And then I got the maps.

Mr. Stern said so the deposition testimony you got in June?

Ms. Donato said I'm not exactly sure.

Mr. Stern said or did you get it before the last meeting.

Ms. Donato said I did have it, yes I did have it before the last meeting.

Mr. Stern said so it would have been a good idea to let us look at it then versus, what time was it?

Mr. Jackson said 4:19 PM.

Ms. Donato said what happened is I went on the website and I saw that the document was admitted as evidence. I didn't want to have it admitted as evidence, and in the event of an appeal, have an issue about whether or not the document was or was not admitted. Then that happened after the last meeting, that I was just trying to tie up all my loose ends. And I honestly did not expect that we were going to be here on November the 25<sup>th</sup>, that was kind of a special meeting, there wasn't a whole lot of time available. I was away, my secretary was away, so... I just think it's important that we take whatever loose ends that we have. That was one of my loose ends.

Mr. Stern said Mr. Schneider, would you like to comment.

Mr. Schneider said this has been addressed by the Board before. We have Ms. Donato testifying where it came from, and with respect to using the deposition of Mr. Woestnick to authenticate it, he said he doesn't ever remember seeing it before. He says, you know, "It has [his firm's] name on one side, you see it has FWH on the other side." "Yeah, I don't know, if they took our plan and made this. I don't ever remember seeing it."

Mr. Stern said this is from the deposition Ms. Donato gave.

Mr. Schneider said yes, this is from what she just sent you today.

Mr. Jackson said I don't believe that was marked into evidence. It might be part of the record, it might be marked for identification, but that document is not in evidence before this Board. I remember one of the earlier meetings where the Board voted on it and excluded it. They didn't exclude it, but declined to admit it into evidence. It may

have been marked, I think it's certainly part of the record. But I do not recall that being marked into evidence and if it was, I think that was contrary to what the Board's determination was.

Ms. Donato said a very rare opportunity that I do agree with Mr. Jackson, that I thought that he had prevailed upon the Board not to accept the document into evidence...

Mr. Jackson said but Ms. Donato...

Ms. Donato said however...

They talked over each other briefly.

Mr. Jackson said you make these other statements that I disagree with, please try to refrain from making the gratuitous comments.

Ms. Donato said I will do so, Mr. Jackson, but I saw that it is shown as a piece of evidence on the Township's website for this application, which I really don't, I really just want to say that you're very advanced in your terms of placement of these things on the website. Ms. Morris does a fantastic job of allowing people to know what's on the site, it's a very great idea. So I just wanted the record to be clear, that because I saw it as a piece of evidence, and I recall that it was marked for identification, then there seemed to be... and I can understand why they want to have it, because it shows the open space as the golf course. They don't want to have it.

Mr. Jackson said why would you make a comment like that when it's not in evidence? You know that the Board does not have it in evidence, and now you're making argument and commenting on a document that is not in evidence, why are you doing that?

Ms. Donato said I'm saying why they would not want it.

Mr. Jackson said I know that, but that's already been determined. And this is what I mean by the gratuitous comments. There's a difficulty here. You should not make comments on a document that's not in evidence, that's designed to put an idea in the Board's head to make a persuasive argument about it, it's just not appropriate. Just like it's not appropriate to say the Board kept it out based on my instructions or recommendations. You make these comments as you go along and I'm not engaging you on every one of them but please refrain from doing that and don't make persuasive arguments to a Board on a document that the Board would not allow into evidence.

Ms. Donato said I listened back to the tape, so I mean the video, so I saw how that went. All I'm saying is that there are explanatory reasons why this particular document should be admitted into evidence. I provided you information to supplement. The Board can always reconsider its decision on every issue. If you don't want to submit it into evidence, for whatever reason, despite what I presented today, then that is the Board's choice to do so. I felt it was incumbent on me, having seen that it was marked as an exhibit on your website.

Mr. Stern said good. I'm cutting this off. John, go. Mr. Schneider...

Mr. Jackson said I just want to clarify. That email was sent over at 4:19. It just so happened that I got here about ten to 6. I was at the pizza place across the street when I was able to look on my iPhone and look at that document that I was alerted by a text from another attorney in my office that you sent to me at 4:19. I quickly skimmed that deposition and my sense in those dozens of pages was that that witness by no means authenticated that document. That's what Mr. Schneider said. You're characterizing that that witness authenticated that document, the point is you can't get something at 4:19 for a meeting that's occurring at 6:00.

Mr. Stern said good. Mr. Schneider.

Mr. Schneider said we're just retreading what's already been resolved. Are we going to re-do everything?

Mr. Stern said no. I'm making a decision. It wasn't timely. 4:19, when you've had it for a while, is not timely. What's your next point.

Ms. Donato said I want to make sure that the report of Gordon Meth, that again came in at 4:19. What had happened was he sent me... Gordon Meth, when he was here the last time he was prepared to testify in response to the additional traffic county. And you said no, write a report. I asked him for a report, I got a report on Friday. He had to finalize it, he was away for the weekend, and he gave it to me today. That's what happened.

Mr. Stern said are you asking for that to be admitted into evidence?

Ms. Donato said absolutely.

Mr. Stern said OK. Mr. Schneider, do you have any objection to it being admitted into evidence?

Mr. Schneider said with the qualification that Mr. Stern you did say last time that Mr. Meth could present a report. You also said last time we were done with testimony and cross examination other than the public. So as long as we're not going to re-open cross examination, which I think is Ms. Donato's next request, then I have no trouble with sticking with the rules that you set last time which said that Mr. Meth could submit a report. But if we're going to open it up to... open other aspects of this hearing to cross examination, contrary to the rules you set last time, then I think I would object to admitting the report.

Mr. Jackson said do we have copies for all of the Board members?

Ms. Donato said I have several copies.

Mr. Stern said practically speaking, we're going to let it into evidence. I don't remember specifically but I bet I said something to the effect of we need to get it early, I know I spent a couple hours on Sunday reading everything the counsel submitted. But 4:19? We don't have time, we have jobs.

Ms. Donato said well you received something from Mr. Schneider with today's date.

Ms. Morris said at 10 AM.

Ms. Donato said yeah, in the morning. I was at a doctor's appointment for most of the day, so I was...

Mr. Stern said I'm not mad, I'm just saying that at a certain point, it becomes...

Ms. Donato said this meeting was put on two weeks ago, and it really, kinda, it wasn't another month. So I don't have an army of people.

Mr. Schneider said we're going to put it into evidence. We're not going to have cross examination about it.

Mr. Schneider said or anything else.

Mr. Stern said or anything else.

Mr. Jackson asked how many copies, the Board is going to have to look at that if it's in evidence.

Ms. Donato said I have two copies. I really quite did not understand Mr. Schneider's position about cross examination. I've been waiting to cross examine Mr. Vogt, the Board engineer. I have several questions for him.

Mr. Stern said you want to cross examine our engineer?

Ms. Donato said yes.

Mr. Jackson said when did you bring that up?

Ms. Donato said I brought it up a while back when I asked a question sometime way in the beginning. He never really testified, he gave snippets of information as we went along.

Mr. Stern said you asked to cross examine Mr. Vogt earlier?

Ms. Donato said it was back when we first started. I saw that you swore the witnesses in. I don't know what the rush is. We were all of a sudden two weeks ago, and now we have a special meeting tonight, and everything is all, you know. Why is there always enough time to do something right? Let's just do it right. I mean, he's subject to cross examination.

Mr. Stern said when did you bring up the request to cross examine...

Ms. Donato said I believe...

Mr. Robison (from the audience) said four months ago.

Ms. Donato said yea it was a long time ago, back when we first got started, and it was like well that's going to happen, it was put off.

Mr. Stern said why didn't you bring it up last meeting. We are trying to move this along and I think we made it pretty abundantly clear that last meeting we wanted to wrap up testimony.

Ms. Donato said I can understand that Mr. Stern. There wasn't enough time. If I had said to you at the last meeting that I wanted to cross examine Mr. Vogt, what would you have done?

Mr. Stern said if I had allowed you to do it, I probably would have asked you specifically what your question was. How many questions did you have for Mr. Vogt?

Mr. Schneider said I object to Mr. Meth's report in evidence because as we've heard so often, he's not here to cross examine.

Mr. Stern said I thought you said you were ok with it.

Mr. Schneider said I said as long as we don't get into cross examination about it or anything else. Mr. Vogt never testified. The Board members ask their professionals questions all the time, that does not mean they can be cross examined. And at the end of the last hearing you set a roadmap, which was we're done with testimony, cross examination, and re-direct other than letting the public speak. And Ms. Donato didn't say boo. She didn't object to that.

Mr. Vogt said there's a practical reason I cannot be cross examined tonight. I am a shareholder in a private corporation. Our corporate procedures, all requests of this nature go through our corporate attorney. Had this request been made known to me even a week ago, it would have gone to our corporate counsel. That being said, if there are questions that directly pertain to our reviews, to my participation in this hearing, I have no objection to answering those questions through the Chairman.

Ms. Donato said I don't have any questions that don't come from the reports that Mr. Vogt wrote. It is a common procedure, and it is one of the reasons that you swear your professionals in, that they are subject to cross examination.

Mr. Vogt said I've been doing this thirty years, that would be a first.

Ms. Donato said well I've been doing it longer than you and I've done it about fifty times.

Mr. Stern said how many questions are there.

Ms. Donato said I have about 8 questions on his initial report, and on the November 21<sup>st</sup> report on the revised traffic report I have 5 questions on that.

Mr. Stern said 5 questions total?

Ms. Donato said no, 5 questions on the November 21<sup>st</sup> report and 10 questions on the other.

Mr. Stern said ok. Mr. Schneider?

Mr. Schneider said the Board's experts are sworn in because the Board members ask their experts questions. I've never heard of the experts being subject to cross examination and if we're opening this up, then I object on statutory grounds and due process for Mr. Meth's report coming in.

Mr. Stern said ok. So three counsel have been doing... is this allowed? What are the parameters?

Mr. Jackson said I think we've been the Board attorney here since 1998, I have never had a request for our Board engineer to be cross examined. I have not... I sit in other towns, I'm not familiar with any case...

Mr. Stern said ok good. The next question was are there any legal authority that supports allowing any attorney to cross examine the Board's professionals.

Ms. Donato said I can tell you that I've... I think Fobe Associates, it's a published decision, I know that it's one that addresses it. I know that Judge Lawson when he was the assignment judge of Monmouth County, I've won cases where a witness wasn't a public witness. The right of cross examination applies to all parties. That's what I've always understood to be the case.

Mr. Jackson said Fobe?

Ms. Donato said I think so, I don't feel like writing a brief right now and I think it's particularly hypocritical posture since I requested, by subpoena, to have the author of the Fiscal Impact Report cross examined. Now Mr. Schneider is saying he has the right to cross examine my witness, which I think he does, I think it's a little unusual that all of a sudden we got into this huge rush.

Mr. Jackson and Ms. Donato argued.

Mr. Stern said John's going to read the Fobe case, and Ms. Donato you can ask four questions. I don't know if it's right or it's wrong, but this is not timely.

Ms. Donato said it was timely when I asked it. The meetings... we've got witnesses... usually what happens is the municipal witness goes last.

Mr. Stern said this specific request to cross examine the Board's expert, which appears to be highly unusual, maybe not unfounded, came in at 4:19.

Ms. Donato said it didn't come in then, I raised this question a long time ago.

Mr. Stern said well ok then you need to bring it in a more specific fashion. While Mr. Jackson is reading the case, you have four questions. Please proceed.

Ms. Donato said so that there's no question in the record that I succumbed to your ruling, I disagree a hundred percent. She asked Mr. Vogt about the developer's agreement. She said there's a draft in the file that you refer to. Does the draft agreement only address the original 556 units and no basement apartments. Page 3 of your January 28<sup>th</sup> report, Roman numeral number one. Did you consider that there are basement apartments that will arise in the future?

Mr. Vogt said it was not germane to this particular comment. They provided the agreement and we noted it as a statement of fact that there were 556 units. I don't have the developers agreement in front of me. I don't know if it specifically referenced basements or not. As the Board is aware, basements are permitted at the request of the developer or a future homeowner.

The Chairman and Board professionals belied the lack of timeliness in the request and subsequent inability to prepare to properly answer these questions.

Ms. Donato said in reviewing the land use plan, page 4 of the January 28<sup>th</sup> report, where is open space shown on this breakdown of proposed land use?

Mr. Vogt said as referenced in our letter? In B2 there is a comment that the proposed land use plan tabulates the proposed land uses as follows. One of the four items identified indicates community (roads, recreation, preservation) total, 78.1 acres.

Ms. Donato said is that intended to be the open space component of the GDP?

Mr. Vogt said I honestly can't tell you. I could go through the file and ask the person who helped author the review.

Mr. Stern said next question Ms. Donato.

Ms. Donato said did you include contribution to the Transportation Improvement District in any of your reviews of the developer's agreement that was supplied by the applicant in January 2019?

Mr. Vogt said improvements as far as the Township goes are determined at the end of a major site plan or subdivision, that is by location and by project and for those reasons the answer to your question is no.

Mr. Stern said ok.



Ms. Donato said I'm referring next to the review letter of November 21, 2019, that comments on the supplemental traffic assessment of Dynamic Engineering. Referring to specifically page one of your report, the last paragraph, it states, according to a recent Ordinance adopted by the County of Ocean...

Mr. Schneider objected, and said it is not Mr. Vogt's report.

Mr. Vogt said I'm not able to answer these questions, I do not have the documents in front of me nor was I prepared to answer this question.

Ms. Donato said alright, ok. I could have spent, I have a lot of questions to ask because they directly relate to what I think is, what are contained in the report, and things that are not consistent with what you heard in testimony. My only purposes of raising these issues is... cross examination is called the greatest engine of truth. I was hoping to get some truth.

The Board asked for summation.

Ms. Donato said this is an application that is supposed to be bottomed and based on planning. They put the GDP provisions into place because it allowed a Planning Board to take a broader view to plan a large tract of land in the beginning. It is not an informal, concept, or meaningless plan. It's a mechanism to establish planning and it's specified in your ordinance, in the Municipal Land Use Law, as your attorney stated at the first meeting, the findings that this Board is required to make are not as of right approvals like you get on a site plan or subdivision. It's not the same thing. And you are giving away density. You are giving away the right to build. I think from what I'm seeing is a fairly lengthy buildout. It's a long-term commitment of a municipality and it's supposed to have meaning. It's real. This application stands directly opposite to all of those principles. First, it's supposed to show the total density. We all know you can have a basement apartment in every residential zone. Do you see basement apartments on here? No. Do you have enough parking? Each of the units in the duplex is 5 bedrooms. They're already short on parking as Mr. Goll pointed out. It's not being properly planned for. They should be required to show the full parameters of density as mandated by your ordinance. You're not getting the complete picture. The first significant issue. Another issue is you've got 20% of the buildings that don't meet the front yard setback requirement. You can listen to, "oh we'll come back and we'll change it." But if you give them this density then they've got it. Show me where your Ordinance or the MLUL provides otherwise. It doesn't. Be careful. Let's get it right. If you bring this developer back to the drawing board and say give us all the units, show us everything, no courts ever going to overturn you because your Ordinance says total density. Don't buy the false promise that in the future the owners are going to do it because yes they are. What's the other ramification of basement apartments? Do you realize how much fill is going on this property? Do you know how much fill is going on the property? They need to get out of the water table. They're putting in up to 25 feet of fill. You think you have traffic problems, wait until you have all these tandem trucks so that they can have basement apartments and pull things out of the water. We disclosed to this Board as soon as we knew in July that there was a pipe that drained the Fairways and discharged to the golf course. And then in August we got the DEP records that were mysteriously missing for a long time. We had this all in evidence. The golf course is designated as a recharge area for drainage. We didn't make that up. There's no easement for that because it was one entity. The golf course and residential development were part of an adult community project. The fact that they were subdivided is meaningless. Planned developments frequently have different components owned by different parties. You can't have a golf course in the R-40 zone unless it's in an ACP. I think it further buttresses our position of why all of a sudden. All of a sudden the brakes broke, we had to do this and decide it tonight and that was two weeks ago. That has thrown a reasonable degree of difficulty into this process. It bears repeating that when the Master Plan was adopted there were no infrastructure studies for this site. The Planning Board that voted on it put in a requirement as a precondition to this use that you would have a level of service C on the adjacent roadways. What Mr. Meth has done in his report is shown that the level of service as a result of this project will be D and F. What the applicant's engineer did was take the planned improvements from the DOT and the County and they credited those

improvements to get their development. They're supposed to look at the existing development with all planned improvements. We provided that documentation. If you do that then you really have a deterioration of conditions. Mr. Meth did that and he showed that the level of service will be D and F with all of these improvements. Something very important, the timing is just off. The traffic engineer from Remington Vernick, he commented that this traffic report doesn't look at anything other than their driveways. It doesn't look at the roadway system, Route 9 and Cross Street, it just looks at their improvements. The scope of a GDP is much broader than that. Those issues are very much unresolved. With all due credit to the Board, you asked for information to coordinate the impact of the new development on roadway improvements. Look at the report. It was not done. Don't you think it's funny that the one updated report and counts have a range of increase of volume, more trips going through that intersection, ranging from 10% to over 35%, that much more traffic was counted yet it didn't change the result. There's something... you're going to be very sorry when you can't travel down Cross Street. The other thing is the timing of the improvements. Presuming this is going to happily come together at the same time, it's not going to. The County has a two-phase plan. All that they did was the bonding for Phase 1. Phase 2 isn't even designed yet. Despite the fact that this Board said we recommend you adopt this Ordinance provided the roads are at a service level of C. They went in an invalidated that Ordinance without notice to us. You tried to put a modicum of planning in place, now you're getting D and F and we don't even know if that's the worst of it. There's so many unanswered questions that one has to wonder how you can call this a GDP. Now I hope everyone understands that this developer is counting lot areas of each of these duplexes as open space. So I suppose children are going to play next to the driveway and next to the parking lot, parking is going to be doubled because they are requiring even less than what's required for one unit and there's a basement unit. You haven't been given the information. Yes there were delays, but they weren't due to us. They were due to the fact that the developer thought this was a slam dunk. Regardless of the law and requirements of your own Ordinance. There's so many things that we haven't heard about the open space and how it's going to all relate but I thought some of the speakers tonight really raised a significant point. The only really contiguous area of open space is going to be the 9-hole golf course. You're going to have children playing around with methane gas vents. There's no room to play on their lots. Do you want you =r children to play in a front or side yard? I know that the MLUL and this Ordinance states that the planned development, the applicant has the burden of proof, not me, that it will not have an unreasonable adverse impact on the area in which it is to be established. We've got traffic. Personally I wouldn't want to live around a level of service F. We have the stormwater. The applicant presented a plan. Mr. Vogt said that he didn't review the details of the plan. We'll look at it later. You're being asked to do something that has significant long term effects. Everything you do after this is going to be putting your hand out and asking for relief because you didn't do it now. The statute says the developer can reduce the density by 15%, and not anybody else. More than a hundred acres of open space and recreation is going to be eliminated. I'm not talking about the municipal land fill. It is space identified by this Town's planning documents since the inception of this community. Before you, certainly when trying to determine if the open space is reliable, you should take that into account. Where will these children recreate? They have no place to play. Go back to the drawing board. They can reduce this density, this is max density. The fiscal impacts are one of the more deficient things. It amazes me that the witness never showed up. There are many fiscal impacts that will be generated by this. The theory of this applicant is that a yard area or anything not covered by impervious surface is open space. If that were to hold true, that would mean also we have to do it for the Fairways. You think you're going to have a reduction in tax values? Wait until you tell the Assessor that your rear yard is open space for the community. Major implications never considered in the Fiscal Impact Report. The basement apartments aren't considered in the Fiscal Impact Report. That's twice as many families with children who need to go to school, be bussed, have special services. This is a fact of life. You couldn't account for two people. The answer was that those were preschool children. But they're going to grow up and go to school too, and should be included in the Fiscal Impact Report. There's a tremendous amount of information about the value of open space. It creates a benefit, light, air, open space. It has not been considered. We had a number of very specific analysis of the data, that the data was unreliable, you don't have a correct family size, comparing it to developments that are not comparable, they should be looking at developments occupied after 2017. There are any number of factors that the report did not address and we were not allowed to ask the author why. On that particular issue alone it leaves you with an unwelcome task of assuredly going to be affecting the tax base of this

municipality. You have a chance to plan here. Everything you hear about is this town isn't planned. You have the chance to say no. That's a great opportunity. The other thing is they did not take into account what the cost education were and that you didn't do any of that analysis whatsoever. With respect to stormwater, I believe the applicant plans on giving the responsibility to this township to maintain those detention basins. You hear Mr. Goll. These basins are surrounded by miles of high, expensive walls. That's not addressed in the Fiscal Impact Report. Even if you don't have the responsibility, they have seepage pits at the corner of the buildings for the roof runoff. Those have to be inspected. Who's going to pay for that? Over 500 buildings. I think you need to look a little harder and I don't think it will hurt or delay anyone. If you do it right, do it right. I wanted to go into issues about stormwater. Everything from the DEP basically showed that the golf course is the recharge area for the detention basin and it would be open space for the community. The applicant then having recognized that this 48" pipe was draining 400 acres of land instead of 6 did a hydrological analysis. Mr. Goll calculated 32 acre-feet and that seemed pretty impressive. They came back at the last meeting and said we have to use the current rates and its over 50 acre-feet of water, and we made the hole bigger. Did anyone ask them for reports, analysis, anything? Mr. Goll said he can't say with any degree of certainty that that hole in the ground is going to accommodate this. If you defer this, I think you stand the terrible risk of having... if you approve this and there's no appeal you stand the risk of flooding two communities, the Fairways and the Parke. Do it right. Now the walls in this detention basin are so big that whatever wildlife is on this site, they can't get into the forest. You're going to have massive die-off. No proposal is made as to what you're going to do about wildlife. I think that this town has to go beyond just the housing. It has nothing to do with race, color, creed. It has to do with planning. I haven't heard anything about how the applicant is going to protect open space. Are these lots fee simple lots? What is the common open space, or the reason I was asking about the roads was there are some calculations that include the roads as open space. I think it's worthy of a great deal of questioning. We've had six hearings, we've all had enough. But we still want to get to the truth. We want reasonable analysis of everything that's contained in your Ordinance and the State law, and not kicking the can down to site plan. You will be the sorriest folks if you do. Many years ago I had a client that was an affordable housing development. Geoffrey Goll did an analysis of the stormwater management. We had one thing wrong, it was stormwater management. The case went up to the appellate division. We defended the decision of the Board and they won at every level. The courts don't like to see stormwater messed with. It comes back to haunt everybody. You need more information and its not just wait until site plan. There are a couple cases that are the lead decision which guide the Board in its decision here. Mr. Schneider said with respect to Field vs Franklin Township, it wasn't a planned development. Well they didn't have planned development then, it was called planned unit development. It was part of a separate statute. It then became merged into the GDP of the MLUL. It was the first foundation. That's what Field was about, that you can't just defer certain issues, you need feasibility. The Maurice River case is an MLUL case, General Development Plan. This case stands in my favor and not in the developer's. They had the wildlife, an environmental expert, they had several pages and studies about what they were going to do with wildlife. Did you hear anything about wildlife? I didn't. Did you read anything about wildlife with this application? I didn't. They did nothing. And one of the components of a GDP is the environmental assessment. It's just missing. So he made a series of recommendations in his report and one of the reasons the court sustained the decision of the Board is because they protected all these natural areas and the wildlife. Prior to doing any clearing they had wildlife collection and translocation program. I didn't hear anything about wildlife here, and you know this area has be a leading preserve of wildlife. There's a lot of wildlife here. Maybe they'll go downtown. The Board had a wildlife consultant, in this case, that is used by the applicant to say they don't really need to do anything, and she spent 96 hours in the field doing follow up studies and making sure they wouldn't adversely impact the wildlife. We don't have any of that. When it comes to stormwater, the report, the case is interesting it says that the engineers assessed all the characteristics of the property, its topography, they incorporated non-structural strategies, they incorporated groundwater recharge. This site has a lot of recharge. It addressed everything, they had a system with closed irrigation with limited chemicals. That is what the court is reviewing at a GDP stage, not at 5,000 feet or whatever. This is a real approval, it is not a concept. Ok, so, the applicant just didn't meet its burden of proof. It wanted to see what it could get away with. Don't let them get away with anything. Do the right thing.

Mr. Schneider said I don't for one second question the sincerity of any one of the residents who got up here and spoke. And I agree with Ms. Donato that the Board should do the right thing. What is the right thing? The argument that I just heard demonstrates the old lawyers' adage, when the law's against you, you argue the facts. When the facts are against you, you argue the law. And when they're both against you, you argue like hell. And that was the argument that we just heard a few moments ago. Let's start with the law. What is a General Development Plan? I also agree with Ms. Donato that it's not simply a concept plan but a general development plan and essentially many of the arguments that we've heard throughout this lengthy hearing process is that you don't have the information that you're used to having when you approve for preliminary subdivision or site plan. That's what you usually do here. And a GDP application is the relatively rare exception. There is no fully-designed stormwater management system. We've heard that over and over and over again. And the case that Ms. Donato tried to argue doesn't really matter, or it helps her position, does just the opposite. Because that's the leading published precedent on what's the burden of proof an applicant has to meet to get their general development plan approved. What level of detail is needed in the documents submitted to the Board. That was what the case was about. The Board approved the GDP in Maurice River, a citizens group challenged it. You don't have detail as to stormwater management, traffic, water. And what'd the court said, it said the issue in our case is what's the standard by which a Planning Board evaluates a GDP. And it says that standard is probable feasibility, not fully engineered proof but probable feasibility. The court quoted all of the times the Municipal Land Use Law uses the word "general" in relation to the information that gets submitted with the general development plan. The things that are considered for a GDP, under the MLUL, they're the same types of things that get considered for preliminary approval under the MLUL. The court said although, NJSA 40:55D-45.2., those matters that must be considered by the Planning Board in acting upon a GDP for approval, which are practically identical with the factors to be considered in connection with all subdivision and site plan application, such matters are to be considered in a general way, from the standpoint of probable feasibility, with the more detailed presentations being left for when preliminary approval is started. And they go on to say it would make no sense to have a GDP process if you had to prove essentially the same thing as a preliminary approval. Try as Fairways may try to make the Fields case applicable, before there was such as thing as GDP, yeah there was planned development, but you went directly to preliminary there was no GDP. What they were looking at in the Fields case was an application for preliminary approval. Stormwater is an important issue. The parade of horrors about what you are going to do to the seniors and the children to be living here... nonsense. Mr. Goll didn't first discover the 48" pipe in July of this year. He admitted on cross examination that it was shown on the CAFRA permit plan that he commented on to DEP back in 2017. He didn't notice it then. Yes, he's right. Parke's engineers, when they prepared the GDP, they took the information then available, they saw the manhole in the Fairways that leads to the 48" pipe, they surveyed the area that flow directly to that manhole, and assumed that that was the volume of water that comes out of the 48" pipe. Additional information became available, because we spent more time on the objector's case than on the applicant's it took a while to respond to it. But we said yes, it is more than we thought. I heard Ms. Donato say they didn't submit stormwater calculations. You heard Mr. Goll did a calculation and said it came to x. And you heard our witness say he got the same result. So there doesn't seem to be any dispute as to what the stormwater coming out of that pipe is. But when that additional information became available we didn't stop with that hydrograph analysis, as Ms. Donato just acknowledged. Our engineers said but today, the standards have tightened. How much rainfall falls for these storms, it's greater than what it was when this was approved. So the Parke's engineers added that in too. And we heard testimony from Mr. Muller who was unequivocal that this could be fully engineered and designed with this enlarged basin that eliminated 42 units. Mr. Goll said he couldn't give an opinion one way or another. We've met our burden of probable feasibility. Let's talk about traffic. Guess what, any time you build another house, or another office, or another store, or anything, there's going to be more traffic. Mr. Stern said early on, he wanted to see some sort of phasing plan that tied the development, the different phases of the development, to these anticipated improvements on Cross Street. We did a supplemental traffic analysis and Parke's traffic engineer, Justin Taylor, presented that to the Board in early October and presented testimony on it at the last hearing. He concluded that for phase 1, we just need the access driveway. Phase 2, we need the extra lane on Cross Street that will provide a dedicated left-hand turning lane. Phase 3, we need it all, including the traffic light. We are proposing that the Board condition any approval on that. For any C.O.'s issued in phase 1, you have

that access driveway built. Before you issue any C.O. for phase 2, you have to have that extra lane on Cross Street. And if the County hasn't done it, then Parke has to do it. And if you don't do it, then you don't get a single C.O. for phase 2. We are asking the Board to condition the approval that before the first C.O. is issued for phase 3, you not only have the access boulevard and the extra lane on Cross Street but you have the signal operational on Cross street, and Remington and Vernick reviewed that and agreed. Put that in the resolution, you've taken care of that. We don't know when the County is going to do work. Well if the County doesn't do it, then the Parke has to do it. Put that right in as a condition, takes care of that issue. Augusta Boulevard, the existing way into the clubhouse and beyond. One of the many court cases is over Augusta Boulevard. I'm not sure why because we acknowledge that there can be no use of Augusta Boulevard except as specifically authorized in the easement. Make that a condition too. Put that issue to rest. No ingress, no egress from this development via Augusta Boulevard except as authorized in that easement. I don't think we are in disagreement with them as to what that is, but that will work itself out in court. We welcome it by putting a condition in there. I thought that we put to rest, when I cross examined Ms. Woolley-Dillon, the idea that if you approve this you are guaranteed they can build these units and there's nothing you can do about it, you can't stop it. I think she acknowledged that it's not a guarantee. The fact is the law requires us to come for preliminary and final site plan and subdivision approval. We have to meet the full panoply of the Board's requirements. The GDP, yes, gives you a period of zoning vesting, if you will. It doesn't relieve you from meeting any and every requirement to get preliminary and final site plan approval. Doesn't mean the Board can't deny that approval if the applicable requirements are not met. To me, it's a matter of law, but let's calm everyone's anxieties. Put it as a condition in the resolution. No shovel in the ground, no tractor moving earth, until you get a preliminary and final approval and you satisfy all of the requirements. Variances, we aren't looking for any variances. We don't anticipate seeking any variances at this point in time. Mr. Flannery's testimony was sort of abbreviated, he had to talk pretty fast., but as he pointed out, the ordinance measures the building setback from the edge of the street. Mr. Goll admitted that when he concluded a variance was needed, he was measuring it from the property line. In any event, we aren't asking for any variances. Put a condition in there that if we ask for a variance at preliminary, that we have no advantage for any variance whatsoever. The same about CAFRA, and dam safety, and stormwater, write it right in that resolution. You need every outside agency approval that applies. If I could just take a few more minutes of your time. Open space, it is before the courts, but there's an inconvenient truth. Inconvenient from the Fairways perspective, and that's the Lakewood Ordinance. Both the Ordinance in 1993 for the adult communities, which is still in effect, and in the ordinance in 2017 from the planned unit development, "minimum open space: 50% of gross tract. For purposes of this requirement, open space shall mean those portions of the tract not covered by buildings, structures of any kind, streets, or other surfaces paved with impervious materials." Their whole case in court is that you have to add in there "except if it's located on a single-family lot." Mr. Flannery presented exhibits, the final approval by this Board, for each and every section of the Fairways. This Board approved each section on a finding that each section had at least 50% open space based on that designation. Inconvenient truth. Well, what's going to happen to property values? Common open space is a totally different concept from open space as defined in the ordinance. Mr. Flannery's testimony and exhibits again show that for each and every section of the Fairways, not only is the 50% open space (i.e. not covered with buildings, pavement), but it also shows how much is common open space. And yes, you can have a tennis court or a bocce court in a park, and that's paved. You could have parking in a park, and that's paved. There's no necessary disconnect between common open space and having some impervious cover. Cluster is another issue in the court, but we heard a lot about it. Nowhere in the 1993 ordinance, pursuant to what Fairways was approved, does the word cluster appear. This is not and never was a cluster development. The golf course is not and never was the open space for the Fairways community. If I could touch briefly on reasonably adverse impact. I think if I lived on a golf course, I'd rather see the golf course than residences. But because a current resident prefers the wooded area or the golf course or a farm to a residence, doesn't mean that putting a residence is an unreasonably adverse impact. Otherwise every planned development would be. The same is true for stormwater management for the reasons I described. Most of the stormwater coming off the Fairways site comes on to the Fairways site from another piece of property. That doesn't tie the Fairways to that upgradient site, it means Fairways has to accommodate the water coming on to them. So too, the Parke will have to accommodate the water coming onto them and our engineer has testified that there's no unreasonable adverse impact. Species. You heard about 43

acres of deed-restricted tree save area on the golf course that is not being touched by the development. There is an area identified by the DEP as species habitat. The DEP said we can't touch that, and we're not. An area is going to have wildlife, but the issue is critical habitat and that's being saved. Yeah, property values are going down in the Fairways. Nobody has established a reason. I think property values will go up in the long term when people are able to have their sons and daughters and children and grandchildren living in close proximity. They've only speculated it's because there's talk about building on the golf course. It also coincides with the time that Trump got elected. Maybe that's it. Rush, what's the rush? Haste makes waste... This has been pending since January. And when we were here in September we talked about the 25<sup>th</sup> as the backup date. We avoided December 3<sup>rd</sup> because council has an out of state wedding. Do the right thing. I feel for these people but this isn't a popularity contest. Its zoned for this use, the ordinance says go first with a GDP, the courts state that the standard for a GDP is probable feasibility and you leave the details to the site plan. I respectfully request that you approve the application and put in all of the conditions that I outlined orally and in the letter I sent to Mr. Jackson and Ms. Morris.

Mr. Stern called for a short break.

After the break Mr. Stern called the meeting to order. Mr. Stern said (to Mr. Schneider) you talked about phases 2, 3. I read the report. I'm unclear what the recommendations are for phase 4 and 5.

Mr. Schneider said I'm going to use the word stage to refer to the County project and phase to refer to our project. The County's project stage 1 goes from Route 9 to Augusta. Stage 2 goes from Augusta into Jackson. The County would have their first stage done by the time we get a C.O. for phase 3, and if they don't, we've put that extra lane along the frontage of our property. We don't proceed if it isn't on its way. Then for phase 4, the entire County stage 1 would have to be done. The County would have to put in the whole thing from Route 9 to Augusta. And tying our phase 5 to the full completion of the County project, including stage 2 to Jackson.

Ms. Donato said I've been repeatedly criticized for testifying, when I refer to something that is fact based somewhere else. Can this attorney be binded by this information? It's not evidentiary...

Mr. Stern said I was asking for clarification on what they are proposing.

Ms. Donato said there was a meeting at this Board when Mr. Goll was testifying about the pipe. Yes, he saw the pipe...

Mr. Jackson and Ms. Donato argued over each other.

Ms. Donato said I just want to make sure, he bound his client to go back to the DEP and we haven't seen that yet. I want to know because he may be going beyond the, I want to make sure this is the commitment of the owners of this property.

Mr. Stern said we don't really need their commitment, we're going to make a vote and we're going to tell them what we are or are not going to let them do. It doesn't mean we're going to accept what they're proposing. We just want to understand. Counsel, what do we do now?

Mr. Jackson said at this point you would close the meeting and ask for deliberations. After the matter has been discussed and deliberated by the Board, then you'd ask for a motion...

Mr. Stern closed to the public and asked the Board for thoughts and comments.

Mr. Gonzalez said looking at the GDP, being part of Lakewood for over 35 years and seeing the different types of growth... It's changed as time as progressed. We've all seen that come to play. As much as we want to live with trees and what's there, there's change. In Lakewood, Howell, Jackson, Manchester too. Looking at this GDP, I'm guiding myself by the fact that's what it is, a general development plan. If we vote yes or no, I don't see it as a total commitment as to the number of units. There's still a lot of information the applicant has agreed to give us at a later date. We still hold the cards as far as is it going to help us or is it going to hurt us. Ms. Donato has made some great points that have added to my understanding of what the applicant is doing... voting one way or the other on the application. Mr. Schneider has put a lot of the information in writing, so I'm not an attorney but I know that by law if you put it in black and white and it goes before the judge, he's going to see the same thing. The transparency is very important.

Mr. Flanbaum said first I think everyone can agree that it's been a long process. I think this started 2.5 to 3 years ago with the Master Plan hearings. A lot of the same folks have come out over the last few years, discussing not only during the Master Plan advisory hearings regarding the Township at large but particularly with this area of town. Similarly to what Mr. Gonzalez said, I think I said this several times, I used to ride my dirt bike through what's now the Fairways and the Enclave. They were pristine wooded areas. We can't look back, we can only look forward. This particular piece of property is subject to ongoing litigation and I'm not personally familiar, questioning whether or not this piece of property is entitled to development, whether it's part of open space or the original Fairways approval... I know that as a Planning Board, we have to take a look at current Township Ordinance which is promulgated by the governing body, and we have to make our best decision as to whether or not an application that is before us meets the Ordinance or doesn't meet the Ordinance. It's not easy sometimes. But I want to thank both the applicant's side and also the Fairway's side for bearing with us through these hearings. I really feel that we did take a lot of time to hear both sides. I want to thank the residents for also taking their time to bear with us as we go through this. It's not an easy decision. Whatever we decide there's been a lot of thought to it. I personally play golf there so whatever happens... I will miss the golf course. Thank you everybody for bearing with us through the process.

Mr. Isaacson echoed the sentiments of the other Board members. He said we heard great points from both sides. There is no guarantee in a general development plan. It is a feasibility. That point was proven in the 48" pipe. Had that come up later, it would have gone down to 514 units then. Who knows, maybe we'll find another pipe and it will go down more units... This is the Lakewood that we live in and the idea that there should be no more development or unlimited development, neither of those are the idea. We've heard all the aspects both for and opposing and I think collectively we will come up with a good plan.

Mr. Stern echoed the thanks for all the participants at these seven meetings. He said both sides, it was a pleasure to watch. You both represented your clients with zeal and you are both professionals at the peak of your practice. The question that's never really been clear is where is the bright line between the standard for a GDP and for a normal site plan or subdivision approval. Most of the professionals didn't really have an answer, and maybe that's the nature of the law. It is, by nature, gray. The working principle that we've tried to do, is there anything so fundamentally flawed with this plan that no matter how you tweak it, it's going to fail. After hours of testimony the two areas we wanted to focus on was the stormwater drain and some of the traffic issues. To my mind, had the stormwater not been addressed clearly, would have been a fatal flaw. Hats off to Ms. Donato and her team for finding that. I think the Board gave everybody the form to really dig down deep into it. And hats off to the applicant that they didn't try to hide and they came back with a plan that, on the surface, seem feasible, but we're going to look into it more as we proceed. The last piece is the traffic. To me the first three phases are clear, and there's a lot of focus on the stuff coming out of the development. The piece that I'm still unclear on is what we should do, if anything, for the offsite impacts. How we measure that and how we give the applicant settled expectations, what benchmarks they have to hit, and there's not going to be a surprise in the future, that's what I'm going to be focused on when we start voting. He asked if anybody had a motion.

Mr. Meyer said I have a motion. It's a very complex application, and we're looking 5, 10, 15, 20, 30, 40 years down the line from now. And I think with this motion, I would like to make a motion to approve this GDP plan with these stipulations. 1, the boulevard going into the Parke from Cross Street would need to be one lane coming in, three lanes going out. Dedicated right lane, dedicated left lane, and a lane to help alleviate traffic. 2, the roadways in the development should and will follow the Master Plan's recommendation of road widths. As part of the phasing project, at 515 units, each phase is roughly 100 units per phase. (3.)1 Before any CO's are issued on phase 1, Cross Street must be widened to have a turning lane from Route 9 until East Veterans. (3.)2, before any C.O.'s are issued on phase 2, the boulevard at Cross Street needs to have a traffic light installed. (3.)3, before the final C.O.'s on phase 3, Cross Street, along the applicant's frontage must be fully dualized including the turning lane. (3.)4, before any C.O.'s are issued on phase 4, we'd like to see a plan for a second way into the development. (3.)5, during each phase of the subdivision, all stormwater matters will be addressed then. 6, we would like to see a fiscal report at each phase of the subdivision.

Mr. Jackson said Mr. Chairman, the only thing that I recommend is that at the time of the resolution that I would go through the record, all the representations made by the applicant, and they would be also included in that motion. Anything throughout the hearing that they've made representations throughout the hearing.

Mr. Stern asked Mr. Meyer, would you accept that as a friendly amendment?

Mr. Meyer said yes.

Mr. Stern said before we ask for a second, are there differences between what was moved and what the recommendations were in your letter yesterday.

Mr. Vogt said the recommendations that are in this approval, if approved, are more conservative than either the applicant proposed or we concurred in our review.

Mr. Stern asked him to specify.

Mr. Vogt said you're asking for improvements further ahead of phases than was stipulated in the applicant's proposal, and the mention of a secondary access at phase 4, that is new.

Mr. Schneider said I think the third lane is also new. The resolution called for four lanes, one lane in and three out.

Ms. Donato said public portion is closed. This is the time for the Board to deliberate.

Mr. Jackson said you can take comment from counsel.

Mr. Stern said we want to make sure that we get this right. We here are not experts, I want to make sure that the motions are precise enough and future people know how to implement them.

Mr. Schneider said I wasn't advocating, I was just pointing out that if I heard correctly that was another way that it's different. The resolution called for the boulevard to be a total of four lanes, and what was proposed is one in and two out.

Mr. Stern said Terry, what else.

Mr. Vogt said that's all I'm aware of at this point.

Mrs. Morris offered to read back the conditions and go through them one by one.



Mr. Stern said yes let's be precise. I want Terry to comment after Ally says it.

Mrs. Morris said the first was that the boulevard would be four lanes, one lane in and three lanes out. That I believe is a new condition above and beyond what was ever proposed.

Mr. Vogt said correct.

Mr. Stern said and what does that get us.

Mrs. Morris said it allows a left-hand turning lane, a right-hand turning lane, and one lane in the middle that I guess could go either way, so that one person turning left doesn't... there was discussion about how the two lanes, left and right, would function. The three lanes allows more traffic going both directions so that one turning movement doesn't hold up the other.

Mr. Stern said OK. Terry, is that great? Or is that unnecessary?

Mr. Vogt said anything that will facilitate movements is beneficial. Obviously you don't want 20 lanes, but to have more so that turning movements don't hold up others, is beneficial in concept.

Mr. Stern said and this is phase 1 or phase 2.

Mr. Meyer said phase 1.

Mr. Stern said Mr. Schneider, on a scale of 1 to 10, is this horrific, OK, annoying?

Mr. Schneider said I would just note that this only affects the people in the development, not the motoring public on Cross Street. I don't know how difficult it would be to make the road wider.

Mr. Stern asked are you opposed to it strongly.

Ms. Donato asked if the video is still on.

Mr. Schneider said we'd have no problem with it at the intersection as opposed to the full lane.

Mr. Stern acknowledged Ms. Donato.

Ms. Donato asked if this section of the meeting would be on the video because I think it ends at 10.

Mrs. Morris said I believe the video ends at 10:30, the audio recording is going continually.

Mrs. Donato said OK thank you. Can you access the audio recording on the website.

Mrs. Morris said no, only the Clerk's office has that.

Mr. Stern said so we're clear...

Mr. Schneider said at the intersection as approved by the Board, yes.

Mrs. Morris said the second item Mr. Meyer indicated is that the roadways need to follow the Master Plan recommendations for roadway widths, which I believe are above and beyond current RSIS and Township Ordinance standards so that may require widening within the development that had not previously been done.

Mr. Stern asked how much is that.

Mr. Vogt said I have not looked at the Master Plan recommendations relative to that.

Mr. Schneider said we have no problem with that.

Mrs. Morris said the third item is that Cross must be widened to have a turning lane from, not just in front of the site, from Route 9 to East Veterans before phase 1 C.O.'s. Before it was before phase 2 C.O.'s and only in front of the site.

Mr. Vogt said my only concern with that is to make sure that whatever the Board recommends, it's consistent with the County design.

Mr. Stern said I'm not visualizing any of this.

Mrs. Morris said I will repeat. The applicant had proposed that prior to phase 2 C.O.'s, the center lane on Cross Street must be provided in front of the site. Mr. Meyer is requesting that the center lane on Cross Street from Route 9 to East Veterans be provided prior to any C.O.'s for phase 1. Which would mean the County project needs to be completed before any C.O.'s are issued.

Mr. Stern said my gut is that might be a little bit much.

Mr. Schneider said I agree. Our concern is that it creates motivation to pressure the County not to allow it at all.

Mr. Stern said at what juncture would it make more sense.

Ms. Donato said I have a long-standing objection to this procedure. This is the time for the Board to make a decision to impose the conditions it thinks are reasonable and not negotiate with the applicant based upon false ideas that we're going to affect the County.

Mrs. Morris said Chairman I recommend that we continue to review Mr. Meyer's motion, and then the Board can determine whether or not there's a second. The applicant does not have to object or agree.

Mr. Flancbaum said let Ally repeat Mr. Meyer's motion. Either do it or not. This is not a discussion.

Mr. Jackson said I don't see anything inherently wrong with the Chair asking the applicant about these changes. I think it's fair to say does this do violence to your plan, just to get their input on that. I think the way you're doing it is...

Mr. Flancbaum said I think that as members of the Planning Board, there were a lot of items. Let's go through item by item and if we think something is onerous, we will strike it. Let her go through it.

Mrs. Morris said we have Cross Street center lane from Route 9 to East Veterans prior to Phase 1 C.O.'s...

Mr. Vogt said as long as it's consistent with the County design for Cross Street.

Mrs. Morris said the next was that prior to phase 2 C.O.'s issuance, the boulevard into the neighborhood needs a light at the Cross Street intersection.

Mr. Stern asked the applicant if they object or not object.

Mr. Schneider said I think the moving up the turning lane along our property, so that there's the dedicated in, moving that up would be one thing. But the complete County project, moving that up I think to the first phase is a little much.

Mrs. Morris said I'm not sure if this is a repeat, I wrote prior to phase 3 C.O.'s, Cross Street must be dualized. Is that what we already said prior to phase 1?

Mr. Isaacson said that's four lanes.

Mr. Flancbaum said but only along the property frontage.

Mrs. Morris said OK, thank you. Only along the frontage, four lanes. The next was that prior to issuance of the phase 4 C.O.'s, there must be a plan for a secondary access into the development.

Mr. Meyer said I'd like to see a plan.

Mrs. Morris said I don't think the Board can...

Mr. Stern said either we do or we don't. Terry, what does that get us?

Mr. Vogt said it gets you prior to buildout of the project, assuming it's feasible, you have the ability to have a secondary access. So you have a distribution of traffic through two accesses instead of one.

Mr. Jackson said can that be done.

Mr. Vogt said I don't know.

Mrs. Morris said I think there was mention at some point, about Faraday and something.

Mr. Stern said can we make it subject to feasibility.

Mr. Isaacson said to get to Faraday you have to go over the railroad. I know Brian testified and said there had been discussions, I guess what Jakey is asking is that there be enhanced discussions about a second entrance.

Mrs. Morris said I think you're going to run into the same issues of where do we draw the line of what's feasible. The railroad won't give us a permit, or you didn't ask hard enough...

Mr. Jackson said that is difficult.

Mr. Flancbaum said it's either yes or no.

Mr. Isaacson said I don't know... could we require it?

Mr. Stern said I don't think it's prudent for us, on the fly, to be mandating something that the project can't move forward with... You don't want to have language that is subject to that level of interpretation. How hard did you try...

Mrs. Morris said so let's finish clarifying these and we'll see if there's a second.

Mr. Stern said ok, keep going.

Mrs. Morris said the next one confused me, prior to the issuance of phase 5 C.O.'s all stormwater matters must be addressed?

Mr. Meyer said during each phase.

Mrs. Morris said ok so we're just reiterating that.

Mrs. Morris said I missed number 6.

Mr. Meyer said fiscal report.

Mrs. Morris said fiscal report with each phase. And then Mr. Jackson added all conditions previously proposed by the applicant. I would recommend now that the Board understands what the motion was, determine if you think its viable to have a second before you open it for action.

Mr. Jackson said that makes sense.

Mr. Stern asked is there a second.

Mr. Isaacson said John, clarify. Can the second entrance be included in the motion or should we ask Jakey to motion again without the second entrance.

Mr. Jackson said he can clarify...

Mr. Isaacson said I think it's in the property owners own best interest to put in a second entrance and exit, I would imagine they would want to do it.

Mr. Stern said if they wanted to do it, they would have done it.

Mr. Isaacson said yes we had a discussion during testimony, and Brian said they had reached out to Conrail...

Mr. Jackson said it might make sense to look at this at the site plan level.

Mrs. Morris said since this is the GDP, can the Board acknowledge that they are going to be seeking that during the site plan or subdivision, and they reserve the right to possibly not approve certain phases if that's not provided.

Mr. Jackson said Jakey would that be acceptable.

Mr. Meyer said yes.

Mr. Vogt said I think that's a reasonable idea, specify which phase you're going to recommend that.

The Board talked over each other.

Mr. Stern said we're not mandating it, but we're reserving the right to require it on a phase 4. I think that's reasonable.

Mr. Meyer said OK.

Mr. Stern said I guess that was a request for amending the motion, did you accept that amendment.

Mr. Meyer said yes.

Mr. Stern asked for a second.

Mr. Gonzalez seconded.

Mr. Jackson recommended that Ally go through the conditions again.

Mr. Morris said we have a motion from Mr. Meyer, and a second from Mr. Gonzalez, to approve the GDP application with the following conditions: That prior to issuance of C.O.'s for phase 1, the boulevard from Cross Street shall be one lane in and three lanes out during all phases.

All parties discussed how long the turning lanes and 4 lanes would be throughout the length of the boulevard.

Mr. Vogt said I recommend since we don't have final design information that you defer the final length and orientation at time of site plan or subdivision.

Mrs. Morris said item number two, the roadways will follow the Master Plan's recommendations for road widths, which does differ from RSIS and current ordinance standards. Number three, Cross Street must be widened to have a turning lane from Route 9 to East Veterans before the issuance of phase 1 C.O.'s.

Mr. Vogt said as long as that's consistent with Ocean County's designs.

Mr. Stern said I don't know when all these County things are happening, but I think phase 1 might be a little too precipitous.

Mrs. Morris said there was a second for it...

Mr. Stern said I think I'm asking... yes it was seconded.

Mrs. Morris said you could not have a majority for that and then have a different motion...

Mr. Stern said can I ask Jakey to amend his motion?

Mr. Jackson said yes you can.

Mr. Stern said I think we should amend the motion and make it a later phase.

Mr. Meyer said I think that as long as we go by what the County says. This is what we're recommending, and if the County says not yet, we can't go above the County.

Mr. Flancbaum said that's Terry's condition.

Mrs. Morris said my understanding is the County is proposing that turning lane regardless, but what Mr. Meyer is saying is that no C.O.'s for phase 1 until that whole thing is done, whereas Mr. Stern is saying for example no C.O.'s for phase 2, similar to what the applicant's traffic study had said.

Mr. Stern said what did the applicant's traffic study say.

Mrs. Morris said by phase 2 they need the turning lane in front of their property. Jakey is saying turning lane for the whole thing from Route 9 to East Veterans by phase 1.

Mr. Stern said Terry what do you think.

Mr. Flancbaum said I think there was a motion and a second and Terry handled it very well; that is as long as it's consistent with the County design.

Mr. Vogt said as long as it's consistent with the County design, it's their road.

Mr. Jackson said the motion is so modified.

Mrs. Morris said but...

Mr. Jackson said Mr. Stern asked for it to be modified.

Mrs. Morris said but the Board said no.

Mr. Jackson said I stand corrected.

Mrs. Morris said prior to issuance of C.O.'s for phase 2, the boulevard intersection at Cross Street needs to be signalized. Prior to issuance of C.O.'s for phase 3, Cross Street must be dualized, which means 4 lanes, only along the property frontage. Prior to issuance of C.O.'s for phase 4, the Board is reserving the right to require a secondary access into the development. During all phases, all stormwater matters shall be addressed at each phase of the project. A fiscal impact report will be required with each phase of the project, as well as the conditions previously proposed by the applicant such as agreeing to outside agency approvals and things of that nature.

Mr. Stern said the only issue I would raise is, if we have to do the stormwater stuff anyway, if we require it as part of the approval, someone might infer that we were trying to get at something when we're really not. You don't want to put in extra stuff that you're getting anyway.

Mrs. Morris said I think Mr. Schneider was offering to sort of do that anyway.

Mr. Stern said OK, I withdraw the comment.

Mr. Jackson asked for the conditions again.

Mrs. Morris said we have a motion by Mr. Meyer and a second by Mr. Gonzalez to approve the GDP application with the conditions that the boulevard out to Cross Street must be one lane in and three lanes out. The roadways will follow the Master Plan recommendations for roadway widths. Cross Street must be widened prior to issuance of phase one C.O.'s to have a turning lane from Route 9 to East Veterans. The boulevard intersection with Cross Street shall be signalized prior to issuance of phase 2 C.O.'s. Cross Street must be dualized, that is four lanes, across

the property frontage prior to issuance of phase 3 C.O.'s. A plan for secondary access into the development may be required at the Board's discretion prior to issuance of phase 4 C.O.'s. All stormwater matters shall be addressed individually during each phase. A fiscal impact report will be required at each phase of the development. As well as all conditions previously proposed by the applicant that do not conflict with these conditions.

Mr. Jackson asked Mr. Meyer, is that how your motions is?

Mr. Meyer said yes.

Mr. Jackson asked Mr. Gonzalez, is that how your second is?

Mr. Gonzalez said yes.

Mr. Stern called for a roll call.

Yes: Mr. Gonzalez, Mr. Flancbaum, Mr. Stern, Mr. Isaacson, Mr. Meyer

Ms. Donato said I'd like to thank you all for your time. The Fairways board somewhat predicted that this would be a positive vote, so we'll be going into superior court challenging this decision.

#### **4. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted  
Ally Morris