

# Memo sparks new woods controversy

## Republicans: Mayor withheld document

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HAMILTON -- A previously undisclosed memo from a township planner has cast fresh doubts on the \$4.1 million price the municipality paid for Klockner Woods, rekindling the bitter debate over the property.

The memo, written in December by township planner Allen Schectel, was not disclosed to Superior Court Judge Linda R. Feinberg before she ruled last week that the township is obligated to honor its deal to buy the land.

A township official called the memo routine and said the Gilmore administration had no reason to make the planner's opinion part of the court record because it does not affect the value of the property. But township council members are crying foul over the withholding of the document. The memo surfaced last week after council members learned of its existence and demanded to see it.

In the memo, Schectel raised questions about 12 of the 40 home lots identified by consultant Van Note-Harvey Associates.

The matter of how many houses the land could support if it were developed has been at the core of the dispute; the more residences that could be built there, the more valuable the land will be. Mayor Glen D. Gilmore has staunchly defended the price the township agreed to pay current owner Fieldstone Associates, saying there is no doubt the land could support 41 houses as officials have contended.

Now, council members are saying the administration misled the court.

"The memo is incredibly damning and the fact that the judge never saw it shows a pattern of the mayor doing everything he can to maximize the value of the land for the developer," said Council President Dave Kenny.

However, administration officials disputed the importance of the memo, saying it is a routine part of any development plan and changes nothing about the plan Van Note-Harvey submitted.

"The memo basically makes subjective comments on the shape of the lots," said Director of Planning Lloyd Jacobs, Schectel's boss.

Jacobs said Van Note-Harvey did a "very professional" job of looking at the land and the report issued by the firm took into account all of the site's zoning issues. Schectel's opinions are just that, Jacobs said.

"The planning board doesn't always have to accept those opinions," he said. "This is an internal memorandum that offers some observations, but nowhere in this memorandum does it say this plan does not meet township requirements."

Jacobs said "there was no reason to" disclose the memo, because Feinberg was already aware that six lots needed variances and had already dismissed them as minor.

"The memo was an internal communication and is consistent with what the planner does on any application," he said. "All of the issues raised in this memo were addressed by the judge in her ruling."

The township hired Van Note-Harvey last year to resolve question of how many houses Fieldstone could build on the property and how much the land was worth.

The report, issued in March, showed the land could support 40 single-family homes, with six of those needing variances to be built.

Feinberg gave great weight to the study in her Feb. 1 ruling upholding the township's \$4.1 million purchase of the land and ordering the deal to close within 30 days. Feinberg also threw out a township council attempt to nullify the controversial deal.

"... There is absolutely no doubt, the subject property can support 41 single-family homes," Feinberg wrote. "Had the engineering and other professional reports established a figure grossly disproportionate to the 41 lots, an evidentiary hearing may have been required," the judge said in the 80-page ruling.

At the same time, Feinberg stated that the number of houses that would fit on the parcel likely was not a factor in the determining the original purchase price.

But the memo has become the latest source of controversy between the Republican-controlled council and the Democratic Gilmore administration.

Council members are suspicious of the township's withholding of the memo and now want to know why it never surfaced until last week.

If the planner had questions, council members say, they should have been shared with the judge. Kenny and his fellow Republicans have vowed to investigate.

"You are talking about 25 percent of the lots, so clearly that would have a huge impact on the value," Kenny said. Attorney George Dougherty, who represented the township council in the case, said had Feinberg seen it, she may have decided the issue of lot yield needed to be pursued further.

Of the 12 lots Schectel questioned, he said he would never recommend variances for three of the lots because of various zoning considerations. A fourth lot would be difficult to approve because of its size, Schectel said. He said five more lots have a 30-foot sewer easement running through the center and a second 50-foot easement running from the front to center. A sixth is covered by just the 50-foot easement.

Both easements would require the builder to apply to the township to vacate the land, which, if not granted, would make the lots "unbuildable," Schectel said.

Two additional lots have wet lands buffers at the rear, Schectel says, and would make any future additions or improvements to the houses difficult.

Kenny said the council has not yet decided how to go forward. The council has discussed appealing Feinberg's ruling but has not yet filed. So far, the council's case has cost the township more than \$10,200, officials said last week. It is unclear how much the appeal would cost, but Feinberg made it clear in her ruling that if the council's request to nullify the deal was granted, the resulting lawsuits and damages would cost far more than the \$4.1 million price tag.