

**Bridgewater Township Planning Commission
Minutes of Regular Meeting and Public Hearing
October 9, 2006**

Location: Township Hall, 10990 Clinton Road, Clinton MI 49236

1. **Call to Order:** Chair called the meeting to order at 7:30 PM
2. **Roll Call:** Present: Mike Bisco, Glenn Burkhardt, Glen Finkbeiner, David Faust, Mark Iwanicki, John Porter and Dave Woods.
Absent: Randy Klager
Also present: Wanda Fish, Administrative Assistant, Neel Sheth, Twp. Supervisor, Cindy Carver, Twp Clerk, Amy Riley, Twp. Trustee, Nancy Saumier, Pamela Finkbeiner, Russell Donham, Gary Niethammer, Ron Finkbeiner, Susie Jenkins, Mark Jenkins, Cindy Burkhardt, Lance Fromhart, Laurie Fromhart, James Hough, Mark Jones, T-Mobile, Chip Tokar, SMR, Margaret Beck, SMR attorney, Greg Hodges, Lynn Finkbeiner, Dennis Finkbeiner, Nancy Hebb, Sherrie Finkbeiner, Steve Finkbeiner, and Bonnie Shadley.

3. Review Agenda

Dave Woods asked to add a document at Agenda item 12, the Enzer SLU application. Bisco stated he wanted to move the SMR discussion to follow the public hearing. Two items under other business were added to include Master Plan intent to plan and how to update the Master Plan.

**Motion: Burkhardt, second by Porter, to adopt the agenda as amended.
Unanimous.**

4. Review Minutes

Woods: Page 4, line 4 change option to requirement.

**Motion: Porter, second by Woods, adopt minutes with change noted.
Unanimous.**

5. Public Comments

Laurie Fromhart: Requested an explanation from Glenn Burkhardt as to why he left the meeting on 9/11/06 and asked for comment on how the PC wound up allowing SMR to hire J.F. New Company to obtain the data on water and wetlands per the August 14, 2006 discussion. Stated that the PC unilaterally changed the motion made on 9/11/06. Written comments provided and are attached to the record.

Burkhardt: The PC directed me to gain a consultant to establish baseline conditions for the wetlands and groundwater in the vicinity of the Pelts/Crego property. Under Ordinance 59 the applicant has the responsibility to provide that information. In communication with the applicant, we decided the notice should come from a member of the PC, so I contacted residents within the prescribed distance. I told them there would be a wetlands consultant asking to enter onto their property. Bisco: This was communicated to members this would happen, it was an expedient move to gather the data with the understanding it would be reviewed by an independent consultant.

Fromhart: I understood the Township would hire the consultant. Fromhart read the telephone message left by Glenn Burkhardt on Nancy Hebb's answering service: "Hi Nancy, this is Glenn Burkhardt from the Bridgewater Township Planning Commission. I am calling to let you know that a representative of the J.F. New Company - his name is ///garbled///will be doing wetlands characterization and baseline monitoring on properties around the Stansley/Crego/Pelts properties. ///garbled/// about the coming Monday the 11th of September. I can't tell you the specific date or time. If you are not interested in having this done on your property, please give me a call so I can relay that on. Thanks, Nancy."

?? Said the statement should have noted the JF New Company was hired by SMR. Fromhart contended SMR should not have been involved, Bisco stated that she could arrange for her

own consultant. Fromhart charged bias, stated the PC did not listen to the residents of the Township.

Neel Sheth: Noted a quorum of the Board is present and asked for clarification of the discussion of 9/11/06 on the Enzer SLU. Bisco: Stated that if there was to be substantive discussion, he would recuse himself. Members agreed it would only be discussed at the time the application was discussed. Sheth stated he thought there were issues regarding the Enzer application that should be addressed by the Township Board.

Nancy Hebb: Asked that wetlands and baseline water measurements be taken at varying times of the year, particularly during the recharge season.

6. Close Regular meeting, open public hearing – T-Mobile Special Land Use

Motion: Porter, second by Burkhardt: Close regular meeting, open the public hearing. Unanimous.

Glen Finkbeiner recused himself as he lives within the notification area.

A. Chair introduction – Bisco briefly described the tower location and height. Height is total 152' including the lightening rod. Corner of US 12 and Willow Road on the Rustic Glen Golf Course. Referenced three other towers that were considered for co-location.

B. Notifications – Bisco stated that notification was provided as required. Administrative Assistant stated that:

1. The notice was posted at the Township Hall on 10/3/06.
2. Letters of notification were sent to eight nearby property owners on September 23, 2006.
3. A public notice was published in the Manchester Enterprise, the newspaper of record, on September 21, 2006.

C. Applicant Summary – Mark Jones

Jones: Set back over 150' off Willow and over 150' from US 12. Original proposal was closer to Willow Road, but could not do it due to need for setback. The proposed 150' monopole will hold at least 3 additional carriers. There will be a 6-foot chain link fence around the perimeter of the tower and equipment serving the tower. Will alter design of the fence as asked. Control fall zone via an easement of 300' in all directions from the base of the tower. The entire area will be covered by the easement but will lease only 40 square feet. Will access via Willow Road w/parking and turnaround area. Vegetation will remain except for the access area. Will only run portable generators if there is power loss for substantial period of time, have battery backup at the site. Generators will be low noise models. Landscaping and landforms such as berms will be decided jointly with the Planning Commission. Discussed draft conditions provided by PC. Jones stated the lease would be for thirty years. Life of tower is at least 30 years. Removal language is provided.

Maintenance agreement for all landscaping. Maintenance agreement for equipment and appearance at the site.

Will post a removal bond and a performance bond. Jones stated the ordinance requires locations on a tiered basis.

No tall buildings or structures available near the area where site is needed.

No site that would allow co-location is available within the area where facility is needed.

Have FAA clearance to 180 feet without lighting.

One parcel only fits the zoning ordinance and T-Mobile's own coverage requirement, Rustic Glen. All other parcels in this area are zoned residential.

Need to cover along US - 12 to meet coverage objectives. Had a scenic historic review by State Historic Preservation Office (SHPO) that indicated a dig on the other side of the property that yielded some historic data, were asked to locate by the 18th green. Obtained clearance from necessary native tribes, there are some areas of Rustic Glen that have taken on wetlands characteristics.

Introduced Matthew Sweitzer, T-Mobile radio frequency engineer.

Sweitzer: Used maps to point out levels of coverage. The area is problematic, 90% call drop in the area. Need to improve the coverage. Jones: T-Mobile is on existing towers to East and West. Towers to the north and south, antennas are above 150 feet. Need to have line of sight to facilitate best coverage.

Burkhardt: Asks elevation to the top of the tower. He estimated elevation at about 950 at ground of proposed tower, making the antenna at about 1100 elevation.

Mark Jenkins: Provided statement that he also read. Said the proposal does not meet the Ordinance and Master Plan standards. Not located in a preferred site, co-location was not considered and the proposal does not deal with negative visual impact. Statement is attached to the record.

Dave Saunders, Planning Commission, York Township. Referenced recent York Township consideration of tower. Said residents were concerned about property values, plantings were not maintained. Stated that intention of owners of towers is to lease the towers, they do not like to pay rent to each other.

Mark Jones: Coverage area is greater than a half mile. Can only place towers for optimum coverage within a half mile of the most desirable location between other towers where you have service. Co-located on other towers in the area and will only build tower as last resort. Expensive to build. Pay \$30,000 construction costs and \$1500 per month in rent; If you build, construction is \$200,000 and \$1500 per month. Tower is to provide coverage.

Jones also said that health questions by local government not allowed per federal law, Telecommunications Act.

Jenkins: Between Marion Road and the one in Clinton, there are three existing towers. Two are 1.4 miles away from the proposed site and one is 1.8 miles from the proposed site. The Abel Road tower is virtually the same distance from those two towers as the proposed site would be. You can do just a good a job bridging the gap in coverage by co-locating on the Abel Road tower. The area that needs to be bridged is about 4.5 miles, is not so specific that the only location has to be the one proposed. Refers to information from T-Mobile's website.

Mark Jenkins: Coverage map is a more general tool for looking at the coverage. Will co-locate if possible. Abel Road tower is too far west from where we need to be. Neblo Road tower has structural problems, is at 134% of capacity now. Jenkins: Disputes.

Jones: States the proposed site is a tier four under the Master Plan and meets the requirements of the zoning ordinance. Jenkins: States not in tier four area, in lowest category instead. Argues that Rustic Glen is not a preferred area even though it is a quasi-public use.

Matthew Sweitzer: Looked at the Neblo Road tower three years ago, then used other towers because of its condition. The proposed location will do the best job of providing coverage, eliminating the gap now have. Argues that T-Mobile wants to erect a tower to have revenue from other carriers. Jones: Not a revenue stream, 70% of greater Detroit locations are co-locations. Local ordinances require co-locations.

Carver: Asks where Abel Road tower is located.

Lynn Finkbeiner: States that was approached when the Case Road tower was being considered, didn't want to lease their land, a tower was put up across the street and she has poor television reception, hears telephone calls through the television.

Matt Sweitzer: The technologies use different frequencies; have never heard of that happening. Verizon uses analog technology, T Mobile uses digital, would be no way that might happen in our case. Verizon uses a much stronger signal.

Mark Jones: Suggests she contact FCC because laws say you cannot interfere with other signals. FCC website has place to log complaints.

Lynn Finkbeiner: Complains the Case Road tower is not maintained, is an eyesore.

Mark Jenkins: Offers photos of various sites.

Jenkins: Suggests that Jones won't be compensated if he doesn't land the tower. Jones: Not the way it works. Paid a flat amount.

Susie Jenkins: Read all names on a sixty-one person petition in opposition to the location. Petition provided for the record.

Lance Fromhart: Won't this make it easier for them to replace the tower with a larger tower? Complains about lights from Sheridan Road tower at night, white strobe.

Jones: Only allowed to construct what the Planning Commission approves. Would be very difficult to replace the tower.

Laurie Fromhart: Asks about lighting.

Jones: No lighting. Fromhart: They told us the Sheridan Road tower wouldn't be lighted, and it is.

Saunders: States that FAA lighting will change anytime there are changes at the area airports. States that applicant is only providing part of the information.

Greg Hodges: Stated that he owns Rustic Glen and that the whole course is zoned as quasi public, no residential zoning. Administrative Assistant told Hodges his property is zoned agricultural.

8. Motion: Burkhardt, second by Faust: Close the Public Hearing and Reopen Regular Meeting. Motion adopted unanimously.

A. Member only discussion

Burkhardt: With some of the information brought forward, there should be specific information about why the Abel Road tower cannot be used or a soundly based reason in terms of coverage. Should do the same for the Neblo and Case towers as well. Before the PC can act, need to have definite information as to co-location possibilities.

Bisco: Asks Jones to provide studies for all three. Jones agrees and stated he would also get information regarding the structural availability at the Neblo Road tower. Woods: Recalls there was a structural problem at Neblo Road and there was extensive rebuilding when the last carrier located there.

Jenkins argues that Township should hire an independent consulting engineer.

Bisco: Indicates willingness to use planning and engineering firms.

B. Options for decision

Motion: Porter, second by Iwanicki: Layover further consideration until applicant provides the information requested and the Township Engineer and Planner provide independent study reports. Motion adopted unanimously.

Discussion of light and appearance.

9. Crego/Peltcs – SMR Special Land Use

Marcus McNamara, OHM, said he had contacted two specialists, Bob Hayes of Geoforensics, who works with Freedom Township, and Steve Niswander. Specialists will evaluate. Prepared to begin this week to do the survey work.

Burkhardt: Written statements received by this Planning Commission over the past two months have suggested that I am biased on this matter in favor of the applicant. I want to be very clear that I have no personal interest in the outcome of this matter. Have merely shared my technical knowledge with both the Planning Commission and the public. While I do not have any conflict of interest per the Planning Commission policy, I am going to excuse myself from any further involvement in this matter. I have also resigned from the Mineral License Board. This is a troubling matter.

Bisco: Expresses support and regret. Found no reason for the allegations of bias.

Burkhardt: In fairness for the process so there is not a distraction, something that has nothing to do with the matter, rather do this as a professional and leave the pettiness out of the issue.

Burkhardt leaves the room.

Faust: States he believes it is a violation of the Open Meetings Act that he has to leave the room to recuse himself. Leaves the room.

Chip Tokar: Submits updated plans two and three and also submitting for the record the wetland quality assessment report that will be included in the mineral license application. Has also sent that to Marcus McNamara, OHM.

Discussion about what is ahead.

Bisco: Asks if there is electronic data updating the monitoring well data from the time the application was submitted. Tokar stated he would send the material to McNamara at OHM.

Motion: Woods, second by Finkbeiner: Lay over until review is completed. Adopted unanimously.

10. Krause Kennel

Glenn Burkhardt said he had visited the site and found that not all conditions have been completed, some started. Consulted with the Township Attorney who suggested we grant an extension of time to the end of October. Thought it was an issue of funds, work was professional. Putting in a cedar sided fence. Woods: Asked about plantings. Burkhardt: Either plants or fencing for the screening. Discussion about notification to Krause and what happens if there is non compliance. Porter, then would make the decision to return to court at the next meeting? Yes. Woods: Concern about the precedent being set. Burkhardt said he would be willing to do the next inspection. Woods: Suggests he take a witness.

Motion: Burkhardt, second by Faust: Grant an extension to October 31, 2006 for compliance with the conditions that were established for the commercial kennel land use. Motion adopted unanimously.

11. Bridgewater Farms

No further information has been received.

Burkhardt: Question as to how long we hold open an application when there has been no activity.

Gary Niethammer: Said that he thought they were doing some work. It was agreed the Administrative Assistant would get in touch.

12. Bridgewater Commons

A. Chair update

Bisco described a meeting on 10/3/06 with Sheth, Bisco, Ron Finkbeiner, Jim Hausler, Gary Niethammer, and Marcus McNamara. Asked Sheth for his view.

Sheth: It was agreed that until there is final site plan approval and the township engineering firm has completed his reviews, they will stop all work until they have all approvals.

Bisco: In terms of the site plan, there was one area where a grinder pump was located on top of a storm sewer, which needs correction. Not enough grinder pumps; requirement is for one per dwelling unit.

Master Deed and By-laws were approved by the Township Attorney in terms of the concerns raised by OHM and the County Public Health Engineer.

Marcus McNamara: Raised concern about the wording of the Master Deed, page 6 under 1 f. regarding wording that included "sanitary sewer." The recommended change to strike reference to sanitary sewer in 1.f was accepted by Gary Niethammer. Sanitary sewer is a public utility.

Woods raised concern about the pond. Burkhardt provided explanation of the site plan, working from elevations and extreme rain events. Pond will remain as it now exists except if there is a heavy rain event and the outlet cannot handle all the drainage. Additional discussion of access to the open space area. During flood event, the open space will not be accessible.

Motion: Burkhardt, support by Finkbeiner: Approve the final site plan for Bridgewater Commons contingent on addressing all items identified in the letter of September 29, 2006 from OHM and providing evidence acceptable to the Township Engineer that completed site work conforms to the approved plan and industry quality standards and that the wording of the Master Deed of 9/26/06

page 6, item 1., f., to remove reference to the sanitary sewer system. Motion adopted unanimously.

Gary Niethammer asked if Bridgewater Commons will have to pay for hookups to the sewer system. Sheth: Explained that per the sewer ordinance, new properties will have to pay differently than existing residences. Sheth and Bisco: Matter for the Board, not the Planning Commission.

Asked about item #26 on the OHM 9/29/06 letter regarding curbs. Niethammer said they did not want to put in high back curbs. Burkhardt: It was the sense of the Planning Commission that mountable curbs and that would retain a width of edge of concrete to edge of concrete that would permit parking one side only. Less risk with a mountable curb. McNamara: The intention of item #26 was to be clear on the width of the roadway.

Motion: Burkhardt, second by Finkbeiner: Rescind the earlier. Motion adopted unanimously.

Woods: Asked how the PC would know that all the conditions had been met. Marcus McNamara stated that final engineering approval was still required. OHM will get documentation from the applicant on a line by line basis. That will be provided to the Planning Commission.

Gary Niethammer: Said he had concern about the kind of plantings in the force main area, McNamara said small shrubs would be all right, but not trees, too much potential for problems. Issue of being able to maintain the force main.

Motion: Burkhardt, second by Faust: Recommend final site plan approval conditioned on addressing all items identified in the September 29, 2006 letter from OHM, excepting item 26, and providing evidence acceptable to the Township Engineer (OHM) that completed site work conforms to the approved plan and industry quality standards and that the master deed is revised, page 6, item 1. f., to eliminate any reference to the sanitary sewer or accessories. Motion adopted unanimously.

13. Enzer Special Land Use Parcel Q-17-08-100-024

Bisco: Recuses himself and leaves the room, due to business relationship with the applicant. Burkhardt assumes the chair.

Summarizes that at the last meeting, the application was held over until there was demonstration the application meets state law. The applicant has not provided additional information. It was pointed out that the applicant and his wife had had a baby boy.

If it is correct that the applicant should have received an appropriate permit from any entity for what he has been doing, what action is appropriate? If there is a non-conforming use, in other instances the township has dealt with the unpermitted use. In some cases, there have been "cease and desist" actions. We are not certain in this case as to what is permitted by federal, state or the township or building authority. Administrative Assistant indicated that some correspondence has been sent by the Township.

Woods: One of the items that brought the applicant to us was a pole barn that we have been given to understand may have been a tent. Letters in November, December 2005, from Dale Behenke that indicated a pole barn that had been constructed without permits, etc. There was correspondence with the Township Attorney, Fred Lucas, regarding the building and storage of fireworks. If there is storage of fireworks, it does not appear that the pole barn was built to code standards. With the departure of Jonathan Ringel, this has not been fully addressed since then.

Neel Sheth: This spring, Jonathan, myself, Dale Behenke and Aaron Enzer discussed this in a meeting. There was discussion of site distances, issues like that, but it never resulted in conclusive actions. There has not been adequate follow up or a site visit. It did lead to the application for special land use. Question as to the role of the Township Board in all of this. What are the issues regarding liability, various required permits. Burkhardt: Has the Township attorney officially notified the applicant that he is operating without the necessary building

permits, without compliance with zoning ordinance, is there a business operating without permit, without inspections?

Sheth: Not sure of the documentation.

Burkhardt: Would appear the activity should cease until there are appropriate approvals.

Woods: Adds compliance with state laws.

Porter: What was presented does not comply with NFPA 495, 1124 Chapter 4, others. In violation of a number of things. Have been trying to be in touch with Mike Scully of the Manchester Fire Department to see if he has been in touch. Not successful. Woods: Has not been in touch with the Clinton Fire Department. Porter: reads from document regarding security of fireworks manufacturing area. Issues of gates and warnings. There isn't compliance and as far as I am concerned, there is a danger to the neighborhood.

Woods: Identified problem that the applicant states he is in compliance, but it doesn't seem that he is. We asked for insurance, but haven't received any update.

Discussion as to the level of township responsibility.

Porter: If a landowner comes to the Planning Commission regarding a special land use, he needs to address everything that applies to that special land use, the building, the insurance, etc. At this point, as far as I am concerned, the application is dead in the water. The Planning Commission needs to tell the Township Board that because of an application before the Commission, we have discovered a potential serious situation the Board should address.

Burkhardt: Do you need a letter to convey that?

Woods: Cites state laws that he believes requires the Township Board to approve the location of the storage facilities. The basic fireworks state laws were amended in 1999 – PA 328 of 1931 was amended to indicate Board's responsibilities regarding fireworks.

Sheth: Not aware of any action on an application to the Township Board. Believed that request during Carol Peacock's term was for display only. ATF has stated that local and state laws prevail.

Russell Donham: Said he was a neighbor to Enzer. Said he had signed a petition that he thought supported a one time display, but did not understand that Enzer intended to make and store fireworks. Stated that he had asked Enzer if he was manufacturing black powder on site in two cement mixers that had brass blocks in them. Donham said Enzer told him that he was adding the saltpeter at a different location. Then brought in shipping containers. Now understand he is storing 8000 pounds of explosives. Is he running a business? Wouldn't he have to be rezoned to commercial? Burkhardt: Has applied for a special land use. Donham questions if the Township can spot zone. Burkhardt: A limited business activity can be permitted in an area zoned for agriculture. Donham says that semi trailers are coming nearly every day. Had 200 fireworks mortars delivered recently. Then more trucks arrived and began hauling stuff away. Concern about a building that is a Quonset tent. Appears there are a lot of explosives about 600 feet from my house. Asks about Township liability. "If he has an explosion, and somebody is hurt or my house is hurt, I will sue, not Aaron, but will sue the Township for not closing down an activity that is in violation."

Burkhardt: Believe the Township Board will be considering an action to request the Township Attorney to put the applicant on notice.

Woods: State Fire Marshall's office advised me that the Supervisor should call the state police because there is violation of state laws.

Burkhardt: Supervisor should talk with the Township Attorney. Not an issue that the Planning Commission can deal with at this point, but the Board should take appropriate action to seek a resolution.

Finkbeiner: Eventually the question is, is this an appropriate site for this kind of business. At this site, there appears no way that he can own all the isolation distances required by state law. Neighbors can argue that they should be able to feel safe on their own property. There are residences all around this location. Perhaps in the middle of a 100-acre parcel.

Woods: Then we should ask the Township Planner if this is an acceptable use of property in the agricultural zoning district.

Porter: There is enough protection in place with the federal and state laws.

Donham: In the Hillsdale explosion, objects landed 3.5 miles away from the site.

Porter: Immediate concern is to focus on the activity that is happening right now, hand it off to the Board to take appropriate action.

Woods: Concern about insurance. Township attorney should look at it.

Burkhardt: Need to deal with the activity now going on that is unpermitted.

Motion: Iwanicki, second by Porter: A resolution that the Township Board should seek legal counsel to take appropriate action to suspend storage, manufacture or distribution of explosive devices and material. Motion was passed unanimously.

14. Updates to Ordinance 26 – Zoning Ordinance

Bisco resumed the chair.

Bisco stated that PA 110 of 2006 made several changes to the state's planning act that affect Townships' Zoning Ordinances. Refers to list that was provided in the agenda packet. May not be inclusive, would like all members to look at the zoning ordinance just to make the changes necessary to bring us into compliance with PA 110. Will need to develop a schedule that gives time for review and hearings.

Will not have to notify adjacent Townships as we do in the case of the Master Plan.

Need to look at other changes we should consider at the same time. Discussion of the need for special working meetings. Could do the remaining maintenance on the Master Plan as well.

May want to divide the work up.

Burkhardt: Reasonable to divvy up sections for each to review and then bring comments and suggestions back to the whole group. Move rapidly. Brings up potential for internal conflicts between sections. Finkbeiner: Easier to do on line in PDF. Discussion of the format the zoning ordinance is in.

Discussion of when the ordinance was updated and the format. Cindy Carver made several comments, couldn't be heard.

Discussion of a legal intern that might be utilized to sort through Ordinance 26 for internal conflicts.

Motion: Burkhardt, support by Woods: Utilize services of legal intern to go through Ordinance #26 to identify internal discrepancies and report back to Planning Commission. Motion adopted unanimously.

Need to get ordinance #26 in format we can work with.

15. River Raisin Watershed Council Water Plan

Bisco: We need to get up to speed, involved. It was agreed to ask Pat Sanders to attend the next meeting of the Planning Commission.

16. Master Plan Update

Burkhardt: Offers to read master plan to recommend updates. Porter also volunteered.

Discussion of timetable for update, need for notification. Complete reading and recommendations by December meeting.

17. Other Business

Bisco offered a resolution of support for Glenn Burkhardt regarding allegations or inferences that he has not represented the Township's interests in an unbiased manner.

Motion: Woods, support by Iwanicki: Adopt the resolution of support for Glenn Burkhardt.

Motion passed unanimously. Resolution attached to record.

18. Public Comments

None

19. Motion to adjourn. Woods, support by Burkhardt. Meeting adjourned at 10:55 PM