

**Bridgewater Township
Planning Commission
Minutes of Regular Meeting – September 11, 2006**

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

1. **Call to Order** Chair called the meeting to order at 7:36
2. **Roll Call** Present: Mike Bisco, Glenn Burkhardt, Glen Finkbeiner, Mark Iwanicki, Randy Klager, John Porter, Dave Woods
Absent: Dave Faust
Also present: Anne Smith, 16110 Fahey Road, Manchester 48158, Wanda Fish, Adm. Ass't., Ron Finkbeiner, Nancy Thelan, Aaron Enzer, Cindy Burkhardt, Chip Tokar, Greg Hodges, Mark and Susie Jenkins, and Amy Riley.
3. **Agenda** Chair stated that Nancy Thelan from MSU Extension would make a brief presentation and that an item regarding the Krause kennel would be addressed under other business.
Motion: Bisco, second by Klager: Approve the agenda as amended. Adopted unanimously.
4. **Minutes** Motion: Bisco, second by Woods: Approve the 8/14/06 minutes as prepared. Adopted unanimously.
5. **Public Comments**
Anne Smith presented a letter requesting the PDR overlay area be changed to include properties on Clinton Road adjacent to Clinton Village, referencing that the Village has said it will not extend sewer lines to that area. Burkhardt said the PC would further consider the Master Plan and could include that consideration when they did so. Letter dated 9/11/06 attached to the file.
Nancy Thelan presented a certificate to Mike Bisco for completing the Master Citizen Planner Program.
6. **Election of Officers**
 - A. Chair
Klager, second by Burkhardt: Nominated Bisco. Motion adopted unanimously.
Bisco resigned as Secretary of the Planning Commission effective at the end of the 9/11/06 meeting.
 - B. Vice Chair
Woods, second by Bisco: Nominated Burkhardt. Motion adopted unanimously.
 - C. Secretary
Burkhardt, second by Woods: Nominated Finkbeiner. Motion adopted unanimously.
Burkhardt stated that officers would serve for one year, to the October 2007 meeting, officers to be elected in September.
7. **Bridgewater Commons**
Burkhardt stated that a letter from Majed Ghussaini, PE, Public Health Engineer, Washtenaw County DEQ, dated 9/11/06 regarding the hydrogeological study had been received, but that it would not be considered due to the date received. Ron Finkbeiner: Interjected that all the paperwork is completed. Burkhardt: Referenced the need for MDEQ Part 41 permit. R. Finkbeiner: Asked about road. Burkhardt: stated the Board had approved a private road. But there has not been final site plan approval, which encompasses everything. Burkhardt confirmed that construction is taking place without approvals and is at risk. Assuming final site plan approval is granted in the future, the applicant will have to provide evidence the construction follows the final site plan, and that there was reasonably quality assurance review for such things as compaction testing, base material testing, etc., all to meet standards and the plans. Per the letter from Ghussaini, the Master deed must be amended to incorporate requirements. Porter: Requested part 41 clarification. Burkhardt: When there is a sanitary sewer constructed to connect to a public sewer, the State requires it meet certain standards that are approved by DEQ and are cosigned by the Supervisor. Construction cannot commence without it. Porter: Does it also require PC review? Burkhardt: No. Gary Niethammer was reminded of this requirement two months ago. That permit should be in hand before beginning to construct the road.

Woods: Asks if the plans are in the hands of the Township engineering firm. Burkhardt: Yes, a partial review has been done, but should ask for a final site plan review. Woods: Expresses continued concern about some of the plan details. Burkhardt: Are there details that we should be requesting. Woods: Since construction has already begun, may need to get some "as built" plans. Burkhardt: There should be an accurate set of "as built" plans and they should be able to supply that. Woods: Raises question about validation of on the ground project building conforming to the record drawings. Burkhardt: Many jurisdictions require a reasonable level of construction validation. Woods: We are setting a precedent about how we will handle future developments. Should be sure we are doing it right, even though the applicant is proceeding to construct without approvals. Confirms that OHM has the most recent set of drawings. Burkhardt stated he will contact OHM and request a final site plan review. Will contact the applicant's consultant and request that PC have record drawings and quality assurance test results for any improvement that has been constructed. Woods: Asks for confirmation of the date of the last set of drawings. Burkhardt: July 5, 2006.

8. T-Mobile

Glen Finkbeiner recused himself because he lives within the notification area of the proposed site. Finkbeiner left the room. Burkhardt: Notes that presentation was made and that questions were raised about whether the PC could approve an application that required variances and also if the lot met the "fall zone" requirement. New plans have been submitted, attached to the record.

Have received an e mail from Mark and Susan Jenkins raising questions about why the tower is needed, given there are several in the area. Second question is why the particular site at the golf course is needed, why not an area where there is screening. Letter attached to record.

Burkhardt: Have a revised site plan. Asked the T-Mobile rep to explain how the new submittal is different from the one originally made. Will it meet the ordinance without requiring a variance?

Mark Jones – T Mobile: Last submittal would have required front and side setback variances. This plan moves the project 70' back from the road and 40' from the side, eliminating need for variance. Believe the tower meets the ordinance. Demonstrated the need for the site at last meeting per your ordinance. Submitted propagation maps that demonstrate the current gap in coverage and how this will close that gap along Michigan Avenue towards the west. Would be a tier 4 special land use under Section 1248. Cannot find a site that meets either tier 1 or 2. Because we need 150' feet of height and because we need to construct to permit additional antennas, a stealth design will not work in this case. Can't do a flag pole for example, because the flag interrupts the signal due to the size of the flag.

Burkhardt: Asks if they have considered the towers on Case Road, Neblo Road and Abel Road. Jones: The search area to fill a gap in coverage was about a mile, and within the search area, there is nothing available.

Burkhardt: Per the ordinance, there has to be control over the area that could be influenced by the Tower. How is that accomplished under this proposal. Nothing prevents Rustic Glen from becoming a residential property in the future. How will you assure no buildings are built close to the tower? Jones: One of the reasons we are here. Plan to lease an area larger than we require and lease it back to the owner. What can we do? Burkhardt: Lease should be irrevocable and very long term. You have to have legal control of the fall zone in perpetuity. Discussion that in agricultural zoning, the land could be developed as a cluster. Burkhardt: Cannot judge the future development by what is on the ground now. Private wastewater treatment is a growing option allowing development in areas not served by public sewer systems. Lease must safeguard what is needed close to the tower. Jones: Couldn't this be done as a condition of approval? Burkhardt: We can only place a condition on your application and area controlled by your lease, not on the property outside of the lease.

Discussion moved forward to need for screening. Jones: Have dealt with the location, have dealt with the setbacks, there are no tall structures we can use for screening, want to move forward to public hearing. Brings up State Historic Preservation Office clearance, that there was a dig on the golf course property near the driving range and some artifacts found, none where the tower is proposed. Have SHPO clearance for this site. Jones stated that a tree line will remain along Willow Road and there will be more planting, but it will be difficult to reduce the visibility overall for a 150' tower. Porter asked about the intent of the ordinance, is it to provide total screening. Burkhardt: The intent is to guide the location to where the tower will be less visible, such as near tall structures, such as barns and silos. AA: Asked Jones for the SHPO documents. Jones said they will provide them. Porter: Had questions he thought will arise during public hearing. If all antenna locations are used, backup generators

will have to be large. Jones: Each carrier is responsible for own emergency power. Porter: Noise issue with that size of demand. Jones: Battery backup will cover for about a day plus. Porter: Asked about tower lighting. Jones: This site will not require lighting. FAA clearance is required for every site, it will be marked on maps.

Motion: Woods, second by Bisco: Move to public hearing on October 9, 2006. Motion adopted unanimously.

Jones was asked to provide lease information and SHPO documents prior to hearing.

Glen Finkbeiner rejoined the meeting.

9. Bridgewater Farms – Nothing to discuss

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

Michael Bisco recused himself and left the room.

Burkhardt stated that members had the applicant's response to letter of June 19, 2006 to him. Material attached to the file. Stated that Woods had researched issues and will pose several questions.

Woods: Stated his concerns about the precedents being set.

Maximum amount of explosives allowed on site. Magazines 1, 2 and 4 are allowed 10,000 lbs each of explosives and magazine #3 permitted 18,000, a total of 48,000 lbs. Applicant: yes. Woods: More magazines on the site? Enzer: No. Woods asked how much explosives were on site. Enzer: Roughly 500 cases, 8 – 10,000 pounds.

Woods: ATF has approved your magazines for storage? Burkhardt's letter requested plans for the magazines and didn't see such plans in your response. Enzer: No plans per se, they are metal shipping containers. Unclear as to whether fireworks are considered by ATF as low explosives or high explosives. High explosives table of distance is used for fireworks.

Woods: You provided an aerial of the property in first documents. Shows the road, your drive, the four magazines, your home and a tent. What is the tent for? Enzer: An agricultural structure. Store equipment. Woods: The tent is what has been in question? Enzer: Yes, waiting for resolution of this application, since it is mobile. Woods: There is a pole barn? Enzer: Yes.

Woods: Do you manufacture fireworks in the pole barn? Enzer: Most are made on site, literally outside. Woods: Do you store fireworks in the pole barn? Enzer: No storage, but we do some assembly there. Woods: Was the pole barn built to high explosives standards? Enzer: a 15x30' section is built to such specifications. Woods: We could get a copy of the plans? Enzer: Yes.

Woods: In response to request for a listing of what you have on site, you sent a MSDS list. Is that what you have? Enzer: Yes. Included all ingredients used for fireworks displays. Woods: Asked how much potassium nitrate was stored. Enzer: 1000 – 1500 pounds. Woods: Is it dangerous? Enzer: No. Woods: Potassium perchlorate? Enzer: No. Woods: Sodium oxalate? Enzer: No. Woods: Aluminum powder? Enzer: Prevent ingestion, the particles are very fine and you should wear a dust mask to prevent accumulation. Woods: Notes it will form explosive material in the air when it is damp, particularly in the presence of metal oxidizing substances. Hopes the fire department has this information so they will not put water on a fire there. Enzer: States they do regardless and that conditions have to be ideal for aluminum powder to burn. Unlikely to happen. MSDS goes overboard and is too conservative. Woods: You would state the chemicals are safe then? Enzer: Compared to other materials we have in our daily environment, yes. Woods: Worst case scenario? Enzer: A magazine igniting with someone close at the time. It's a risk, but there are risks everyday. Table of distances provides a level of risk containment.

Woods: Asked about certificate of insurance, but it appears that has expired. Enzer: Yes. Pending approval now w/Lloyds of London. Expected soon. Woods: Then there is a rider providing interim coverage? Enzer: Yes. Woods: What about people working there? Enzer: Covered under workman's comp. Woods: Asks for clarification about what happens in terms of coverage if Enzer errs. Indicated concern about not having been able to locate the listed insurance company.

Woods: Notes that license from ATF is for high explosives. Enzer: High explosive license provides for all contingencies, rules continue to change on what is or is not considered high explosive.

Woods: Asks what is a bulk salute. Enzer: Based on using flash powder which is bulk in nature. Woods: Do you make them or intend to make them? Enzer: No.

Woods: Asks about distances from occupied buildings. Magazine # 3 requires greater distance. Do you meet that? Yes. How do you know? Enzer: Laser range finder.

Woods: Your correspondence refers to ATF requirements. Are you familiar with State of Michigan requirements? Enzer: Yes.

Woods: Do you have a State of Michigan license? Enzer: Yes. Woods: For storage? Enzer: No. Michigan Law PA 328 written in

1936. Having a display license allows you to store what you will display. Plus if you sell to parties outside the state, you are exempt. Woods: Talked with Tony Sanfillapo of the Michigan Bureau of Fire Services. You are permitted for class B and class C under state of Michigan law. He said that in 2005 you were told to contact the Township regarding your status. Under the State Law, local governments have the option to issue permits on forms from the State fire marshal's office. You have to go before the Board to request the permit. Enzer: Have received such permits from other Townships, but when I asked for a permit from the Bridgewater Township Board, it was not processed, the permit was given to me with the statement that I would not need it. Woods: Goes through various Michigan state laws that govern fireworks for sale, possession and storage of fireworks, including local government agreement. Woods also stated that state tables of distances for the magazines were not met. Suggests Enzer talk with State fire marshal. Act 207, amended December 3, 1999, in part says that Act 328 of 1931 as amended in part, known as the fireworks law, the responsibility for regulating the storage and the use of fireworks falls on the local government. The Township Board has a substantial liability if it does not exercise its responsibility. Woods said that Sanfillapo suggested the Township put the applicant out of business until there is compliance with the state law because you are in violation of state law. Enzer: Asked if the Township will issue the permit that was handed back to me and never even considered by the Township Board. Exchange between Woods and Enzer regarding insurance, liability, lack of compliance with state laws, processing by Board of earlier application. Enzer said that after he had applied, the Board adopted an ordinance that stated they would not allow displays so he never applied again. Said he was told by a Board member to go ahead and do what he wanted, on a don't ask, don't tell basis. Stated he wants to work with the Township, but has been stalemated. Stated PA 328 of 1931 will be repealed.

Burkhardt: The Land Use proposed is for storage, manufacture and distribution of fireworks, which by law and code this body cannot in total grant. Depending on which document you look at, Michigan law states the Township has the responsibility to issue the permit or not, under the Michigan Building Code and international fire code, the local building official issues the operating permit. The first determination is if this is an appropriate land use and if there are conditions that would have to be placed on it, and then we would have to make a recommendation to the Board for their action. This is not a decision solely by the Planning Commission. As much about the quantity as anything, given the isolation distance requirements. Such distances are based on the distance from a habitable building, but what happens if an adjacent property is split, what happens then if someone wants to build a habitable building? Changes the entire picture about the isolation distances. Enzer: That could only happen if there is a permit for more than one habitable structure on a lot or if the land were divided. The storage is portable in nature. The "what if:" scenario is covered. Burkhardt: The special land use runs with the property, so any action would have to have conditions. Cannot rely on there being vacancies on adjoining land which is out of your control. Enzer: Willing to have a condition that states that the table of distances must be maintained. Burkhardt: When we look at any application, we have to look at several items. Is the application complete, is it an appropriate land use. There are concerns about the allowable quantity may not be possible. Your application must comply with all applicable laws. Enzer: The Michigan law has very clear exemptions. Woods: Then you have to deal with the state fire office about that. Enzer: The State fire Marshall's office gives interpretations that are not a part of the code.

Iwanicki: With the state table of distances not being met, cannot see how this can move to a public hearing. Burkhardt: It appears the applicant has presented an application that does not meet the requirements of state law. Discussion of whether this is the appropriate zoning district. Porter: Asks if there is information on file with the Manchester Township Fire Department. Enzer: There was an inspection by the Fire Department, written information. Discussion of signage.

Burkhardt: Will need to answer the question as to whether or not this is an appropriate land use. Several issues have to be resolved. Discussion that State officials need to clearly state the application meets existing State laws.

Motion: Iwanicki, second by Woods: Hold over the application pending the receipt of application that demonstrably meets the state law. Motion adopted unanimously.

Mike Bisco rejoined the meeting

11. Crego/Peltcs – SMR Special Land Use Parcels: Q-17-29-200-008, 009, and 010.

Burkhardt: Agreed at the last meeting that would not proceed on the SMR SLU until the baseline information was obtained. JFNew Company is collecting the data under an agreement with SMR to which the Chair of Planning Commission agreed.

Suggests we deal with the draft of conditions that we have, refine it and meet in October to act on it. Need to get the feedback on the draft conditions. Mike Bisco will work on it.

Burkhardt: Memo from Nancy Hebb was in the packet. We are taking actions, trying to be responsive to her concerns, to the extent that this body should. Ultimately, the Mineral License Board decision.

Bisco: As long as we get the independent analysis of the data, we will be in a better decision position. Decision has to be made on the basis of science, need to have the data so that we can determine impact. Burkhardt: Need to also keep in mind that State DEQ has already made a determination as to impact. Have some of the baseline information on wells, such as that developed by Tetra Tech a few years ago, but none done on the wetlands. Ordinance 59 states that the applicant is to assure there is no negative impact on wells and wetlands from their operation.

Distribution of additional letter from Nancy Hebb dated September 11, 2006, attached to the record.

Glenn Burkhardt left the meeting after asking Mike Bisco to fill in for him.

Bisco: PA 110 clearly indicates that the Planning Commission cannot approve an application that we know does not meet other ordinances or laws.

Porter and Finkbeiner: Ask if what has been arranged will meet the need to set the baseline and proceed with draft conditions.

Finkbeiner: Need to incorporate that into the conditions. Need also to deal with timing and construction of the berms. May need to have further review of the data.

Chip Tokar: Explained that he had contracted with JF New to collect the data needed within the parameters described by Ordinance 59, including wetlands delineation, water quality, etc. within 2000 feet of the site. Burkhardt agreed to this approach, the information is to be set up in such a way that it can be used by other firms to do comparative analysis to measure any impacts. Standardized information and array. Had a list of property owners, he and Glenn decided that Glenn would contact the people on the list so there would be less opposition.

Woods: Concern about the perception that the fox is in the henhouse.

Tokar: Points out that township can hire a consultant to look at the data as well. Very concerned about the timing. Woods:

Suggests that Bisco needs to vet the firm. Bisco: The Planning Commission needs a consultant to review anything that is done in terms of the data collection, validate the data. Finkbeiner: Asks if the Township engineering firm can deal with the independent review. Woods: Agrees.

Discussion of the way a consultant can be hired. General agreement that it would be appropriate to use the services of OHM to review the data and hire a consultant as needed.

Discussion with Chip Tokar about how he would address the issues of signage, fencing and berming. W/regard to berming, concern that it has to be completed before mining begins. Discussion that if there isn't natural screening, then there must be berming prior to mining. Tokar: Said that there will be berming around the entire site along with any natural screening existing. Discussion of what is required under new law – findings, conclusions. Discussion of how you appropriately address the public comments in the findings.

Woods, second by Finkbeiner: Lay over further consideration of SMR application to the October 9, 2006, meeting. Passed unanimously.

12. Reports

Zoning Administrator

Concern about the lack of information in the report.

Woods: Brought up Burmeister Road, an individual who stated he had been selling fireworks since 1973.

Zoning Board of Appeals: Glen Finkbeiner stated there was no activity.

13. Other Business: None

14 Public Comments: None

15. Motion to adjourn: Klager, second by Woods: Meeting adjourned at 10:55 PM

