

Bridgewater Township

Planning Commission Minutes of Regular Meeting and Public Hearing Portion Joint with Township Board August 14, 2006

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

1. **Call to Order** Acting Planning Commission Chair Glenn Burkhardt called the meeting to order at 7:35 PM
2. **Roll Call** Present: Mike Bisco, Glenn Burkhardt, Glen Finkbeiner, Dave Faust, Randy Klager, Jim Tice and Dave Woods
Absent: Mark Iwanicki
Also present:: Board members: Neel Sheth, Supervisor, Cindy Carver, Clerk, Treasurer Shelly Pike, Trustees Amy Riley and David Faust. Acting Chair noted the quorum of the Board and stated there would be a board meeting embedded in the Planning Commission meeting.
Also present: Cindy Burkhardt, Carol Peacock, Chip Tokar, Ron Raub, Jolea Mull, Pamela Sass, Mark Roby, Laurie Fromhart, Bill Swaney, John Porter and James Fish.
3. **Agenda** Burkhardt added an item under #19, regarding the commercial kennel special land use Krause
Motion: Glen Finkbeiner, second by Mike Bisco: Approve the agenda as amended. Passed unanimously.
4. **Minutes** Motion: Mike Bisco, second by Glen Finkbeiner: Approve the minutes as prepared.
5. **Public Comments**
James Fish, 11691 Hogan Road, stated he was asking a question on behalf of a neighbor who could not attend the meeting. Her question was if the SMR offer to provide water in the event of well failure applied only to existing properties or to new properties that will result from land division. She also wanted to know how long the commitment period is.
6. **Amendments to the December 10, 2001 Master Plan – Farmland PDR**
A. Burkhardt stated that the only comments received were those from Manchester Township and Washtenaw County. The County made the only substantive comments and approved the amendments to the plan as drafted. The County Board of Commissioners passed a resolution on August 2, 2006, accepting the report and comments supporting the amendments to the master plan to include the farmland preservation program. Pointed out that because the Board had decided to retain approval authority over the master plan, the Board will also have to adopt the amendments shortly to facilitate property owners' applications to the program.
7. **Close regular meeting and open public hearing**
Motion: Glen Finkbeiner, second by Mike Bisco: Close the regular meeting and open the public hearing. Motion passed unanimously.
8. **Public Hearing – Amendments to the Master Plan of 12/10/01 to accommodate state PDR program**
 - A. Chair introduction
 - B. Notifications
Notices were published in the Manchester Enterprise and the Clinton Local on July 20, 2006. The notice at the Township Hall was posted on August 10, 2006.
 - C. Public Comments
 1. Carol Peacock thanked the Planning Commission for moving the amendment forward.
 2. Earl Carver objected to language referencing 5 acre lot size on page 33. Burkhardt stated it was language that was adopted in 2001, that current amendments only deal with PDR issues. The discussion was repeated several times.
 3. John Porter asked for further clarification of the point that the changes now contemplated only deal with PDR, and that further modifications may follow. Carver again asked why the language had not been taken out, that it had been printed. Burkhardt stated the Master Plan as adopted in 2001 included that language, the Zoning

Ordinance does not have similar language and that further changes in the Master Plan will be addressed later this year. Carver continued.

4. Jim Fish recognized the members of the Ad Hoc Farmland Preservation Committee: Ron Ellison, Carol Peacock, Al Wahl, Louise St. Clair, Gerry Marion, Ron Korte, and Dave Faust, said they deserved great thanks.

5. John Porter: Asked if the Township will incur expenses under the PDR program. Burkhardt: There are nominal expenses to review the application, there are matching share costs that can come from the land owner, the township, from organizations such as land trusts. From a survey in late 2005, people indicated they were willing to pay some amount to preserve farmland. Matter for the Board to decide. Still don't have a concrete concept.

Carol Peacock: Immediate costs will be publishing the notice, the cost to mail post cards, members of the Preservation Board are not paid, and the county has provided a lot of assistance without charge. There may be some charge for legal reviews. Appraisal costs if land is selected.

Porter expressed concern about the impact on the tax base if there were an overwhelming response to the program – will it lead to reduction in the tax revenue? May preserve ourselves out of money. Any studies on the impact on assessments? Burkhardt: Program too new. Property valuation criteria shouldn't change. Jim Fish: Attended some workshops where this question came up and the comment was that because the use remained agriculture, the valuation for tax purposes didn't change and the taxes were not less. Porter: Points to the problem that tax valuation of agricultural land is not based on the use as agricultural land, rather the sales of properties in the area which are most likely not for agriculture. On the ground reality is that agricultural land is not taxed correctly, it is taxed for development. Further discussion.

Burkhardt: Could be correct, but unlikely due to funding at low level of funding. Current is \$1.2 million for the state. Not a lot of land. Tice: Workshops indicate funding will be less, not more in the future. Burkhardt: Ultimately, a community choice.

Fish: Comments that reference to minimum acres at five for unclustered development was deleted on page 62, but not on page 33. May have been missed, but it was the detailed recommendation of the Ad Hoc Committee.

Ron Raub: Asks if there was any written material about the long term impact of a PDR program. Burkhardt:

We've discussed this only in a limited way. Raub: Asks what happens to the land. Burkhardt: It cannot be

developed in the future. Raub: Even when it's sold. Burkhardt: Yes. Raub: Then the state owns it? Burkhardt:

No, it remains land that has a limited use as open space or as farmland. Owned by whoever owns the property. All the state does is provide funds for purchase of the difference. Effectively a deed restriction, not ownership by the state. Carol Peacock: Simply a retirement of the right to develop the land. Ownership remains intact.

Payment is not for the land, rather the rights.

Discussion that in the PDR ordinance adopted by the Township, there are options to purchase back.

Earl Carver: Asks if people will be forced to sell rights. Jim Fish: Explains it's just like selling something like

mineral rights – it's a facet of land use. Earl Carver: Confirms that the owner who sells the development rights

makes a choice, restricts the deed. Questions if the deed must be recorded with the restriction. Burkhardt: Once

you sell the rights as part of this program, the restriction will be recorded on the deed. Works that way now if

you sell the development rights to a conservancy. You don't need this amendment to the Master Plan to do this.

If farmers want to participate in the state program, we have to conform our Master Plan and ordinance to the state program.

Discussion of how the land is taxed now and the tax implications of properties being in the program.

Earl Carver: Brings up cluster development, states that people don't want it, asks if it has been used in the

township. Burkhardt: Being used now for two potential developments. Carver: Did it ever occur to this Board

that people who move to the country don't want to be on top of their neighbors? It's not popular, not the way

they want to be. If they wanted to be in a cluster, they can live in the Village or Pittsfield. Burkhardt: The market

tells us people can make those choices themselves. Carver: People want to do different things on their own land.

Burkhardt: For the land owned commonly in a cluster development, there are agreements that cover such issues.

9. Glen Finkbeiner, second by Jim Tice to close the public hearing and reopen the regular meeting. Motion adopted unanimously.

A. Member discussion

Chair: Must take an action to recommend the amendments to the Township Board. Nothing from the public that we heard tonight appears to present a reason sufficient to not proceed.

Bisco: Brings up need for housekeeping amendments referenced by the comments from Washtenaw County. Members agreed to incorporate the following changes to the amended Master Plan:

Add the Agricultural Preservation Overlay language on page 29, following the Natural Features language and before the Public/Quasi-Public language.

Include map LUP2 – page 29

Page 32 – incorporate the language “Why Agricultural Land Should be Preserved.”

Page 32 – correct spelling of “scenic” in that language

Page 33 – Delete reference to PA 184 of 1943 and insert PA 110 of 2006.

Motion: Bisco, support by Finkbeiner: The Planning Commission recommends the Township Board adopt the amendments to the Master Plan as described. Motion adopted unanimously.

- 10. Motion to Recess the Planning Commission regular meeting: Bisco, support by Klager. Passed unanimously**

- 11. Township Board meeting opened at 8:40 PM** – See minutes of Township Board as maintained by Township Clerk

The Board voted to defer consideration of the amendments to the Master Plan. The Chair of the Planning Commission updated the Board regarding the status of the review of the Master Plan beyond the PDR and indicated that one of the serious concerns was the legal review of the entire plan to make it “bombproof,” pointing out that the Board had not allocated the funds to do this. There was discussion of the request made to the Board by the Planning Commission in January 2006 to expand on the Board’s various references at that time regarding “problems” Board members had with the Planning Commission. Chair asked for the Board’s feedback. There were no comments from the Board.

- 12. Motion to reopen the Planning Commission meeting: Bisco, support by Klager. Adopted unanimously, meeting reopened at 9:15 PM**

- 13. Special Land Use – Ride4Fun Parcel Q-17-01-400-017**

Chair stated the conditions were included in the agenda packet.

Tice: Asked about the number of vehicles that could be parked on the property. Agreed the number should be 15 and (fifteen), a clerical error.

Motion: Bisco, support by Tice: to approve the special land use subject to the conditions as changed from (ten) to (fifteen). Motion adopted unanimously.

- 14. Enzer Special Land Use Ace Pyro Parcel Q-17-01-400-017**

Chair stated the application was held to the September meeting and that no further information had been received from the applicant. Noted that Dave Woods had sent all members an article from the Manchester Enterprise regarding the fireworks operation the applicant is running on his property.

- 15. Bridgewater Commons**

Chair noted receipt of comments from the Drain Commission and the Township Engineer. Those, along with comments from the Chair’s review, were provided to the applicant along with the notation that a key item remaining is approval from the Washtenaw County Environmental Services Department regarding water supply and quality. Chair stated the Planning Commission was not in a position to approve the application. Referred to e mail dated August 14, 2006, confirming requirements to applicant. There was a letter of July 21, 2006 from the Drain Commission.

Motion to lay over until the applicant supplies the requested information: Finkbeiner, second by Bisco. Adopted unanimously.

- 16. Crego/Peltcs Trust – SMR Special Land Use – Parcels Q-17-29-200-008-009 & 010**

A. Memorandum from Mike Bisco dated August 1, 2006 attached to file. The memorandum states the reasons he recommends the Planning Commission agree to rescind his motion of July 10, 2006. That motion was to approve the special land use with conditions to be developed at the August 14, 2006 meeting. Bisco explained that he had realized the original motion of July 10 was procedurally wrong.

B. Bisco, support by Woods: Motion to rescind his motion of July 10, 2006 approving a special land use for the Crego/Peltcs Trust. Motion passed unanimously.

C. Several attachments regarding the application were included in the agenda packet and are attached to the record copy.

Laurie Fromhart delivered an additional letter and attachments just prior to the meeting, and that will be included in the record and considered for distribution for the September meeting.

Burkhardt addressed the e mailed comments dated August 2, 2006 from Nancy Hebb. Her comments suggested the Acting Chair, Glenn Burkhardt, had acted as an advocate for the applicant during the July 10, 2006 meeting. He asked the record to reflect his comments: "As a registered civil engineer with over 35 years of experience in matters such as this I was sharing my knowledge with the Planning Commission members in a technical fashion so they could understand." Glen Finkbeiner: Expressed appreciation for Burkhardt's willingness to share that training with the members.

Burkhardt: There has been a lot of discussion about whether or not additional study of the hydrogeological is necessary. The Planning Commission needs to decide if a study is warranted to preserve and protect Bridgewater Township before taking an action. Alternative is to determine there is knowledge sufficient to know what conditions would be appropriate to move forward.

Bisco: Agrees those are the alternatives. States that when he began to write the conditions after the July 10, 2006 meeting, he struggled with how there could be adequate measurement of wetlands and surrounding water. There is no documentation by an independent authority of showing what the existing area wetlands are and the delineations of those wetlands for the half mile area beyond the proposed mining site. Did not know how conditions could be measured without baseline data. How could the activity be approved without a way to assure the integrity of the surrounding area? We don't know if there are problems today that were caused by the existing operation. We don't have the data, only unconfirmed evidence.

Chair: States the concern is appropriate. If we agree a sufficient baseline is not established, then we may need to establish the baseline. Question is the scope. Bisco: The scope is contained within the existing ordinances that we have, within a half mile. Finkbeiner: Comments that the MDEQ has looked at the site. Bisco: But only at the wetlands on the site, not off the site. We have to have the data that supports our action and conditions. We have monitoring of wells, but not wetlands. Appropriate to draft the conditions at this stage rather than at the Mineral Ordinance stage. Issue of legal defensibility. Dave Woods: Comments that if we cannot write appropriate conditions without the baseline data, then we need to get that data. Asks the Chair to clarify who pays to get the necessary study performed. Chair: Funds are provided in the escrow account the applicant pays. Chair: Notes recusal of Faust and Tice.

Motion: Bisco, second by Klager: Retain an outside consultant to establish baseline information regarding wetland and water data in the area covered by Ordinance 59. Motion passed unanimously.

Motion: Bisco, second by Klager: Layover consideration of the SLU application until sufficient baseline information is received from a special consultant. Motion adopted unanimously.

17. Election of Officers

A. Chair

Finkbeiner, second by Bisco: Nominate Glenn Burkhardt as Chair.

Burkhardt declined, stating he could not devote the amount of time necessary for the position.

After Burkhardt asked someone else to step forward, he stated that he would not serve as chair by default because he was Vice Chair, would resign instead. Willing to help, but not fill the role of Chair.

The members explored various options for easing the load of the Chair, such as dividing some of the responsibilities. Would be willing to review land divisions.

Motion: Woods, second by Finkbeiner: Layover to next meeting. Motion adopted unanimously.

18. Reports

A. Zoning Board of Appeals – no report

B. Zoning Administrator – attached to record.

19. Other Business

Chair brought up the terms and conditions of the Krause commercial kennel permit. The applicant had a time limit during which she was to complete the conditions. It does not appear that she has done so, although there has not been an inspection per se. Chair proposed that he visit the site and communicate with her regarding the conditions and the status of the special land use permit.

Motion: Woods, second by Bisco: The Acting Chair is authorized to communicate with Susan Krause to rescind the special land use permit if she has not met the conditions on a timely basis. Motion adopted unanimously.

20. Public Comments

Marcus McNamara, OHM: Noted that construction is taking place at the Bridgewater Commons site, including road work that has not received final review and approval. Wants it noted that the applicant is proceeding at his own risk and that the Township is not responsible if the work must be redone because it does not meet requirements.

Woods: Notes that Bridgewater Commons' applicant has done a "fair amount" of land balancing and wonders about the status of a soil erosion permit. Neel Sheth: Said that he understands that a soil erosion permit was issued.

Woods said the erosion procedures would not meet state DEQ requirements, for example the underpass under Austin Road is only protected with a sill fence, which is not what is required.

Jolea Mull: Comments that it would be appropriate for the Planning Commission members to adopt job descriptions so there is an understanding of the scope of the responsibilities.

Woods: Expressed concern about having a cutoff point for receipt of material for inclusion in the agenda packet, with the result that it is hard to get the packets to members so they have adequate time for review.

Motion: Woods, second by Finkbeiner: Planning Commission agenda packets will be delivered to the members at least five working days prior to the Planning Commission meeting and material for agenda packets must be received by the Administrative Assistant no later than 10 working days prior to the meeting. Motion adopted unanimously.

Further discussion regarding the time line for the Bridgewater Commons project, what remains to be completed.

21. Motion to adjourn: Finkbeiner, second by Faust: Meeting adjourned at 10:01 PM.