



**Environmental Commission
Meeting Packet
May 2, 2018**

Agenda

Minutes

PAH Model Ordinance Review by Kurt Lapham

PAH Model Ordinance

Rules of Procedure

LeRoy's Report

Potential Reference to Item in Prior Packets

Rules of Procedure



AGENDA
MERIDIAN TOWNSHIP
ENVIRONMENTAL COMMISSION – REGULAR MEETING
May 2, 2018 7:00 pm

1. CALL MEETING TO ORDER AT 7:00 PM
 2. APPROVAL OF THE AGENDA
 3. APPROVAL OF THE MINUTES
 - A. 4-4-18 Draft
 4. PUBLIC REMARKS
 5. NEW BUSINESS
 - A. Ember Oaks Tour
 - B. PAH Model Ordinance Review
 6. OLD BUSINESS
 - A. Township Wetland Ordinance Review
 - B. Environmental Commission Rules of Procedure – Other Changes? Next Steps
 - C. Green Theme – future topics, suggestions, who will contact?
 - D. Environmental Stewardship Awards
 7. CHAIR’S REPORT
 8. STAFF REPORT
 9. COMMISSION/LIASON/WORKGROUP REPORTS
 - A. Planning
 - B. Land Preservation
 - C. Energy
 - D. Parks and Recreation
 - E. Transportation
 - F. Student Report
 - G. Brownfield Redevelopment Authority Report
 - H. Green Team
 - I. Township Board
 10. OTHER
 11. PUBLIC REMARKS
 12. ADJOURNMENT
-

Individuals with disabilities requiring auxiliary aids or services should contact the Meridian Township Board by contacting:
Township Manager Frank L. Walsh, 5151 Marsh Road, Okemos, MI 48864 or 517.853.4258 - Ten Day Notice is Required.
Meeting Location: 5151 Marsh Road, Okemos, MI 48864 Township Hall

**CHARTER TOWNSHIP OF MERIDIAN
ENVIRONMENTAL COMMISSION
REGULAR MEETING MINUTES**

DRAFT

April 4, 2018

**5151 Marsh Road, Okemos, MI 48864-1198
517-853-4560, Town Hall Room, 7:00 P.M.**

PRESENT: Commissioners Jim Kielbaso, Susan Masten, Ned Jackson (left at 7:56 p.m.), John Sarver, Kirk Lapham, Ben Holland, Marina Ionescu
ABSENT: Chair Bill McConnell
STAFF: Environmental Programs Coordinator LeRoy Harvey, Assistant Planner Justin Quagliata, Principal Planner Peter Menser
OTHERS: Planning Commission representative David Premoe

1. Call meeting to order

Vice-Chair Ned Jackson called the meeting to order at 7:02 p.m.

2. Green Themes Presentation

A. Rebecca Esselman – PAH Contamination

Rebecca Esselman, watershed planner with the Huron River Watershed Council, introduced herself and provided an overview of PAH contamination and how it impacts the environment. Ms. Esselman shared her experiences with educating communities on the dangers of pavement sealers, described how the business of pavement sealing operates, and offered alternatives to traditional coal tar based sealants. She presented a draft ordinance and reviewed how communities like Meridian Township can address the issue. At the end of the presentation Ms. Esselman answered questions from the Commission regarding driveway sealant products available on the market, enforcement of laws regulating sealant types, and remediation techniques for those with coal tar sealant already applied in areas like residential driveways. The entire Green Themes presentation is available on the Township website.

3. Approval of Agenda

Commissioner Sarver moved to approve the agenda as written.
Supported by Commissioner Masten.
VOICE VOTE: Motion approved unanimously.

4. Approval of Minutes

A. March 7, 2018 Regular Meeting Minutes
Commissioner Kielbaso moved to approve the minutes with minor modifications.
Supported by Commissioner Sarver.
VOICE VOTE: Motion approved unanimously.

5. Public Remarks – NONE

6. New Business

- A. Township Wetland Ordinance Review - Commissioner Lapham explained that he was working on scheduling a meeting to identify changes proposed to the Township's wetland ordinance but has not yet been able to do so due to scheduling conflicts. The item will be added to the Environmental Commission's May meeting agenda.
- B. Environmental Commission Rules of Procedure - Principal Planner Menser outlined the draft rules of procedure document, noting there was no record it was ever adopted by the Commission. Mr. Menser noted that any rules identified by the Commission that differ from those provisions in the Code of Ordinances require Township Board approval. Further discussion will occur at the May meeting.
- C. Ember Oaks Wetland Use Permit #18-02 (SP Investments) - Principal Planner Menser outlined the request from SP Investments to place fill in a wetland area at the Ember Oaks subdivision for the extension of road culverts. He noted the Environmental Consultant has not yet provided a recommendation but one is expected soon. A site visit to the property will be scheduled in the coming weeks.

7. Old Business

- A. 2018 Strategic Plan

Commissioner Masten moved to adopt the 2018 Strategic Plan.
Supported by Commissioner Sarver.
VOICE VOTE: Motion approved unanimously.

8. Chair's Report - NONE

9. Staff Report

- A. Projects Update - Principal Planner Menser introduced Meridian Township Environmental Programs Coordinator LeRoy Harvey, noting Mr. Harvey would be transitioning into the role of staff to the Commission. Mr. Harvey provided an overview of projects he is working on and his responsibilities at the Township, which include, but are not limited to, working with the Green Team, Energy Team, Regional Recycling Organizing Committee, and an MSU student group, as well as environmental education and ecological landscaping projects.

10. Commissioner/Liaison/Workgroup Reports

Planning: No report.

Land Preservation: Commissioner Kielbaso noted the closing on a Land Preservation purchase of 86 acres called the Ponderosa Preserve. Other Land Preservation announcements include a tree planting, conversion of the Tihart Preserve to a native prairie, and partnering with the Michigan Audubon to achieve bird friend community status.

Energy: Commissioner Sarver reported that proposals are under review for the installation a 20kw solar system at the Public Works building. He also noted that solar education workshops are scheduled around the community.

Parks and Recreation: No report.

Transportation: Commissioner Ionescu noted her schedule was making it tough to provide reports and is looking for a volunteer to serve as the Transportation liaison.

Student Report: No report.

11. Public Remarks – Principal Planner Menser noted the May meeting would be Commissioner Holland’s last Environmental Commission meeting.

12. Adjournment

Commissioner Kielbaso adjourned the regular meeting at 8:35 p.m.

Proposed PAH Sealant Ordinance Review-Kirk Lapham

General Questions

- (1) Before making a recommendation to the Board, should the Environmental Commission request further input from other interested members of the community, including the potentially regulated industry?
- (2) Is there a different regulatory approach that could be considered in place of complete prohibition of “high PAH” sealants? For example, create a permitting structure that requires all sealant applicators to obtain a permit in order to work in the Township and charge a substantially higher amount for a permit to apply “high PAH” sealants. This would potentially incentivize the desired conduct while eliminating some administrative burden on Township staff associated with inspections. Further, it would avoid the accusation of “putting people out of business” by completely prohibiting a specific activity.

Specific Comments

- (1) In Section 2, “asphalt based sealer” is defined, but never used in the ordinance. Accordingly, the definition appears unnecessary.
- (2) If the definition of “asphalt based sealer” is retained, suggest changing “sealer” to “sealant” for consistency with other terms used in the ordinance.
- (3) Section 3 creates “prohibitions,” including a prohibition on allowing high PAH content sealant products to be applied on property under a person’s control. During the April meeting, there was discussion whether it would be wise to penalize a property owner who may not be aware whether a contractor is applying prohibited products. Accordingly, I would request discussion regarding whether the intent is to regulate applicators of products, or whether the intent is broader as would result from the draft ordinance.
- (4) Throughout Section 3, application to variously described “surfaces” is prohibited, e.g., “asphalt paved surfaces” in subsections 3(A) and (B), “property” in subsection 3(C), “any driveway, parking lot, or other surface” in subsections 3(D) and (E). It appears unnecessary to use these terms—rather, application to “any surface” would achieve the same intent and eliminate confusing inconsistent terms.
- (5) Throughout Section 3 the phrase “coal tar or other high PAH content sealant product” is used. During discussion at the April meeting, it was clear that there are now non-coal tar sealants that are nevertheless high in PAHs. Given that the intent of this draft ordinance is to regulate all high PAH sealants, regardless of whether those sealants contain coal tar, it seems unnecessary to include “coal tar” in this phrase—the definition of “high PAH content sealant product” should capture all of the prohibited products. Suggest eliminating “coal tar” from section 3, as well as the definition of “coal tar” in section 2.

- (6) Section 3 uses the phrases “commercial sealer product applicator” and “residential or commercial developer” which are not defined in the draft ordinance. It appears that the definition of “person” is broad enough to capture these individuals/entities. Suggest using the defined terms rather than undefined terms.
- (7) Sections 3(B) and (D) prohibit the sale and contracting for the application of high PAH sealants in the Township. Is it known whether any company has facilities in the Township to store these materials for sale to others? If so, it would be possible for that company to sell or contract for the sale of the materials with an applicator who plans to apply the materials outside of the Township. Is the intent to prohibit the sale of high PAH sealants even if they will not be applied in the Township? My understanding was that the focus of the Commission and the draft ordinance was the prohibition of the application of the materials. These subsections go beyond that focus.
- (8) Section 4(1) uses the undefined terms “commercial applicators” and “pavement sealant.” The scope of the registration requirement is vague as a result.
- (9) Section 4(2) does not include a registration revocation provision in the event a registrant is found in violation of the draft ordinance. Suggest adding such a provision.
- (10) Section 4 does not address whether there is a prohibition against non-registered persons applying sealants that are not high PAH sealants, which would not be a violation of the prohibited conduct under the draft ordinance, but would be a violation of the registration requirements.
- (11) Section 4 references “reporting,” and subsection 4(5) references “the pervious year’s reporting requirements,” but the draft ordinance does not establish any reporting requirements.
- (12) Section 4(6) uses unclear language regarding the obligation to approve or deny an application. Suggest revising as follows: “The Township shall approve or deny the application for registration under this Section within 21 days of submission of a completed application.”
- (13) Section 5 establishes the penalty. I am unclear whether the Township has the authority to levy the penalty established (\$10,000) and suggest review of that authority. Further, I suggest consideration of a sliding scale for penalties, given that unintentional violations can be reasonably expected, particularly early in the enforcement. For example, first time violation-\$100 fine; second time violation-\$1,000 fine and one-month suspension of registration; third time violation-\$5,000 fine and one-year suspension.

ORDINANCE REGULATING PAVEMENT SEALANT PRODUCTS

A CITY ORDINANCE REGULATING THE USE OF COAL TAR AND OTHER HIGH- PAH SEALER PRODUCTS

ORDINANCE NO. _____

AN ORDINANCE TO ENFORCE THE STATUTORY PROHIBITION ON THE USE AND SALE OF COAL TAR AND OTHER HIGH PAH CONTENT SEALANT PRODUCTS WITHIN THE CITY OF _____.

THE CITY COUNCIL OF THE CITY OF _____ DOES ORDAIN:

SECTION 1. PURPOSE.

The City of _____ understands that lakes, rivers, streams and other bodies of water are natural assets which enhance the environmental, recreational, cultural and economic resources and contribute to the general health and welfare of the community.

The use of sealers on asphalt driveways is a common practice. However, scientific studies on the use of driveway sealers have demonstrated a relationship between the use of coal tar-based sealers and certain health and environmental concerns, including increased cancer risk to humans and impaired water quality in streams.

The purpose of this ordinance is to prohibit the use and sale of sealant products containing >0.1% Polycyclic Aromatic Hydrocarbons (PAHs) by weight, including coal tar-based sealer in the City of _____, in order to protect, restore, and preserve the quality of its waters and protect the health of its residents.

SECTION 2. DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ASPHALT BASED SEALER. A petroleum based sealer material that is commonly used on driveways, parking lots, and other surfaces.

COAL TAR. A byproduct of the process used to manufacture coke from coal.

COAL TAR SEALANT PRODUCT. A surface applied sealing product containing coal tar, coal tar pitch, coal tar pitch volatiles, RT-12, Refined Tar or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-92-1, 65996-93-2, 65996-89-6, or 8007-45-2 or related substances containing more than 0.1% PAHs, by weight.

CITY. The City of _____.

HIGH PAH CONTENT SEALANT PRODUCT. A surface-applied product containing steam cracked petroleum residues, steam-cracked asphalt, pyrolysis fuel oil, heavy fuel oil, ethylene tar, or any variation of those substances assigned the chemical abstracts service number 64742-90-1, 69013-21-4 or related substances containing more than 0.1% PAHs, by weight.

PERSON. An individual, trustee, executor, fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

PAHs. Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. Present in coal tar and known to be harmful to humans, fish, and other aquatic life.

SECTION 3. PROHIBITIONS.

In accordance with this ordinance:

- A. No person shall apply a coal tar or other high PAH content sealant product on asphalt paved surfaces within the City.
- B. No person shall sell a coal tar or other high PAH content sealant product that is formulated or marketed for application on asphalt-paved surfaces within the City.
- C. No person shall allow a coal tar or other high PAH content sealant product to be applied upon property that is under that person's ownership or control.
- D. No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any coal tar or other high PAH content sealant product to any driveway, parking lot, or other surface within the City.
- E. No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar or other high PAH content sealant product to any driveway, parking lot, or other surface within the City.

SECTION 4. REGISTRATION AND REPORTING REQUIREMENTS AND PROCEDURES FOR COMMERCIAL APPLICATORS

(1) All commercial applicators shall register with the city prior to applying pavement sealant in the city in any calendar year.

(2) Registration under this chapter shall be valid until expiration. Registration shall begin on January 1 and shall expire on December 31 of each calendar year.

(3) Commercial applicators shall submit a complete registration application to the City Offices, along with the registration fee according to the schedule established by resolution of City

Council. The fee shall be calculated to include the cost of registration application review and periodic field inspection.

(4) The following information shall be included in a complete application for registration:

(a) The legal name of the commercial applicator, any other names used, the address, telephone number and contact person for the applicant.

(b) The product name, type of use, MSDS sheet and CAS numbers.

(c) A notarized, sworn statement signed by an owner or duly authorized representative of a commercial applicator indicating that the applicator will comply with the requirements of the Ordinance of the city throughout the registration period.

(d) All other information requested on the application.

(5) The application shall be approved if it is complete, the applicator has complied with the previous year's reporting requirement, and the use of pavement sealant complies with this chapter.

(6) The application for registration shall be approved or denied within 21 days of submission of a completed application.

(7) A registered applicator shall notify the City in writing of any change in the information in the application for registration within 7 days of any such change.

SECTION 5. PENALTY.

Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed ten thousand dollars (\$10,000.00) or imprisonment for not more than ninety (90) days, or both, plus all costs of prosecution, including but not limited to staff and time and attorney costs, in either case.

SECTION 6. SEVERABILITY.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION 7. EFFECTIVE DATE.

This ordinance becomes effective on the date of its publication.

This ordinance was adopted by Council on _____ and is effective upon its publication on _____.

Mayor

Attested:

Clerk

MERIDIAN TOWNSHIP ENVIRONMENTAL COMMISSION

RULES OF PROCEDURE

RULE 1. AUTHORIZATION.

The Meridian Township Environmental Commission, hereinafter called the Commission, is established pursuant to Chapter 121 of the Code of Ordinances, Charter Township of Meridian.

RULE 2. RESPONSIBILITIES.

The Environmental Commission shall:

- a. Advise the Township Board, officials and staff on matters pertaining to environmental protection and water conservation, management of natural resources and preservation of open space.
- b. Identify ways to ensure and improve the quality of the Township's environment in the interest of the public health, safety and general welfare.
- c. Develop educational and outreach programs for local schools, businesses and individuals to encourage environmental stewardship, protect property values and avoid unnecessary financial costs for correcting environmental problems.
- d. Review and offer recommendations for Township ordinances, operating procedures and programs in order to achieve the stated purposes in Chapter 121 and ensure compliance with applicable state and federal environmental laws.
- e. Assume the duties of the Township Wetland Board as outlined in Section 105-16(c) of the Township Code of Ordinances.
- f. Offer recommendations for the Township budget as it pertains to the Commission.
- g. Assume such other duties as may be assigned by the Township Board.
- h. Encourage and utilize the involvement of residents and experts in achieving the environmental goals of the Township.

RULE 3. COMPOSITION, TERMS AND VACANCIES.

3.1 **Composition and Appointment.** The Commission shall consist of seven (7) members appointed by the Township Board. Members shall be Township residents and shall have an interest or expertise in natural resources, environmental protection or ecology. In addition, two student members shall be appointed. These two members shall be voting members.

3.2 **Terms.** Terms of appointment shall be for three (3) years or until a successor is appointed, the student members shall serve one (1) year terms.

3.3 **Unexpired Terms.** A member appointed to fill an unexpired term shall serve for the remainder of the unexpired term or until a successor is appointed.

RULE 4. REMOVAL FROM OFFICE.

A member may be removed from office by the Township Board for nonperformance of duty or misconduct in office, following written charges and after a public hearing.

RULE 5. OFFICERS.

5.1 **Selection.** At its first meeting in January, the Commission shall select a chair and a vice chair from among its members.

5.2 **Terms.** Term of office shall be one (1) year, or until a successor is selected.

5.3 **Duties.**

- a. The chair shall preside at all meetings, authorize calls for special meetings, and perform such other duties as may be specified by the Commission.
- b. The vice-chair shall act in the capacity of the chair in the chair's absence.
- c. In the event the office of the chair becomes vacant, the vice chair shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of vice-chair for the unexpired term.

RULE 6. COMMITTEES.

6.1 **Purpose.** The Commission may establish committees necessary to assist it in fulfilling its responsibilities and shall define the purpose, functions, tenure, selection of chair, meeting and reporting requirements for each committee. The establishment of committees shall not preclude the use of individuals or study groups in the exploration or research of specific environmental issues.

6.2 **Appointments.** Committee members shall be appointed by the chair, with concurrence of the Commission. A committee may be discharged from its responsibilities by the Commission

6.3 **Public Participation.** Committees shall meet all requirements for public participation and access to records as provided in Rule 7 of these Rules.

RULE 7. MEETINGS.

7.1 **Regular Meetings.** The Commission may call one regular meeting each month, pending business.

7.2 **Special Meetings.** Special meetings may be called by the chair or shall be called at the written request of two (2) or more Commission members. The meeting notice shall include the purpose of the special meeting. At least forty-eight (48) hours notice of special meetings shall be given to Commission members.

7.3 **Meeting Schedule.** A schedule of regular meetings, including date, time and place, shall be established for each calendar year and shall be made available to the public in advance of said meetings. Changes in the schedule shall be posted for the public.

7.4 **Location.** Meetings shall be held at a Township facility unless otherwise indicated.

7.5 **Quorum.** Four (4) members shall constitute a quorum for the transaction of business unless otherwise indicated in these rules or required by Township ordinance, state or federal law. A member shall notify the chair or designated staff if the member will be absent from a meeting.

7.6 **Public Participation.**

- a. All regular and special meetings, work sessions or public hearings shall be open to the public, unless otherwise provided for in Township ordinance, state or federal law.
- b. Opportunity for public comment shall be provided in accordance with established Commission or Township rules and procedures (See attached Exhibit A).
- c. The chair may call to order any person who disrupts the orderly conduct of a meeting and prohibit said person from further participation or attendance at such meeting.

7.7 **Agenda.**

- a. An agenda shall be established for each meeting by the chair and designated Township staff and be made available to the Commission and public in advance of the meeting. The order of business shall be determined by the chair with concurrence of the Commission.

- b. Agenda items to be considered at a special meeting shall be limited to those included in the call-to-meeting notice unless all members are present and vote otherwise.

7.8 **Decisions.** Providing a quorum is present, a simple majority of those present and voting shall be required for Commission action, unless otherwise provided for in these rules, other Township or state statutes or parliamentary authority, as adopted.

7.9 **Records.** Designated Township staff shall be responsible for minutes and other official records of all Commission meetings and actions, including supporting documentation. Notice of meetings, minutes and other records shall be available to the public in accordance with the Freedom of Information Act (P.A. 442, 1976, as amended) and Open Meetings Acts (P.A. 267, 1976, as amended).

RULE 8. PARLIAMENTARY AUTHORITY.

Roberts Rules of Order, Newly Revised, shall govern all questions of procedure not otherwise provided for in these rules or by Township, state or federal law.

RULE 9. SUSPENSION OF RULES AND AMENDMENT.

9.1 **Suspension.** A rule may be suspended by a two-thirds (2/3) vote of Commission members present and voting at a meeting, provided said action is in accordance with established state or federal law, Township ordinance and parliamentary authority.

9.2 **Amendment.** Rules not required by state or federal law or Township ordinance may be amended by a two-thirds (2/3) vote of the Commission, provided thirty (30) days notice and an opportunity for comment is given to the public.

EXHIBIT A: PROCEDURES FOR PUBLIC PARTICIPATION AT MEETINGS**RULE 7.6**

1. The number of persons admitted to a meeting room will be in keeping with public safety requirements and availability of space. Efforts will be made to provide adequate room to accommodate those in attendance.
2. Established protocols for public participation will be announced at the beginning of the meeting.
3. Opportunity to speak will be granted either under Public Remarks or during a public hearing, as most appropriate.
4. Reasonable time limits may be allotted for public comments, in keeping with other business which must be considered at a particular meeting.
5. A member of the public will be provided no less than three minutes to speak.
6. Those completing a request form in writing shall be called upon first to speak.
7. Members of the public will identify themselves by name and address prior to presenting their comments.
8. Written communications will be read into the record during a meeting when requested by the author. All written communications will become part of the Commission record.
9. The Chair, without objections from the Commission, may invite members of the public to participate in informal discussion on all or selected agenda items during Commission work sessions.

Energy & Recycling Report (LeRoy)

Green Team:

Recycling Event – April 21 Over 1000 vehicles

Volunteers:	75 plus
Donations	\$2067.18
Charges	\$6032.88
Electronics	56561 lbs 3 semis
Metal	100 + cu yards 20,100 lbs 65 freon items
Paint	4,250 containers 22 cu yards, 12.75 tons, 25,500 lbs
Peanuts –	Several large bags
Egg Cartons –	Many hundreds
Household items, inc. books, furniture, clothing, etc.	2 full loads
Bikes –	100+

Apartment Recycling Surveys and Collaboration with E.Lansing

Energy Team:

Solarize Meridian (Sarver will Report)

April 11, 11:30 am - **Meridian Senior Center** – LeRoy (17 attendees)

April 26, 7:00 pm - **Okemos Public Library** – Heidi

April 28, noon – **Islamic Center + Haslett Comm Church & University Lutheran**

May 7, 7:00-8:30pm **Unitarian Universalist Church of Greater Lansing** –

May 10, 6:00 pm – **Delta Library** LWV

May 19, 11:00 am – **Open House – David Arnosti**

May 19, 1:00 pm – **Open House – Haslett Community Church**

June 19, noon – **Okemos Haslett Rotary**

Aug 23, 7pm – **Harris Nature Center** -- LeRoy

Sept. 12, 7:00 pm - **Edgewood United Church** – John

Solar System

LED Streetlighting Possibilities

Utility Bill Inserts:

Flushable Wipes distributed to 12,000 customers

Developing a Water Conservation Insert for Utility Bills

Celebrate Meridian – discussions underway about how to make the event “greener”

