

CHARTER TOWNSHIP OF MERIDIAN
TOWNSHIP BOARD REGULAR MEETING - **APPROVED** -
5151 Marsh Road, Okemos, MI 48864-1198
349-1200, Town Hall Room
TUESDAY, MARCH 5, 2002, **6:00 P.M.**

PRESENT: Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting, Trustees Brixie, Stier, Such, Woiwode
ABSENT: None
STAFF: Township Manager Gerald Richards, Director of Community Planning & Development Mark Kieselbach, Director of Engineering & Public Works Ray Severy, Attorney Mike Woodworth

1. CALL MEETING TO ORDER

Supervisor McGillicuddy called the meeting to order at 6:03 P.M.

2. PLEDGE OF ALLEGIANCE

Supervisor McGillicuddy led the pledge of allegiance.

3. ROLL CALL

Supervisor McGillicuddy called the roll of the Board.

4. POSSIBLE CLOSED SESSION

Trustee Woiwode moved to go into closed session to consult with Township counsel regarding settlement strategy in connection with Eyde/Wal-Mart pending litigation. Seconded by Trustee Brixie.

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode, Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting

NAYS: None

Motion carried unanimously.

Supervisor McGillicuddy recessed the meeting at 6:05 P.M.

The Board adjourned to the Administrative Conference Room for a Closed Session.

Supervisor McGillicuddy reconvened the meeting at 6:35 P.M.

5. PUBLIC REMARKS*

Supervisor McGillicuddy opened and closed Public Remarks.

6. REPORTS/BOARD COMMENT

Trustee Such reported the next Library Task Force meeting is scheduled for March 14, 2002 at 5:30 P.M. in the Town Hall Room.

7. APPROVAL OF AGENDA — OR CHANGES

Treasurer Hunting moved to approve the agenda amended as follows: 1) Add Agenda Item #10A (Resolution to Approve Settlement Agreement - Eyde Wal-Mart Litigation) and renumber subsequent items; and 2) Delete Agenda Item #8D (Chapter 115 Cable Communications System Ordinance Amendments). Seconded by Clerk Helmbrecht.

VOICE VOTE: Motion carried unanimously.

8. CONSENT AGENDA

Supervisor McGillicuddy reviewed the proposed consent agenda:

Trustee Brixie moved to adopt the Consent Agenda. Seconded by Trustee Such.

CHARTER TOWNSHIP OF MERIDIAN, REGULAR MEETING, MARCH 5, 2002 *APPROVED*

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode, Supervisor McGillicuddy,
Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

The adopted Consent Agenda items are as follow:

A. Communications

(1). Board Deliberation (BD)

- 10A-1 Eleanor V. Luecke, President, L.I.N.C.; RE: Support for Amendments to Chapter 105 for Joint Jurisdiction of Wetlands [Includes discussion of PUD & PRD Ordinance Amendments related to Agenda Item #11B]
- 11A-1 Judy A. Linn, 5435 N. Van Atta Road, Okemos; RE: Opposition to Proposed SUP #02-86291 (St. Luke's Church)

(2). Board Information (BI)

- BI-1 Joyce Van Coevering, 5530 Strawberry Lane, Haslett; RE: Conduct of Planning Commission Meetings
- BI-2 Robert Hinman, 4527 Hawthorn Lane, Okemos; RE: Extension of Water Main on Hawthorne Lane
- BI-3 Eleanor V. Luecke, President, L.I.N.C.; RE: Zoning Amendment #02030, Unrelated Individuals
- BI-4 Eleanor V. Luecke, President, L.I.N.C.; RE: Preliminary Plat #02012 (DDSG, LLC) Strawberry Farms Estates #3
- BI-5 Michigan Townships Association Memorandum; RE: State Education Tax (SET) Letter to Township Treasurers
- BI-6 Daria N. Schlega, 2446 Burcham Dr, East Lansing; RE: Zoning Amendment #02030, Unrelated Individuals

(3). Staff Communication/Referral (SC)

- SC-1 Michigan Townships Association Legislative Fax February 15, 2002 Edition
- SC-2 Michigan Townships Association Legislative Fax February 22, 2002 Edition
- SC-3 Correspondence from Dennis J. Sykes, Director, Department of Planning and Neighborhood Development, City of Lansing; RE: Response to Manager's Correspondence (See February 5, 2002 Board Communication SC-3) Regarding the Governor's Collection Development
- SC-4 Okemos Public Schools Board of Education February 25, 2002 Meeting Agenda

Trustee Brixie moved that the communications be received and placed on file, and any communications not already assigned for disposition be referred to the Township Manager or Supervisor for follow-up. Seconded by Trustee Such.

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode,
Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

B. Minutes

Trustee Brixie moved to approve and ratify the minutes of the February 19, 2002 Regular Meeting as submitted. Seconded by Trustee Such.

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode,
Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

C. Bills

Trustee Brixie moved that the Township Board approve the Manager's Bills as follows:

| | |
|------------------------------|----------------------|
| General Fund/Special Revenue | \$ 304,787.53 |
| Public Works | \$ 139,258.61 |
| <u>Total Checks</u> | <u>\$ 444,046.14</u> |
| | |
| Credit Card Transactions | \$ 6,710.77 |
| <u>Total Purchases</u> | <u>\$ 450,756.91</u> |

Seconded by Trustee Such.

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode,
Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

[Bill list in Official Minute Book]

E. Lake Lansing Watershed Advisory Committee Reappointments

Trustee Brixie moved the following resolution:

WHEREAS, the plan for the Lake Lansing Watershed Management Special Assessment District calls for an Advisory Committee,

WHEREAS, terms on the committee are two years, ending May 1st, with fifty percent (50%) overlap,

WHEREAS, the following members continue service:

Tier One

Dr. John Warbach 6070 Columbia
Helen Shipley 6379 W. Reynolds

THEREFORE, BE IT RESOLVED THAT, the following persons are approved as members of the Lake Lansing Advisory Committee:

Tier One

Thomas Page 6178 Columbia (Reappointment)
Dr. Don Kaufman 6097 E. Lake Drive (Reappointment)

Tier Two

Steven Culling 6193 Columbia (Reappointment)
Larry Wagenknecht 6097 Partridge

Seconded by Trustee Such.

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode,
Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

9. QUESTIONS FOR THE ATTORNEY (See Agenda Item #10A., 10B. & 11C.)

10. ACTION ITEMS

- A. Resolution to Approve Settlement Agreement - Eyde/Wal-Mart Litigation
Attorney Woodworth introduced the proposed conditional settlement agreement.

Times Square Drive: (Agenda Item #9 (Questions for the Attorney))

- Q. What are the primary concessions regarding Times Square Road.
- A. Times Square Drive under the settlement agreement would be added to the Master Plan as a public road. The developer would pay construction costs. Maintenance and repair costs would be paid through a special assessment to the property owners based on front footage. The frontage land along Marsh Road would be permanently preserved. The agreement includes a provision for property along Times Square Drive to be dedicated for the pedestrian/bicycle pathway.

Protections Offered the Township: (Agenda Item #9 (Questions for the Attorney))

- Q. Is it correct that the agreement provides for the elimination of several lawsuits, while retaining the Township's right to pursue the case should the judge decide in its favor?
- A. Correct. All the litigation except one would be dismissed with prejudice. The remaining case would remain open to provide for enforcement under the courts if any party to the agreement determines the other party is not abiding by the terms of the agreement. This is preferable to the filing of a new lawsuit and the significant time and expense necessary for enforcement of the agreement. The Township reserves the right to continue its defense if the judge decides in its favor.

Enactment of Settlement Agreement: (Agenda Item #9 (Questions for the Attorney))

- Q. Does the judges acceptance of the settlement agreement rely on a determination of whether the Township erred in prohibiting the construction of Times Square Drive?
- A. Not exactly. The determination would be: should the prohibition of the Municipal Planning Act apply, given the way the case was handled, and in fairness to the plaintiffs, the Township could not prevent the road from being constructed. This is not the same as the judge determining whether a public road should or should not be allowed. The Township can not authorize a public road without compliance to the Municipal Planning Act.

Determination of "Fairness": (Agenda Item #9 (Questions for the Attorney))

- Q. Would a determination of what is "fair" be primarily based on the adverse impact to the Plaintiffs based on the lapse of time from the original consideration of the Special Use Permits?
- A. Correct.

Impact on Consent Agreements Regarding Adjacent Property: (Agenda Item #9 (Questions for the Attorney))

- Q. How would this agreement impact the 1992 and 1996 consent agreements covering adjacent parcels?
- A. The agreement includes acknowledgment by all parties to the existence and continuance of three (3) Court Orders. The three (3) Court Orders include: 1) the 1992 Order and judgement resolving matters of lengthy litigation; 2) the 1996 Order amending the 1992 Order by ascribing zoning classifications to various parcels of land including those subject to this litigation and others; 3) the November 15, 2001 Order reaffirming the zoning classifications of the 1996 Order.

Potential for Future Litigation: (Agenda Item #9 (Questions for the Attorney))

- Q. Does this agreement put an end to lawsuits with respect to this area of the Township?
- A. It is impossible to guarantee the end of lawsuits. The agreement does clarify the issue of what the zoning classifications are and will be in the future.

Supervisor McGillicuddy opened the floor for public comment.

Daria N. Schlega, 2446 Burcham Drive, East Lansing, cautioned the Board to adopt the agreement only if it is in the best interest of the Township.

Treasurer Hunting moved [and read the resolution into the record] THEREFORE, BE IT

RESOLVED, by the Township Board of the Charter Township of Meridian, Ingham County, Michigan, that the Settlement Agreement dated March 5, 2002, as executed by the Eyde Construction Company, its related entities and Wal-Mart Stores, Inc., is hereby approved; BE IT FURTHER RESOLVED, that the Supervisor, Clerk and Legal Counsel of the Charter Township of Meridian are hereby authorized and directed to execute and enter into this Settlement Agreement on behalf of the Charter Township of Meridian. Seconded by Trustee Stier.

Board Members discussed the following:

- Construction of an additional 100 feet of left turn lane on Marsh Road at cost to the developer
- Cost and maintenance of Times Square Drive would be borne by the developer and property owners
- Reaffirmation of previous court orders and possible end of lawsuits related to property east of Times Square Drive
- Permanent dedication of additional green space
- Must recognize the settlement builds on irreversible decisions over several years
- Underlying zoning guarantees large development and is a more critical consideration than the issuance of Special Use Permits
- The settlement removes the issue from the courts except for enforcement of the agreement
- The settlement agreement leaves the door open if the Judge decides in the Township's favor regarding Times Square Drive

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode,
Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

Supervisor McGillicuddy recessed the meeting at 7:08 P.M. to complete agreement.

Supervisor McGillicuddy reconvened the meeting at 7:28 P.M.

Supervisor McGillicuddy opened public comment.

John Covell, 6156 E. Lake Drive, Haslett, spoke in opposition to the Board's adoption of the settlement agreement.

Leonard Provencher, 5824 Beuna, Haslett, stated his belief residents should have been involved and notified of consideration of the Eyde/Wal-Mart Litigation Settlement Agreement

Ted Black, 4714 Van Atta Road, Okemos, spoke in support of the proposed amendments to Chapter 105 for joint jurisdiction of wetlands.

Supervisor McGillicuddy closed public remarks.

B. Amendments to Chapter 105 for Joint Jurisdiction of Wetlands

Director Kieselbach introduced the proposed amendments to Chapter 105 for joint jurisdiction of wetlands.

Board Members discussed the following items:

- Support for 1/4 acre minimum size
- Support for misdemeanor provisions for enforcement of the ordinance

- Zoning Board of Appeals lack of authority to grant a variance from Chapter 105
- Impact of malicious destruction of non-conforming structures
- Support for amendment to recognize a wetland is destroyed once built on
- Basis for determination of what used to be a wetland.
- Impact of ordinance limited to one known structure
- Comparison to zoning ordinance non-conforming structures

Consistency Between Non-Conforming Structures Based on Zoning & Non-Zoning Ordinances:
(Agenda Item #9 (Questions for the Attorney))

- Q. What other considerations might there be in treatment of non-conforming structures based on zoning and non-zoning ordinances.
- A. The proposed amendment brings the rebuilding provisions into line with the fifty percent (50%) requirement of the zoning ordinances. The wetlands are provided a heightened protection under policy, prohibiting the granting of variances by the Zoning Board of Appeals. The ordinance does not apply to those structures built on filled wetlands. There is one identifiable structure impacted by the rebuilding provisions.

Board Members discussed the following items:

- The ordinance amendments create a permitting process for work in wetlands
- Advisability of a public hearing
- Determination of the financial impact of the ordinance
- The need for provision to resolve disagreement between permitting agencies (Township and MDEQ)

Resolution of Disagreement between Permitting Agencies: (Agenda Item #9 (Questions for the Attorney))

- Q. Provisions
- A. Joint jurisdiction is specifically provided for by state statute. The state statute does not specifically provide for a meeting with the MDEQ in case of a dispute, but it could be done informally. It is not recommended to write such a process into the ordinance as it is possible to have a situation such that the Township determines a wetland merits protection based on available science, and the MDEQ does not. As the MDEQ is decreasingly involved in the protection of wetlands, it may be undesirable to be bound to such a process having made a determination of a wetland's need for protection.
- Q. What happens next when permitting agencies disagree?
- A. The next step is up to the applicant unless the Township reverses its own decision. The critical element is that a determination be made based on scientific data to prohibit certain activity. To defend the Township's assumption of jurisdiction over a wetland, the data is critical regardless of the MDEQ's decision.
- Q. Is there a remedy other than going to court.
- A. An applicant can either take the case to court or convince the Township that there are reasons to reverse its determination. If the decision is well grounded in science, it is unlikely that either the Township would reverse its decision or the applicant would seek reversal in the court. If there were a split decision between the Township and MDEQ, the applicant would pursue remedy against the denying agency.

Board Members discussed the following items:

- Statutory timeline for review of application
- Current Township involvement in MDEQ permit process
- Increased staff and wetland consultant time
- Establishment of application fee

Trustee Brixie moved [and read the resolution into the record] THEREFORE, BE IT

RESOLVED, the Township Board hereby Introduces for Publication and Subsequent Adoption Ordinance No. _____, entitled "Ordinance Amending the Code of the Charter Township of Meridian, Michigan, by Amending Chapter 105." Seconded by Treasurer Hunting.

Board Members discussed the following:

- MDEQ places less value on wetlands than Township residents
- Budget cuts have emasculated MDEQ's enforcement and inspection capabilities
- Need for public hearings on important ordinance changes
- Will likely force decisions into court.

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode,
Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

- C. Rezoning #00160 (SP Investments), request to rezone property located at Jolly Road and Alaiedon Parkway from PO (Professional Office) and C1 to C2 - **Final Adoption**

Treasurer Hunting moved THEREFORE, BE IT RESOLVED, the Township Board hereby Finally Adopts Ordinance No. 2002-01, entitled "Ordinance Amending the Zoning District Map of Meridian Township Pursuant to Rezoning Petition #00160" from C-1 (Commercial, Retail and Business) to C-2 (Commercial, Retail and Business) and PO (Professional Office). Seconded by Trustee Brixie.

Board Members discussed the following:

- Need to be cautious in rezoning.

ROLL CALL VOTE: YEAS: Trustees Brixie, Such, Woiwode, Supervisor McGillicuddy,
Clerk Helmbrecht, Treasurer Hunting
NAYS: Trustee Stier
Motion carried 6-1.

- D. 2002 Order to Maintain Sidewalk Special Assessment District #4 - **Resolutions #1&2**
Director Severy introduced the 2002 Order the Maintain Sidewalk Special Assessment District.

Board Members discussed the following:

- Resident notification process

Treasurer Hunting moved to approve 2002 Order to Maintain Sidewalk - Resolution #1, which tentatively approves the improvements and Resolution #2, which sets the date for a public hearing on April 2, 2002. Seconded by Trustee Such.

Board Members discussed the following:

- Township services offered for resident contracted or performed work
- Follow-up on poorly performed concrete work
- Development of Sidewalk Maintenance Fact Sheet for residents
- Basis for cost estimate

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode,
Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

- E. Resolution to Establish Benefit Charge for Water Main Installation
Director Severy introduced the proposed water benefit charges for four (4) new water mains.

Board Members discussed the following:

- Size of water main on Towner Road
- Determination of benefit from water mains

Trustee Such moved to approve the resolutions establishing water system benefit charges for the following water mains:

- 1) **Mack Avenue (Marsh Road to Ridge Street) establishing a cost of \$33.80 per linear foot of frontage, plus five percent (5%) annual increase, with a not to exceed cost of \$5408, plus five percent (5%) annual increase for single-family residences**
- 2) **Towner Road (Marsh Road to Royal Oak Drive) establishing a cost of \$25.83 per linear foot of frontage, plus five percent (5%) annual increase, with a not to exceed cost of \$5,166, plus five percent (5%) annual increase for single-family residences**
- 3) **Marsh Road (North of Baker Street to Towner Road) establishing a cost of \$18.46 per linear foot of frontage, plus five percent (5%) annual increase, with a not to exceed cost of \$2,400, plus five percent (5%) annual increase for single-family residences**
- 4) **Marsh Road (Hamilton Road North 548 feet) establishing a cost of \$36.31 per linear foot of frontage, plus five percent (5%) annual increase.**

Seconded by Treasurer Hunting.

Board Members discussed the following:

- Establishment of benefit presented in accordance with ordinance
- Work completed at presented cost
- Assignment of a benefit district in contrast with establishment of a special assessment district
- 2002 Water infrastructure projects
- Provision for annual increase to benefit charge
- Circumstances related to Board Communication BI-2 (Hinman)

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode,
Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

11. DISCUSSION ITEMS

Supervisor McGillicuddy opened and closed public comment.

- A. SUP #02-86291 (St. Luke's Church)
Director Kieselbach introduced the proposed special use permit.

Board Members discussed the following:

- Buffering of farmland to the south
- Illegal motorized access and potential restrictions and barriers

Steve DeBoar, St. Luke Lutheran Church, Building Committee Chair, spoke regarding discussions with neighbors to address concerns with the proposed addition.

Board Members discussed the following:

- Addition of conditions related to the size of the building only
- Church plans for the newly acquired home
- Use of pervious materials for the parking lot

- B. Clustered Housing Ordinances (PUD & PRD) and Statutory Compliance
Board Members discussed the following:
- Similarities of Township PUD Ordinance with Hamburg Township's
 - Opposition to starting from scratch

- Encouraging development of clustered housing
- Made an available option in all residential zoning districts
- Maximize opportunities to protect sensitive areas
- Improved flexibility in housing layout to maximize green space
- Concern related to dense development on largely unbuildable property
- Careful consideration of small commercial use in large areas
- Clear benefit to developer and Township
- Scaled benefit to developer based on protective features of development
- Establishment of certain timeline for consideration of applications
- Focus on PRD Ordinance to promote residential development
- Development of planning tools to encourage innovative developments
- Increased preservation of open space
- Township Board as final approval authority
- Balancing benefits between Township & developer
- Mixed housing types and styles
- Incorporation of tree ordinance
- Promotion of open space connectivity

C. HB 5267

Supervisor McGillicuddy opened discussion on HB 5267 adopted January 9, 2002.

Resolution of Adoption: (Agenda Item #9 (Questions for the Attorney))

Q. How long would it take to draft a resolution of adoption of the authorities provided under HB 5267?

A. The language of the adopting resolution comes directly from the statute such that the Township Board asserts the right to finally approve the Master Plan or refer objections to the Planning Commission. The Planning Commission would be statutorily obligated to address those objections, provide resolution and incorporate changes into the Master Plan. This process would continue until the Township Board accepts and adopts the Master Plan.

Necessity of Public Hearing: (Agenda Item #9 (Questions for the Attorney))

Q. Does this require a public hearing?

A. There is no requirement to hold a public hearing. The Board may opt to hold a public hearing if desired.

Board Members discussed the following:

- Desirability of Board involvement in Master Plan approval
- Desirability of a public input in this discussion
- Consideration of potential impacts before adoption
- Legislative consideration of Joint Jurisdiction

12. VISION SESSION: "Greenways"

Manager Richards submitted a draft definition of the term "greenways" for consideration.

Board Members discussed the following:

- Importance of term "connectivity"
- Possible incorporation of concept in the Board's Global Ends Statement
- Possible incorporation of greenways into the Comprehensive Development Plan
- Differentiation between green infrastructure and green ways
- Connectivity as a green infrastructure concept
- Determination of functional role(s) of existing green space
- Definition of term "open spaces" to include specific types of lands.
- The definition should be global in scope of all desired natural ends
- Explicit statement of intent to protect, preserve and connect open spaces before description of connectors
- Inclusion of description of differing functions of open spaces
- Value of undeveloped land
- Facilitator led discussion on definition

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- Inclusion of redevelopment in overall vision
- Involvement of Boards and Commissions in deliberations

13. PUBLIC REMARKS (No Public Present)

14. ADJOURNMENT

Supervisor McGillicuddy adjourned the meeting at 9:46 P.M.

SUSAN McGILLICUDDY
TOWNSHIP SUPERVISOR

MARY M. G. HELMBRECHT
TOWNSHIP CLERK

Paul J. Cassidy, Secretary