

CHARTER TOWNSHIP OF MERIDIAN
TOWNSHIP BOARD REGULAR MEETING - **APPROVED** -
5151 Marsh Road, Okemos, MI 48864-1198
349-1200, Town Hall Room
THURSDAY, NOVEMBER 7, 2002, **6:00 P.M.**

PRESENT: Supervisor McGillicuddy, Clerk Helmbrecht (6:02 P.M.), 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, Police Chief
Gary Gibbons, EMS/Fire Chief Fred Cowper, Attorney Mike Woodworth

PLANNING

COMMISSION: Vice Chair Brett Dreyfus

BATH CHARTER

TOWNSHIP: Trustee Roni Christmas, Superintendent Mark Ritter

CITY OF

EAST LANSING: Council Member Victor Loomis, Jr.

1. CALL MEETING TO ORDER
Supervisor McGillicuddy called the meeting to order at 6:00 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. PUBLIC REMARKS
Supervisor McGillicuddy opened Public Remarks.

Dennis Tice, Owner, Pizza House of East Lansing, Inc., 4790 S. Hagadorn, Suite 114, East Lansing, made himself available for questions related to the Liquor License transfer request for Pizza House of East Lansing.

Supervisor McGillicuddy closed Public Remarks.

5. REPORTS/BOARD COMMENT/NEW WORRIES
Supervisor McGillicuddy thanked Meridian Township voters for supporting the millage proposal. She discussed the potential opportunity to discuss the Township-wide traffic study at this meeting if time permits.

[Clerk Helmbrecht entered at: 6:02 P.M.]

Trustee Such thanked his supporters and congratulated Dianne Holman on her election as a County Commissioner.

Trustee Such commented on the need to end the perception that the Township Board is anti-growth by finding new ways to encourage the development of single-family homes on available property.

Trustee Stier discussed smart growth and the availability of two (2) new historic preservation publications: 1) State Historic Preservation Office Five-Year Strategic Plan; 2) Michigan Historic Preservation Network Economic Benefits Study of Historic Preservation.

A. Treasurer's Report

Treasurer Hunting presented the following reports: 1) Township Investment Summaries; 2) Delinquent Personal Property Tax Collection Total; 3) 2002 Summer Tax Distribution Totals; 4) Upcoming 2002 Winter Tax Collection.

[Reports filed in Official Minute Book]

Clerk Helmbrecht reported on the success and efficiency of the November General Election. She thanked the numerous election workers and Clerk's Office staff.

6. APPROVAL OF AGENDA — OR CHANGES

Trustee Such moved to approve the agenda as submitted. Seconded by Trustee Brixie.

VOICE VOTE: Motion carried unanimously.

7. CONSENT AGENDA

Supervisor McGillicuddy reviewed the consent agenda.

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

Board Members discussed the status and nature of the Liquor License Transfer request for Pizza House of East Lansing.

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 (##)

9A-1 Douglas L. Federau, 5370 Okemos Road, East Lansing; RE: Comments Related to the Appeal of SUP #01021 (Hunsaker) [and to CR #01033 (Hunsaker)]

(2). Board Information (BI)

BI-1 Carol Keller Webster, Executive Director, Potter Park Zoological Society, 1301 S.

Pennsylvania, Lansing; RE: Meridian Township Night at the Wonderland of Lights

BI-2 Friends of Historic Meridian; RE: Invitation to the Dedication of the Country Store and Grettenberger Farmhouse

BI-3 Sally Sproat, 2161 Quarry Road, Okemos; RE: Support for Rezoning #02080 (Eyde)

BI-4 Scott Fairmont, 4429 Apache Drive, Okemos; RE: Recommendation for Board Deliberations on Rezoning #02080 (Eyde)

BI-5 Tim Potter, 4632 Van Atta Road, Okemos; RE: Growth Policies and Implications to Okemos Public Schools

BI-6 G. Lawrence Merrill, Executive Director, Michigan Townships Association, 512 Westshire Drive, Lansing; RE: Opposition to Ballot Proposals 02-03 and 02-04

(3). Regional Linkage (RL)

RL-1 Theodore J. Staton, City Manager, City of East Lansing, 410 Abbott Road, East Lansing; RE: Zoning Enforcement of Wetland Destruction Vicinity Abbot and Lake Lansing Roads Intersection

RL-2 Mark S. Meadows, Mayor, City of East Lansing, 410 Abbott Road, East Lansing; RE: Regrets for Unavailability for the Board's Intergovernmental Meeting

(4). Staff Communication/Referral (SC)

- SC-1 Gerald J. Richards, Township Manager Response to October 15, 2002 Board Communication BI-3 (Kovan) RE: Okemos School Reorganization
- SC-2 John W. Midgley, P.E., Managing Director, Ingham County Road Commission, 301 Bush Street, Mason; Response to John Ruh; RE: Manitou Avenue Maintenance (Original Correspondence on File in October 1, 2002 Public Hearing Record for the Proposed 2003 Budget
- SC-3 Michigan Townships Association Legislative Fax October 11, 2002 Edition
- SC-4 Michigan Townships Association Legislative Fax October 18, 2002 Edition
- SC-5 Michigan Townships Association Legislative Fax October 25, 2002 Edition
- SC-6 Kirk K. Squiers, President, OAKS, 4000 N. Okemos Road, Okemos; RE: Correspondence to Okemos Board of Education Regarding the Role of Recreational Sports in the Okemos Area
- SC-7 Open/Expiring Appointments for Public Service

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 Woiwode.

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

B. Minutes - October 15, 2002 Regular Meeting

Trustee Brixie moved to approve and ratify the minutes of the October 15, 2002 Regular Meeting as submitted. Seconded by Trustee Woiwode.

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	\$ 458,266.88
Public Works	\$ 323,000.30
Total Checks	\$ 781,267.18
Credit Card Transactions	\$ 25,614.51
Total Purchases	<u>\$ 806,881.69</u>

Seconded by Trustee Woiwode.

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]

D. Assessing Stipulations

Trustee Brixie moved that the Township Assessor or Township Attorney be authorized to sign a stipulation with Mary A. Jensen on the proposed stipulated values for Parcel Number 33-02-02-16-126-016:

2002 Assessed Value: \$135,000 (-15,600)
2002 Taxable Value: \$135,000 (-3,912)

Seconded by Trustee Woiwode.

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

- E. Liquor License Transfer - Pizza House of East Lansing
Trustee Brixie moved that the request from Pizza House of East Lansing, Inc. to transfer ownership of 1999 Class C Licensed business, located in escrow at 1120 Trowbridge, East Lansing, MI 48823, Ingham County, from Michelle Kyuok Lee; transfer location to 4790 S. Hagadorn, Suite 114, East Lansing, MI 48823, Meridian Township, Ingham County and the Township Clerk be authorized to execute the appropriate resolution. Seconded by Trustee Woiwode.

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

- F. Lighting Ordinance - **Final Adoption**
Trustee Brixie moved THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN, INGHAM COUNTY, MICHIGAN, the Township Board hereby Finally Adopts Ordinance No. 2002-13, entitled "Ordinance Amending the Charter Township of Meridian, Michigan, by adding Chapter 129, Outdoor Lighting." Seconded by Trustee Woiwode.

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

[Resolution in Official Resolution Book]

- G. Open Space Ordinance Amendment - **Initiate Zoning Amendment**
Trustee Brixie moved to initiate amendments, incorporated in drafts dated November 1, 2002, to Section 86-2 Planned Unit Development and Section 86-11 Planned Residential Development Overlay District to comply with the Open Space Preservation requirements of Public Act 177 of 2001 and transmit the drafts to the Planning Commission to hold the required public hearings. Seconded by Trustee Woiwode.

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

8. QUESTIONS FOR THE ATTORNEY

9. HEARINGS

- A. Appeal of SUP #01021 (Hunsaker)
Supervisor McGillicuddy opened the public hearing at 6:21 P.M.

Director Kieselbach introduced Special Use Permit application #01021 (Hunsaker) as outlined in staff memorandum.

APPELLANT

William K. Fahey, Foster Swift Collins & Smith P.C., 313 S. Washington Square, Lansing, representing the appellant, stated the reasons for the appeal as follows:

- The appellant intends to develop the site while preserving its natural features
- This development represents the remediation of a long vacant "brownfield"

- The proposed density provides six (6) acres per lot rather than half-acre lots permitted by ordinance
- The construction of a road is irrelevant to the issue of the placement of fill
- The primary concern of Section 82-15.11F is appropriate compensation for fill in the floodway fringe
- The appellant proposes to increase the flood capacity of the subject site
- The five (5) basis for Planning Commission denial are unrelated to the Code of Ordinances criteria for denial of this SUP:
 - Denial basis No. 1: (Nonapproval of Proposed New Public Road)
 - the Municipal Planning Act ("Act") makes the Ingham County Road Commission the final authority for approval of public roads
 - Denial of the SUP prevents the Ingham County Road Commission from consideration of the proposed public road
 - The SUP should be approved conditioned on the Ingham County Road Commission approval of the public road
 - Denial basis No. 2: (Nonapproval of Ingham County Drain Commissioner)
 - The Ingham County Drain Commissioner does not provide final approval until after local land use approvals have been granted
 - The SUP should be approved conditioned on the Ingham County Drain Commissioner's final approval
 - Denial basis Numbers 3 through 5 relate to intents beyond the authority of the Planning Commission under the Act.
 - Denial basis No. 3: (Necessity and Lack of Alternative Design Options)
 - Demonstration of necessity or presentation of alternative design options are not requirements within the Code of Ordinances or state statute
 - Denial basis No. 4: (Negative Impact on Natural Resources)
 - Represents a general statement without specific findings such as:
 - Specific natural resources impacted
 - How the particular resource would be impacted
 - Why the impact could be considered substantial.
 - The only relevant resource to be reviewed under Section 82-15 is the flood carrying capacity of the property, which would be improved rather than impaired.
 - Denial basis No. 5: (Inconsistency with SUP Review Criteria)
 - This basis does not specify the specific review criteria found to be inconsistent with the request
 - There is no evidence in the record to support this finding.

PLANNING COMMISSION

Planning Commissioner Brett Dreyfus, spoke in support of the Planning Commission's decision as follows:

- Denial basis No. 1:
 - The Planning Commission considered the road as a separate matter (CR #01033 (Hunsaker))
 - The Planning Commission decided the public road should not be added to the Comprehensive Development Plan
 - The proposed roadway is of a length and of a "convoluted" configuration to be denied based on health, safety and welfare reasons
 - The road may be appropriate for later consideration as the Planning Commission considers the Comprehensive Development Plan and new developments within the Township
 - The denial of the road represents the primary reason for denial of the SUP
 - Ingham County Road Commission consideration of the road for approval negates the residents input and the Planning Commission's decision

- Denial basis No. 2:
 - The appellant's application suggested that the Ingham County Drain Commissioner had approved the plan
 - The hearing record includes a communication from the Drain Commissioner clarifying that he has offered neither support nor opposition to the project
- Denial basis No. 3:
 - The Planning Commission may not consider specific site plans under the Act
 - The appellant provided no information on possible impact from the cut and fill operation
 - The applicant did not demonstrate the need for the proposed amount of cut and fill
 - The applicant did not present any alternatives to the proposed cut and fill
 - The Planning Commission believed it had insufficient information to approve the request
- Denial basis No. 4:
 - Neighbors adjacent to the site were concerned about the impact of the project to drainage on their properties
- Denial basis No. 5:
 - The Planning Commission considered the special use permit review criteria covering health, safety and welfare issues
 - The Planning Commission concluded the following:
 - The proposed density is too great for environmentally sensitive land
 - The proposed site plan did not represent good planning and failed to meet the criteria for an SUP
- There is an opportunity for the appellant to be involved in the development of the Comprehensive Development Plan to consider the roadway or consider alternative development concepts
- A planned unit development (PUD) is now possible for RAAA (Single Family-Low Density) zoning and the subject site
- The Planning Commission encourages the appellant to consider a PUD for this site to benefit Township residents, protect environmentally sensitive areas and reduce the extent of the cut and fill.

BOARD DISCUSSION

Trustee Such asked by what vote total did the Planning Commission deny the road.

Commissioner Dreyfus answered the vote was 4-5 for a resolution to add the road to the Comprehensive Development Plan.

Trustee Such asked for confirmation that the road was not approved rather than denied.

Commissioner Dreyfus answered he does not believe there was a need to vote to deny the request. He stated there was a motion to add the road to the Comprehensive Development Plan, which failed.

Trustee Such asked for the evidence or scientific information relied upon by the Planning Commission to determine denial basis no. 4.

Commissioner Dreyfus answered the Planning Commission did not have any scientific evidence. He stated the Planning Commission relied upon resident comments and their own determination of the impact.

Trustee Such asked for confirmation that the Planning Commission relied solely on comment, and did not include any staff information or expert witnesses in determining the environmental impact.

Commissioner Dreyfus answered the appellant provided no scientific evidence to demonstrate there would be no negative environmental impact.

Trustee Such asked what definition was used for the term “convoluted” in relation to the proposed road.

Commissioner Dreyfus answered a convoluted road might make several sharp turns or curves rather than a linear corridor. He acknowledged this is a subjective definition.

Trustee Such asked for confirmation that this definition represents the Commissioner's own definition or that of the Planning Commission.

Commissioner Dreyfus answered this would be his own definition.

Trustee Brixie commented that the appellant argues that the only way the Planning Commission could deny a special use permit for fill in a floodplain would be based on flood-carrying capacity. She asked the Township Attorney to comment on this in relation to the particular situation before the Board.

Attorney Woodworth stated the special use permit criteria applicable in general are also applicable to applications to place fill in a floodplain. He stated to the extent that those criteria pertain to issues other than the cut and fill are legitimate areas for concern.

Trustee Brixie asked for confirmation that if the Code of Ordinance only dictated the specifications for flood-carrying capacity there would be no need for a special use permit.

Attorney Woodworth stated it would be possible to have a special use permit that is this narrowly limited. He stated there is a provision in the conservancy district referencing the applicable criteria for special use permits in general.

Trustee Brixie asked for confirmation that filling in the floodplain is not allowed under any circumstances by right in the Township.

Attorney Woodworth stated this is correct.

Clerk Helmbrecht commented that over the years she has learned there is a difference between essential and non-essential wetlands. She asked if the Township's wetland consultant has identified the significance of the wetlands on the site.

Attorney Woodworth commented that the issue presented by this special use permit does not pertain to the Wetland Ordinance, but to the Conservancy Overlay. He stated the wetland issues were addressed by the MDEQ, aside from any determination the Township may or may not have made.

Clerk Helmbrecht commented the Code of Ordinances clearly anticipates the placement of fill in a floodplain or floodway fringe and establishes the guidelines to do such.

Attorney Woodworth commented that previously he had been asked whether filling a floodplain was a matter of right, which answer is clearly no. He stated the Code of Ordinances requires a permit and provides for the procedure to seek and obtain such a permit.

Trustee Woiwode read from the September 16, 2002 correspondence from Patrick E. Lindemann, Ingham County Drain Commissioner. She asked for confirmation that the correspondence indicates that the Drain Commissioner views the authority to determine the appropriateness of the placement of fill in a floodplain resides with the Township rather than himself.

Attorney Woodworth commented this appears to be what the Drain Commissioner is stating in this correspondence. He stated one of the principle issues presented by this appeal is the interplay between Section 9 of the Municipal Planning Act (Act) and the Code of Ordinances. He stated in application to this case, the matter is complicated enough to justify a written legal opinion. He commented this is an issue that has arisen before and recommended this issue be addressed through

a legal opinion before the Board acts. He commented this issue could also be expanded to address the jurisdiction of the Drain Commissioner as a component of that interaction.

Clerk Helmbrecht commented that the Drain Commissioner wrote two letters; the first one [dated June 10, 2002] stating that the Drain Commissioner had reviewed the preliminary plan and provides permission to proceed in the review process. She asked how the Planning Commission could deny the SUP based on the lack of Drain Commissioner approval as the Drain Commissioner had provided preliminary approval in a multi-stage review process.

Director Kieselbach stated he could not explain based on the Drain Commissioner's correspondence. He explained that the process for a special use permit to perform work in the floodplain, the application is automatically forwarded to the Drain Commissioner if not already presented by the applicant. He stated the Code of Ordinances requires review and approval of the plan by Drain Commissioner.

Clerk Helmbrecht commented the June 10, 2002 letter provides preliminary approval. She asked if there would normally be some other approval from the Drain Commissioner before the request gets to the Planning Commission.

Director Kieselbach stated the Drain Commissioner typically sends a letter similar to that from the Ingham County Road Commission in that the plan has been reviewed and there are no objections.

Clerk Helmbrecht commented that several times during the Planning Commission hearing and the present hearing that it has been stated the applicant inaccurately represented receipt of approval from the Drain Commissioner. She stated the June 10, 2002 letter grants approval to move forward in the approval process. She asked what the Planning Commission considered lacking at the time of its deliberations.

Director Kieselbach stated the September 16, 2002 letter clearly states the applicant does not have the Drain Commissioner's approval.

Clerk Helmbrecht asked what would be the purpose of the June 10, 2002 letter.

Trustee Brixie commented that there are additional requirements for the applicant stated in the letter, which may not have been fulfilled.

Trustee Stier explained that the June 10, 2002 correspondence confirms that the Drain Commissioner has completed his preliminary review of the calculations for compensating cut. He stated the Drain Commissioner does not provide approval at this stage, but just acknowledges the calculation appears to be accurate. He stated once the Township approves a request, the Drain Commissioner recertifies the calculations and approves the project without any consideration as to the appropriateness of the project. He stated this is similar to the MDEQ process in considering applications. He stated the September 16, 2002 letter states the Drain Commissioner's professional opinion regarding the placement of fill in a floodplain. He stated that the Drain Commissioner's professional opinion is at variance with his statutory responsibility to approve such projects that comply with the appropriate calculations.

Treasurer Hunting commented that he has a better understanding of the Drain Commissioner's review and approval of projects and why this is required. He asked for clarification as to whether a separate action is required to deny a Section 9 review under the Act, or if a failure to achieve a two-thirds majority for approval is sufficient.

Attorney Woodworth stated the primary feature of the Municipal Planning Act is the development and integrity of the Comprehensive Development Plan for future growth. He stated an amendment to the plan requires a super majority as imposed by statute. He stated there is nothing in the statute that requires a super majority to maintain the existing plan, which would be contrary to the underlying concept of the Municipal Planning Act. He stated the requirement for a super majority to amend the plan preserves the integrity of the plan.

Supervisor McGillicuddy asked Board Members to limit their discussion to questions for the appellant or staff.

Trustee Brixie asked for a written attorney's opinion as recommended earlier in the hearing.

Trustee Woiwode commented that there appear to be differences in the floodplain maps and whether a Letter of Map Revision (LOMR) has been applied for and/or received and an explanation of the differences between the floodway and floodplain.

APPELLANT'S REBUTTAL

Mr. Fahey requested an opportunity for public comment.

Supervisor McGillicuddy opened and closed the floor for members of the public.

Supervisor McGillicuddy closed the public hearing at 7:11 P.M.

Supervisor McGillicuddy recessed the meeting at 7:11 P.M.

Supervisor McGillicuddy reconvened the meeting at 7:21 P.M.

10. ACTION ITEMS/ENDS (None)

11. VISION SESSION/ENDS: Intergovernmental Meeting

Supervisor McGillicuddy opened the Intergovernmental Meeting and introduced the Township's guests. She reviewed the discussion from the Intergovernmental Meeting held during the November 8, 2001 Board Meeting.

The representatives discussed areas of interest and potential cooperation.

BATH CHARTER TOWNSHIP:

- Development of a Parks and Recreation Committee in Bath
- Potential cooperation in recreation programs
- Impact of annexations on Bath
- Improvement of communication between townships

CITY OF EAST LANSING:

- Continued relevance of discussion at November 8, 2001 meeting
- Challenge of the management of the sale and consumption of alcohol
- Important focus on student and community relations
- Development of the Comprehensive Plan
- Regional approach to traffic flow and traffic calming
- Continuation of a hike, bike, walk and jog trail into the two (2) other communities
- Growth of park maintenance budget

Areas of Potential Regional Cooperation:

- Coordination of municipal and school recreation programs and facilities
- Development of comprehensive development plans
- Traffic flow and traffic calming
- Legislative consideration of joint planning commissions
- Alleviation of competitive pressures between school districts for students
- Consolidation of park maintenance for adjacent facilities
- Sharing of information and experience with new developments and developers
- Enforcement measures related to the clearing of the wetland subject to protections under Exhibit B of the East Lansing and Meridian Act 425 Agreement¹.
- Downtown redevelopment experience and success
- Coordination of plans and study committees for the Grand River Avenue corridor
- Management of annexations and "zoning shopping"

¹ Adopted July 26, 2002 Agenda Item #4 (Act 425 Agreement with East Lansing)

CHARTER TOWNSHIP OF MERIDIAN, REGULAR MEETING, NOVEMBER 7, 2002 *APPROVED*

- Alignment of zoning categories along municipal boundaries
- Consideration of mutually beneficial Act 425 agreements

12. PUBLIC REMARKS

Supervisor McGillicuddy opened and closed Public Remarks.

13. ADJOURNMENT

Supervisor McGillicuddy adjourned the meeting at 8:27 P.M.

SUSAN MCGILLICUDDY
TOWNSHIP SUPERVISOR

MARY M. G. HELMBRECHT
TOWNSHIP CLERK

Paul J. Cassidy, Secretary