

CHARTER TOWNSHIP OF MERIDIAN  
TOWNSHIP BOARD REGULAR MEETING - **APPROVED** -  
5151 Marsh Road, Okemos, MI 48864-1198  
349-1200, Town Hall Room  
TUESDAY, OCTOBER 15, 2002, **6:00 P.M.**

PRESENT: Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting, Trustees Brixie, Stier, Such, Woiwode (6:02 P.M.)

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, Director of Finance Diana Hasse, Attorney Mike Woodworth; Attorney Geoff Seidlein

ENVIRONMENTAL

COMMISSION: Chair Carla Clos, Commissioner James Kielbaso

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.

William J. Cleary, 1896 Danbury East, Okemos, read from a prepared statement in support of creative solutions to budgetary problems. [Prepared statement in Official Minute Book]

[Trustee Woiwode entered at 6:02 P.M.]

Molly Wingrove, 2649 Melville Drive, East Lansing, read from a prepared statement in support of tougher rental housing code enforcement. [Prepared statement in Official Minute Book]

Bruce Little, 5015 Meridian Road, Williamston, spoke in support of the Parks and Recreation Department, and in opposition to the 2003 Budget and the Millage proposal.

Cecelia Kramer, 4560 Oakwood, Okemos, spoke in support of the Chapter 128 Land Clearing Ordinance.<sup>1</sup>

Quenda Story, 4526 Marlborough, Okemos, spoke in support of the Chapter 128 Land Clearing Ordinance.

Supervisor McGillicuddy closed Public Remarks.

5. REPORTS/BOARD COMMENT/NEW WORRIES

Supervisor McGillicuddy reported on the Township's effort to stop the clearing of the wetland subject to protections under Exhibit B of the East Lansing and Meridian Act 425 Agreement<sup>2</sup>.

---

<sup>1</sup> Referenced Articles: "Fight's on for Meridian [W]oods", Lansing State Journal, July 12, 1989 & "Township to [S]ue in [E]ffort to [S]ave [T]rees," by Sheila Schimpf, Lansing State Journal, July 14, 1989, page 1A-2A. [Articles placed in Official Minute Book]

<sup>2</sup> Adopted July 26, 2002 Agenda Item #4 (Act 425 Agreement with East Lansing)

Supervisor McGillicuddy commented on Board Communication BI-3 (Kovan) and requested the Manager send a response detailing the Townships actions to support Okemos Public Schools.

Trustee Woiwode congratulated Treasurer Hunting on his recent marriage.

Trustee Woiwode commented on Board Communication BI-2 and the potential impact of the non-development of Preliminary Plat #96022 Central Park Estates.

Clerk Helmbrecht reported the Clerk's Office would be open Saturday, November 2, 2002 to provide absentee ballots for those who qualify.

Treasurer Hunting commented on the Board's actions to increase single-family development in the Township and support of the Okemos Public School District.

6. APPROVAL OF AGENDA — OR CHANGES

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

VOICE VOTE: Motion carried unanimously

7. CONSENT AGENDA

Supervisor McGillicuddy reviewed the consent agenda.

**Trustee Brixie moved to adopt the Consent Agenda. Seconded by Clerk Helmbrecht.**

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 Information (BI)

- BI-1 Eleanor V. Luecke, President, L.I.N.C.; RE: Correspondence to the Ingham County Board of Commissioners in Opposition to Park Fees at Lake Lansing
- BI-2 Mark K. Clouse, CFO & General Counsel, Eyde Company, 4660 S. Hagadorn Rd, Ste 660, East Lansing; RE: Request for Extension of PP #96022 Central Park Estates
- BI-3 Jessica T. Kovan, Ph.D., Jeffrey R. Kovan, DO., 2080 Lagoon Dr, Okemos; RE: Okemos School Reorganization

(2). Commission Linkage (CL)

- CL-1 Gary Shoup, Chair, Zoning Board of Appeals; RE: Pedestrian/Bicycle Pathways in PUD's

(3) Regional Linkage (RL)

- RL-1 John W. Midgley, P.E., Managing Director, Ingham County Road Commission; RE: Ingham County Road Commission 2001 Annual Report
- RL-2 Ingham County Board of Commissioners October 8, 2002 Meeting Agenda

(4). Staff Communication/Referral (SC)

- SC-1 Sally Rector-Langley, 3907 Sun Rapids Drive, Okemos; RE: Commendation for Parks & Recreation Specialist
- SC-2 Jennifer Quimby, 4495 Heritage Ave, Apt B3, Okemos; RE: Appreciation for Parks & Recreation Department
- SC-3 Michigan Townships Association Legislative Fax September 27, 2002 Edition
- SC-4 Michigan Townships Association Legislative Fax October 4, 2002 Edition

**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 Clerk Helmbrecht.**

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

B. Minutes – October 1, 2002 Regular Meeting

**Trustee Brixie moved to approve and ratify the minutes of the October 1, 2002 Regular Meeting as submitted. Seconded by Clerk Helmbrecht.**

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	\$ 217,872.63
Public Works	\$ 25,713.61
Total Checks	\$ 243,586.24
Credit Card Transactions	\$ 13,429.53
Total Purchases	<u>\$ 257,015.77</u>

**Seconded by Clerk Helmbrecht.**

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. Approval of Fee Schedule

**Trustee Brixie moved that the fee schedule as presented be approved for calendar year 2003. Seconded by Clerk Helmbrecht.**

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

E. Telecommunications Rights-of-Way Resolution

**Trustee Brixie moved to approve the attached resolution in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act No. 48 of the Public Acts of 2002 ("Metro Act") and direct the Township Clerk to send a copy of this resolution to Ameritech, AT&T Broadband and any other providers in Meridian Township. Seconded by Clerk Helmbrecht.**

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

[Resolution on file in Official Resolution Book]

- F. Establish Water Benefit Districts, Potter and Raby Roads  
**Trustee Brixie moved to approve water benefit charges for the following water mains:**  
1) **Potter Street - (Haslett Road to Lake Drive) establishing a cost of \$22.28 per linear foot of frontage, plus five percent (5%) annual increase; with a not to exceed cost of \$4,456, plus five percent (5%) annual increase, for single-family residences. Seconded by**  
2) **Raby Road - (From west of 2386 Raby to 865' west) establishing a cost of \$23.82 per linear foot of frontage, plus five percent (5%) annual increase, for single-family residences.**  
**Seconded by Clerk Helmbrecht.**

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

- G. Resolution Authorizing Funding for the Looking Glass River Watershed  
**Trustee Brixie moved to approve the Resolution authorizing expenditure not to exceed \$3,500 for preparation of the Looking Glass River Watershed Management Plan. Seconded by Clerk Helmbrecht.**

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

[Resolution on file in Official Resolution Book]

- H. Special Use Permit #02-97041 (American Tower) Modification - **Set Public Hearing**  
**Trustee Brixie moved to set a public hearing on Special Use Permit #02-97041 at the Township Board's regular meeting scheduled for Tuesday, November 19, 2002. Seconded by Clerk Helmbrecht.**

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

- I. Appeal of Special Use Permit #01021 (Hunsaker) - **Set Public Hearing**  
**Trustee Brixie moved to schedule a hearing on the appeal of the Planning Commission's decision on Special Use Permit #01021 for the regular Township Board meeting on November 7, 2002. The hearing will address the appeal filed by William Fahey on behalf of Gordon Hunsaker. Seconded by Clerk Helmbrecht.**

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

- J. Adoption of 2003 Township Board Meeting Schedule  
**Trustee Brixie moved to adopt the 2003 Township Board Meeting Schedule Resolution. Seconded by Clerk Helmbrecht.**

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

[Resolution on file in Official Resolution Book]

K. Budget Amendment - Capital Item Purchase

**Trustee Brixie moved to approve the purchase of a Cushman Turf Truckster in lieu of a one-ton dump truck, and to reduce the 2002 Public Works Capital Outlay Budget by \$15,000. Seconded by Clerk Helmbrecht.**

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 (See Agenda Items #11A., B., C. & E.)

9. HEARINGS (None)

10. ACTION ITEMS/ENDS

Supervisor McGillicuddy opened and closed public comment.

A. 2003 Budget Resolution

**Trustee Such requested the 2003 Budget be considered separately from the \$1,000,000 allocation for road maintenance.**

**Trustee Such moved to consider the 2003 Budget separately from the \$1,000,000 allocation for road maintenance. Seconded by Clerk Helmbrecht.**

ROLL CALL VOTE: YEAS: Trustees Stier, Such, Woiwode, Clerk Helmbrecht  
NAYS: Trustees Brixie, Supervisor McGillicuddy, Treasurer Hunting  
Motion carried 4-3.

2003 Budget Adoption:

**Trustee Such moved [and read the amended resolution into the record] to adopt the 2003 Budget less the line item appropriation for the Roads. Seconded by Clerk Helmbrecht.**

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

[Resolution on file in Official Resolution Book]

Allocation for Road Maintenance and Repair:

**Trustee Woiwode moved to appropriate \$1,000,000 for roadway improvements. Seconded by Trustee Stier.**

Board Members discussed the following:

- Importance of addressing the deterioration of Township roads
- Need for the determination of an appropriate funding source
- Initiation of a road maintenance schedule
- Insufficiency of \$1,000,000 to address current problem
- Appropriate use of General Fund balance for one-time expenditures
- Unsustainable General Fund expenditures for road maintenance program
- Potential budgetary impact of ongoing and probable litigation
- Excessive allocation based on a single work season
- Allocation as a stop-gap measure to future increases in repair costs

**Trustee Such offered an amendment to reduce the allocation to \$500,000. Amendment not accepted by maker or seconder.**

Attorney Woodworth asked for clarification on the motion and offered possible language.

**Trustee Woiwode as the maker, amended the motion to appropriate \$1,000,000 from the**

**General Fund to be allocated to public roads for existing road maintenance and repair.  
Amendment accepted by seconder.**

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Woiwode, Supervisor McGillicuddy,  
Treasurer Hunting  
NAYS: Trustee Such, Clerk Helmbrecht  
Motion carried 5-2.

- B. Zoning Amendment #02070 (Township Board), amendment to allow Planned Unit Development (PUD) in the RAAA and RRA zoning district - **Final Adoption**

**Trustee Brixie moved [and read the resolution into the record] THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN, the Township Board hereby Finally Adopts Ordinance No. 2002-11, entitled “Ordinance Amending the Code of the Charter Township of Meridian, Michigan, by Amending Section 86-2.3G.1 and Section 86-2.3G.3.” Seconded by Treasurer Hunting.**

Board Members discussed the following:

- Encouragement of single-family development
- Benefits of a PUD to a developer
- Importance of additional incentives and procedural improvements to the PUD Ordinance

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

[Resolution on file in Official Resolution Book]

- C. Draft Lighting Ordinance – **Introduction**

**Trustee Woiwode 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, 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 adding Chapter 129, Outdoor Lighting.” Seconded by Trustee Brixie.**

Board Members discussed the following:

- Expressed interest of other municipalities in a similar code
- Summary of technical changes in the ordinance

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

- D. Chapter 128 Land Clearing Ordinance (See Agenda Item #4 (Public Remarks))  
Supervisor McGillicuddy opened the matter for discussion at 6:54 P.M.

Director Kieselbach introduced the proposed Land Clearing Ordinance as presented in staff memorandum.

Attorney Seidlein presented the ordinance as follows:

- The proposed ordinance does not represent a "tree preservation ordinance"
- Provides proper review before a property owner undertakes activities altering the topography, the removal of vegetation and the removal of trees
- Plat review exempts the property owner from permit
- Instance of land clearing at the intersection of Central Park Drive and Grand River Ave.

- Intent of ordinance to cover only unimproved properties
- Provisions for exemptions from permits
- Staff development of application process
- Tree protection requirements during construction

Supervisor McGillicuddy opened the floor for testimony related to the emergency nature of the ordinance.

Carla Clos, Chair, Environmental Commission, testified to the need to adopt the ordinance under emergency provisions for the following reasons:

- Instance of unregulated land clearing at the intersection of Central Park Drive and Grand River Ave [Photographs in Official Minute Book]
- Identification of significant trees in a 1999 Environmental Commission site visit to the Central Park Drive location
- Preservation of dialog between development community and resource professionals in balancing economic development and environmental preservation
- Filling of wetlands following the 1991 adoption of a wetland ordinance as detailed in the September 1, 1991 Lansing State Journal Article "Developers race to beat wetlands law" [Article in Official Minute Book]

Dr. James Kielbaso, Environmental Commissioner, testified to the need to adopt the ordinance under emergency provisions for the following reasons:

- Potential clearing of a parcel based on previous discussion of a tree ordinance
- Potential tree clearing by developers between introduction and the effective date of the ordinance to avoid regulation

Attorney Seidlein testified to the need to adopt the ordinance under emergency provisions for the following reasons:

- He witnessed the clearing of trees in the City of New Baltimore following the adoption of a tree preservation ordinance and prior to the effective date
- Trees were piled five- to six-(5-6) stories high throughout the City of New Baltimore
- The courts recognize notice is not required if giving notice would spur the activity attempting to be regulated.
- The record is sufficient to permit the ordinance to be adopted under emergency provisions

**Treasurer Hunting moved [and read the resolution into the record] THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN, that Ordinance No. 2002-12 entitled "Ordinance Amending the Code of the Charter Township of Meridian, by adding Chapter 128, Land Clearing", is hereby Finally Adopted. Seconded by Trustee Stier.**

Treasurer Hunting commented the ordinance has been shown to be necessary. He commented the prevention of the unnecessary destruction and land clearing is a Board decision. He commented the adoption of the ordinance as an emergency measure is appropriate based on the experience of other municipalities, and the Township's experience with the wetland ordinance.

Trustee Stier commented the ordinance is necessary as property owners forget their responsibility to develop property in an environmentally responsible way and with respect to neighbors.

Trustee Brixie commented on resident frustration regarding the complete clearing of the property on Central Park Drive and Grand River Avenue. She commented on the community's discussion on the need for such regulation for several years.

Trustee Woiwode commended the attorneys for the drafting of a clear ordinance. She commented the ordinance forces a consultation as opposed to confrontation. She commented there is time to work out flaws without causing harm to those having an interest in removing trees in the course of development. She commented on the need to develop an application quickly. She commented the intent is clear to prevent extreme measures taken by property owners to avoid regulation rather than

appropriate siting and development in the Township. She commented the Clerk should publish the ordinance as soon as possible to speed up the effective date.

Trustee Such commented on the need to protect special resources in the Township. He commented he received a draft marked confidential at his home. He commented residents appeared before the Board with some advanced notice of the matter. He asked if the information was circulated to select individuals before the meeting, or if the property owners marked on the map were notified.

Director Kieselbach stated no, that the map was prepared today for this meeting.

Trustee Such commented his concern related to the lack of a public hearing and deliberations. He commented he shares concerns related to land clearing by unscrupulous property owners. He asked what is the definition of an emergency according to the Charter Township Act and if this situation fits this definition.

Attorney Woodworth stated based on the testimony at this meeting, and the fact the ordinance is of such a nature as to give rise to the action to be prohibited based on notice, qualifies it as an emergency ordinance.

Trustee Such commented the fourth "Whereas" states the Board has considered comments from the public. He stated the Board has had no public discussion, or preliminary discussion about this ordinance. He commented the first he knew of the ordinance was in his packet. He commented he has concerns related to the language of Section 128-4 encompassing all property in the Township.

Attorney Seidlein stated in looking at the purpose of the ordinance under Section 128-2, the intent is to ensure a review before the activity is authorized. He stated the question becomes whether a specific property owner applies for a permit and provides the Township an opportunity to review any clearing activity. He stated the intent of the ordinance is to protect those resources for the future. He stated it is neither intended nor written to mean that a homeowner must apply to the Township to clear trees after the initial permit and development of the site.

Trustee Such commented he does not believe this is clear in the language of Section 128-4. He commented he reads the section to subject the specified properties to the ordinance.

Attorney Seidlein stated by virtue of the granting of a permit for the activity, the property becomes developed or improved; and therefore has had the necessary review. The intent is to ensure the proper reviews before activity takes place.

Trustee Such commented Section 128-4 should make this intent clear. He commented Section 128-5 (4) does not state to whom the owner must demonstrate compliance with the listed criteria.

Attorney Seidlein stated the owner must demonstrate compliance to the Director. He stated this is spelled out in Section 128-6.

Trustee Such asked for confirmation that this section refers to an application rather than an exemption.

Attorney Seidlein stated Section 128-5 (3) & (4) call for an application process for the Director to determine compliance with the criteria to give a clearing permit.

Trustee Such commented this is not clear in the ordinance that if you believe you meet the criteria for exemption an application is necessary.

Attorney Seidlein stated the ordinance makes the necessity of an application clear under Section 128-6 for the Director to make a determination of the criteria for exemption.

Trustee Such asked if the ordinance provides a limit on the size of a tree under the regulation of the Township.

Attorney Seidlein stated there is no limit on the size of the tree.

Trustee Such asked how the Township would differentiate between brush removal and mowing.

Attorney Seidlein stated the Township has standards related to mowing in regards to the Weed Control Ordinance. He stated vegetation of all kinds, and not just trees, may have resource value; and the intent is that none of that activity should be taken without some review.

Trustee Such asked for confirmation that a property owner would need a permit before clearing brush.

Attorney Seidlein stated this is correct.

Trustee Such commented Section 128-6 requires the Director to "retain the services of a qualified forester or other qualified environmental consultant." He commented that "environmental consultant" is not defined in the ordinance, and asked who would qualify for such designation.

Attorney Seidlein stated the Director is entrusted with the responsibility to choose the appropriate consultant. He stated that in the case of a site covered with brush, the Director would need to select a consultant who could best determine resource value or answer questions related to exemption criteria. He stated it would be possible to list every conceivable type of consultant.

Trustee Such suggested a definition similar to that for "Arborist."

Attorney Seidlein stated an "Arborist" is a licensed profession. He stated the term "Botanist" could be used instead, but they may or may not be considered qualified by the Director to provide sound advice.

Trustee Such commented he is concerned the term "environmental consultant" is too ambiguous. He stated confidence in the current Director and Manager to handle the matter fairly and appropriately, but could not say the same for succeeding personnel. He stated his questions are more directed to long term interpretations of the ordinance. He stated concerns related to the retention of an Arborist and how this is done procedurally, contractually, and financially.

Attorney Seidlein stated this is not unlike the contracting of a wetland consultant. He stated in this instance there is an escrow mechanism established for the person seeking the activity. He stated arrangements would need to be made with an individual consultant, or may be available on staff or a commission.

Trustee Such asked if the ordinance could be modeled on the wetland ordinance with each party securing its own expert.

Attorney Seidlein stated there is nothing to prevent a developer from hiring an expert. He stated there is an opportunity for a privately retained expert to submit information on the property owner's behalf. He stated the use of a single consultant provides for potential cost and time savings.

Trustee Such commented there is nothing regarding time or rate for a consultant.

Attorney Seidlein stated there is clearly an indication the decision must be made within thirty (30) days from the date of the completed application. The wetland ordinance does not include any provisions related to time or rate either.

Trustee Such commented in the wetland ordinance, the Township pays for the wetland consultant and the applicant retains a consultant if so desired.

Attorney Seidlein stated this could be done if the Township decides to assume the cost of the consultant. He stated there is nothing to prevent such modifications.

**Clerk Helmbrecht moved to amend the motion to amend the ordinance as follows:**

- 1) Under Section 128-3 list "Aggrieved Person" as defined in the Zoning Ordinance.**
- 2) Under Section 128-7 (c) add the words: "within forty-five (45) days" at the end of the sentence.**

**Seconded by Trustee Such.**

Attorney Seidlein stated the Wetland Ordinance presumes a property owner noticed within 500 feet of the property is an "aggrieved person." He stated otherwise the only proviso is that the Township Board makes the decision as to whether someone is to be termed an "aggrieved person." He stated there is not a time limit in the proposed ordinance, as there was no time limit under the Wetland Ordinance.

Clerk Helmbrecht commented the Township has several different definitions of "aggrieved person." She commented the definition of who is an "aggrieved person" is important to have at the time of ordinance adoption. She commented it is inappropriate to provide for a subjective case-by-case determination of an "aggrieved person." She commented it is also important to have a time limit on how long the Board can sit on an appeal. She commented she had understood through discussions with staff that these amendments had been reviewed by the attorney and would not be an issue in considering.

Trustee Brixie asked if the wetland ordinance has been successfully defended in court or challenged.

Attorney Woodworth stated the language of the wetland ordinance has been upheld including the ordinance definition of "aggrieved person." He stated a concern in amending an ordinance being adopted as an emergency ordinance. He reminded the Board the ordinance might be amended following adoption. He asked in the case of an imposed deadline for action on an appeal, what would be the result of failure to act, or if this would automatically grant the appeal? He stated this question is an example of details to be considered before changes.

Clerk Helmbrecht asked in the case of the other ordinances with a specified deadline how this is handled.

Attorney Woodworth stated the individual ordinances do not include a provision as to the ramifications of a missed deadline. He stated there are other provisions in statutes that give rise to an argument that a delay in hearing an appeal past the time limit in effect grants the appeal.

Trustee Woiwode commented it is important to look at potential amendments and remember that the Board may amend the ordinance. She commented the importance of the ordinance overrides her discomfort in passing an emergency measure. She commented she does not believe the ordinance presents a hardship for anyone. She stated a concern with unintended consequences from making an amendment to the ordinance.

[Clerk Helmbrecht left the room at 7:45 P.M.]

Treasurer Hunting stated he would like to have the Township Attorney and Manager address the issues of a definition for "aggrieved person" and a time limit for future deliberations.

**MOTION TO AMEND:**

**ROLL CALL VOTE: YEAS: Trustee Such**

**NAYS: Trustees Brixie, Stier, Woiwode, Supervisor McGillicuddy,  
Treasurer Hunting**

**Motion failed 1-5.**

Trustee Such commented Section 128-5 (5) provides an exemption for public utilities and asked how the Township would enforce Section 128-9 (2) (c). He commented that utility companies are typically unconcerned about preservation of natural features.

[Clerk Helmbrecht re-entered the room at 7:47 P.M.]

Attorney Seidlein stated the means by which to compel a utility were considered. He stated this approach is to make a statement of the policies and activities desired to be undertaken. He stated the desire is to involve the utilities in these discussions between the Township and developers.

Trustee Such asked how much this ordinance would cost to enforce.

Director Kieselbach stated the primary expenditure would be for the consultant. He stated the main concern is education and awareness of effected property owners, as was the case with the wetland ordinance. He stated the intent is to provide enforcement through existing staff.

Supervisor McGillicuddy commented it would be desirable to have greater public input on this measure if not for the emergency nature of the ordinance. She commented this ordinance may have provided protections to the wetland through the Act 425 Agreement (See Agenda Item #5 (Reports/Board Comment/New Worries).

Clerk Helmbrecht commented on the need to address concerns with the ordinance in the next few meetings.

MAIN MOTION AS ORIGINALLY READ:

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

NAYS: Trustee Such

Motion carried 6-1.

Supervisor McGillicuddy commented the concerns about the ordinance could be discussed at the first regular meeting in December.

Trustee Woiwode asked Board Members to submit their comments and questions to the Board for consideration at one time. She commented her goal is to have the best possible ordinance without providing an opportunity for property owners to clear their land to avoid compliance.

Trustee Such asked staff to notify the property owners identified on the map entitled "Vacant Land Effected by Land Clearing Ordinance." He commented they should also be notified the Board would be considering amendments to the ordinance and invite their comments. He commented he has additional concerns to share with the Board.

Trustee Brixie asked the Township Manager and/or Supervisor to draft a letter to notify all agencies that cut and remove trees of the adoption of this ordinance.

Clerk Helmbrecht commented there are ways to work with utilities to protect trees.

Trustee Such commented the notice to tree removal agencies should note that the ordinance only applies to undeveloped property.

Supervisor McGillicuddy closed the discussion at 7:58 P.M.

Supervisor McGillicuddy recessed the meeting at 7:58 P.M.

Supervisor McGillicuddy reconvened the meeting at 8:09 P.M.

11. DISCUSSION ITEMS/ENDS

Supervisor McGillicuddy opened public comment.

David E. Pierson, McClelland & Anderson, L.L.P., 1305 South Washington Avenue, Suite 102, Lansing, representing the applicant, spoke in support of the request to extend Preliminary Plat #00012 Ember Oaks.

Supervisor McGillicuddy closed public comment.

- Public Remarks (Agenda Item #13)  
Supervisor McGillicuddy opened Public Remarks.

Harry Hurst, 3418 Lake Lansing Rd, East Lansing, objected to the clearing of the wetland subject to protections under Exhibit B of the East Lansing and Meridian Act 425 Agreement.

Supervisor McGillicuddy closed Public Remarks.

**Board Members concurred to consider Agenda Item #11E. (PP #00012 Ember Oaks Request to Extend Plat) before all other items as the applicant is present.**

- PP #00012 Ember Oaks Request to Extend Plat (Agenda Item #11E.)  
Director Kieselbach introduced the request to extend the plat as outlined in staff memorandum.

Board Members discussed the following items:

- Total number of phases in the project
- Location of a pedestrian/bicycle pathway through the plat
- Briarwood/Van Atta Task Force deliberations
- Need for final plat approval
- Development of lots 131-135
- Potential pedestrian/bicycle pathway easement between lots 132 and 133
- Briarwood/Van Atta pathway designation as an "unpaved pathway"
- Preliminary plat approval conditions
- Need for flexibility to address wetland issues
- Open space calculation of plat under Planned Residential Development (PRD)
- Revisions to plat to increase clustering of housing units
- Exclusion of phase I to extension request
- Necessity of wetland permit for road crossings
- MDNR correspondence regarding threatened and endangered species

Protection of Significant Trees: (Agenda Item #8 (Questions for the Attorney))

Q. How could the Board require that every effort be made to protect significant trees on the site?

A. The Board could impose new conditions to the extension; however, those conditions would have to emanate from existing ordinances or statute. Any language in this regard must come out of ordinances that are in fact. Such language would need to be done in consultation with planning staff.

Board Members discussed the following items:

- Environmental Commission input in plat
- Environmental sensitivity of developer
- Construction status of Phase I

A. Clustered Housing Ordinances (PUD) and Statutory Compliance

Director Kieselbach introduced alternatives to reach statutory compliance as outlined in staff memorandum.

Board Members discussed the following items:

- Determination of a formula for density calculation in either option
- Developments under the PRD Ordinance
- Staff review of developer calculations
- Density incentives under PUD and PRD
- Expedited time incentive under PUD and PRD

Expedited Processing of Clustered Housing Overlay Districts: (Agenda Item #8 (Questions for the Attorney))

- Q. Please comment on the idea of moving a PRD or PUD application to the head of the line for consideration.
- A. The primary intent of the proposed alternatives is compliance with state law. An expedited process of approval for a PRD and PUD application could be incorporated. This is an instance in which the Township must accomplish statutory compliance by the end of the year. Incentives to encourage the use of overlay districts could be handled separately. Also of note is that the requirement under Section 86-2.3 (I)(2) that: "application shall not be approved until assurance is given that public sanitary sewer and public water service will be provided to the development" is not defensible under the new statutory language. It is also recommended that the provision for commercial use require the development of some portion of the residential area before development of the commercial.

Demonstration of Suitability for On-Site Water Supply: (Agenda Item #8 (Questions for the Attorney))

- Q. Would the PUD Ordinance then include the PRD Ordinance requirement for demonstration of water and sewer capability?
- A. The state statute requires that the applicant demonstrate in the application the suitability of soil conditions for on-site sewer disposal and adequate supply for on-site water.

Lagoon Systems: (Agenda Item #8 (Questions for the Attorney))

- Q. How would the development and use of lagoon systems impact the Township?
- A. That issue would need to be addressed in the review of the application on the suitability of the existing site conditions. This necessity for a determination has been imposed on the Township by state statute. If the system is likely to fail, this is a determination to be made based on whether the site conditions would support the proposal.

Determination of Suitability: (Agenda Item #8 (Questions for the Attorney))

- Q. How would the Township make the determination of suitability?
- A. The application would require supporting documentation to establish the suitability of on-site sewage disposal.

Township Obligation for Failure of On-Site Sewage Disposal: (Agenda Item #8 (Questions for the Attorney))

- Q. Please address the concern as to the expectation for the Township to maintain an on-site sewage disposal system following its failure.
- A. The difficulty is that the determination is to be made based on the information available at the time of application. If there is nothing to indicate that on-site sewage disposal is a problem, then the intent of the legislation is to permit the development. It is still possible for a system to fail, but the burden of proof for the denial of an application is to demonstrate that it would not work in an area not served by public sewer.

Board Members discussed the following items:

- Preference for PRD in rural areas

Limitation to Individual Septic Systems: (Agenda Item #8 (Questions for the Attorney))

- Q. Could the Township limit on-site sewage systems to individual septic systems rather than permit an alternative waste system?
- A. Within the determination of suitability, that decision would be made at the application phase and may not be made more specific in the ordinance.

Board Members discussed the following items:

- Desirability of flexible development options in rural areas

Statutory Language: (Agenda Item #8 (Questions for the Attorney))

- Q. Does the statute actually use the phrase "on-site sewage disposal?"
- A. The proposed language to be added to the ordinance comes directly from the statute.

Board Members discussed the following items:

- Use of waste treatment systems in mobile home parks
- Comparison of projected results for the Density Chart and Yield Plan Alternatives for the PUD Ordinance
- Development of parcels with fewer than two (2) units per acre outside the public utility service area
- Topographical restrictions on remaining undeveloped property
- Developer preference for the Yield Plan Alternative
- Time frame for adoption of amendment

Supervisor McGillicuddy reviewed the remainder of the agenda to be considered.

[Trustee Such left the room at 9:26 P.M.]

**The consensus of the Board was to postpone discussion of Agenda Items #11D. (Zoning Categories) and 11F. (Township-Wide Traffic Study).**

B. Subdivision Control Ordinance

Director Kieselbach introduced the proposed Subdivision Control Ordinance as outlined in staff memorandum.

Advisability of Ordinance: (Agenda Item #8 (Questions for the Attorney))

Q. Is this ordinance advisable from a legal stance?

A. A Subdivision Control Ordinance is overdue and should be done.

Board Members discussed the following:

- Adoption as a stand-alone ordinance
- Elimination of stub streets from plans
- Ingham County Road Commission storm water controls in rural area
- Railroad track setbacks
- Tentative Preliminary Plat Approval before Ingham County Road Commission approvals

C. Housing Code

Director Kieselbach introduced the proposed housing code as outlined in staff memorandum.

Non-Conforming Uses Provisions: (Agenda Item #8 (Questions for the Attorney))

Q. Why would the housing code not have to provide for legally non-conforming uses, as was the case with the Rental Housing Code?

A. This is not a zoning issue. Non-conforming uses arise in the context of zoning. This is a health, safety and welfare issue.

Board Members discussed the following:

- Impact of the code on code enforcement measures
- Adoption of the code by reference based on the needs of the Township
- Progression of the Board's Prosperity Ends
- Legal ambiguity of the housing code adoption by reference through the building code
- Enforcement of housing code
- Potential fiscal impact to residents
- Appeal provisions
- Complaint based enforcement of code provisions
- Specific code requirements for rental housing
- Insufficiency of condemnation process to protect neighborhoods
- Code as the accepted standard amongst governmental agencies
- Property owner reimbursement of work performed in lieu of assessed penalties

D. Zoning Categories (Postponed to November 19, 2002)

E. PP #00012 Ember Oaks Request to Extend Plat (See Agenda Item #11 (Discussion Items/Ends))

F. Township-Wide Traffic Study (Postponed to November 19, 2002)

12. POSSIBLE CLOSED SESSION – Monitoring Township Manager Performance

**Trustee Woiwode moved that the Township Board go into closed session to discuss the personnel evaluation of the Township Manager as requested by the Township Manager under MCL 4.1800(18)(a). Seconded by Trustee Stier.**

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Woiwode, Supervisor McGillicuddy,  
Clerk Helmbrecht, Treasurer Hunting  
NAYS: None  
Motion carried 6-0.

Supervisor McGillicuddy recessed the meeting at 9:43 P.M.

The Board adjourned to the Administrative Conference Room for a closed session.

**Treasurer Hunting moved to return to open session. Seconded by Clerk Helmbrecht.**

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Woiwode, Supervisor McGillicuddy,  
Clerk Helmbrecht, Treasurer Hunting  
NAYS: None  
Motion carried 6-0.

Supervisor McGillicuddy reconvened the meeting at 11:03 P.M.

13. PUBLIC REMARKS (See Agenda Item #11)

14. ADJOURNMENT

Supervisor McGillicuddy adjourned the meeting at 11:04 P.M.

---

SUSAN McGILLICUDDY  
TOWNSHIP SUPERVISOR

---

MARY M. G. HELMBRECHT  
TOWNSHIP CLERK

Paul J. Cassidy, Secretary