

REGULAR MEETING OF THE EAST BAY CHARTER TOWNSHIP  
PLANNING COMMISSION  
Tuesday, February 3, 2008 6:30 p.m.  
East Bay Charter Township Hall  
1965 N. Three Mile Road  
Traverse City, MI 49686

**Present:** Planning Commission Members Judy Nemitz, Ted Hentschel, Jim McDowell, Robert Tubbs, Tracey Bartlett and Mindy Walters

**Absent and Excused:** Chair Mike Nickels

**Also Present:** Township Attorney Peter Wendling; Recording Secretary, Anne Wendling;

Two (2) guests were in attendance.

1. **Call to Order:** Vice Chairman Tubbs called the meeting to order at 6:30p.m.
2. **Roll Call:** Roll was called by the Recording Secretary.
3. **Review for Conflict of Interest:** There were no conflicts of interest reported.
4. **Approval of the Agenda:** A motion was made by Nemitz and seconded by Walters to approve the agenda as presented. The motion carried unanimously.
5. **Approval of the Minutes:** Hentschel made a motion to approve the Regular Minutes of January 6, 2008. McDowell seconded the motion and the motion carried unanimously.
6. **Public Input:** None at this time.
7. **Reports:**
  - A. *Township Board:* Bartlett reported that she attended two MTA sessions and one was on strategic planning. She also mentioned the CIP and discussion regarding the next step and direction of the CIP took place among commissioners. A joint meeting was discussed as a possibility in the coming months. Bartlett also reported that she and Supervisor Glen Lile graduated from the governance academy. She noted that the

board approved the lot density amendment and four projects have been proposed for the possibility of a stimulus package.

- B. *Appeals Board:* Hentschel had no report at this time.
- C. *Planners Report:* Planner was not in attendance.
- D. *ZA Report:* Tina Allen gave a list of permits issued and handed out a few items to commissioners. An administrative review was done with Olmstead on their construction project.
- E. *Attorneys Report:* Township Attorney Wendling passed out a flyer regarding Robert's Rules for commissioners.
- F. *Correspondence:* Included in packets.
- G. *CIP Committee:* No report at this time.

## 8. **New Business**

### A. AT&T Wireless Communication Facility Upgrade

Tubbs said that there is a request from AT&T to waive the Zoning Ordinance requirements for a full site plan review so that an upgrade of facilities can be done under simple administrative review. Township Attorney Wendling recommended that the commissioners waive requirements for a site plan review as allowed under Section 634 (3) of the Zoning Ordinance. Wendling further advised that other changes could be accomplished by the deputy zoning administrator as a minor site plan adjustment as allowed under Section 820 of the zoning ordinance. Bartlett inquired about repairs and painting to the tower at the same time as this replacement would take place.

*Hentschel moved to waive the requirements of sections 634.6, 634.7, 634.10, 634.11 and 634.12 as allowed under Article VI, Sections 634 (3) of the zoning ordinance so that AT&T can upgrade the facilities as presented. Bartlett seconded the motion. The motion carried unanimously.*

**9. Old Business:**

**A. Discussion of Extension of Special Land Uses, PUD's and Site Plan Reviews.**

Attorney Wendling discussed his memo of January 26, 2008 with the commissioners. He suggested that instead of worrying about whether there is progress on a certain project, the Planning Commission could address the progress issue at the time of extension if need be. Wendling also addressed the possibility of Performance Guarantee Requirements in which a letter of credit from a bank or other financial entity would be required by the developer as a condition of renewal and in stages during the monitoring of the project by the township. Attorney Wendling said that these requirements may discourage some development, but it would be worth the risk rather than leave the township with unfinished or half completed major building projects. Attorney Wendling passed on that Attorney Jim Young thought that the Township Board should not address PUD's since such a review seems to be an extra burden to the board and that PUD's could be handled by the Planning Commission in their entirety. Nemitz asked why developers are so opposed to performance bonds and Attorney Wendling explained that cost is the main concern. Wendling further discussed how performance bonds can be difficult to enforce because on almost all occasions, litigation is needed to extract the funds from the bonding agency. With such a performance guarantee in place, a bank and the developer would be the only parties involved. Wendling recommended that the letter of credit be issued subject to the call of the township if there is no performance as required under the permit or order issued by the township, depending on the type of project involved. Since commissioners discussed the length of the extension, Wendling said that he could draft an ordinance for PUD extensions and special uses and then add language pertaining to the length of extension as needed. Tubbs said he would like to see the commission grant a two year approval for any new project and then extensions could be granted on an unlimited basis as long as the PUD meets the standards. Wendling stressed that this is a policy decision for the commission to decide. Attorney Wendling stated that he would draft a zoning ordinance amendment addressing this matter.

*Nemitz made a motion to have Attorney Wendling draft an ordinance which includes performance guarantees and standards for extensions of site plans, PUD 's and special uses to be reviewed by The commission at the next meeting. The motion was seconded by Hentschel and carried unanimously.*

**10. Adjournment:** Vice Chair Tubbs adjourned the meeting at 7:40 pm.

