

REGULAR MEETING OF THE EAST BAY CHARTER TOWNSHIP  
PLANNING COMMISSION  
Tuesday, October 7, 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, Beth Friend and Mindy Walters

**Absent and Excused:** Mike Nickels

**Also Present:** Township Attorney Peter Wendling; Township Zoning Administrator Leslie Couturier; Recording Secretary, Anne Wendling; Jay Kilpatrick, Township Planner from Williams & Works

Twenty-nine ( 29) guests were in attendance.

1. **Call to Order:** Vice Chairman Tubbs called the meeting to order at 6:32 p.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 Friend and seconded by McDowell to approve the agenda. The motion carried unanimously.
5. **Approval of the Minutes:** Friend made a motion to approve the Regular Minutes of September 2, 2008. Nemitz seconded the motion and the motion carried unanimously.
6. **Public Input:** None at this time
7. **Reports:**
  - A. *Township Board:* Friend noted that the minutes from the September township board meeting are included in the packets. The board discussed the subject of a full time planner and decided to begin a search for one. A job description is currently being written. Friend announced that this meeting would be her last meeting as a planning commission member. She

reminded the commissioners that the Planning Commission has a huge job and is very important to the township. Tubbs thanked Friend for her service on behalf of the township and the commission.

- B. *Appeals Board:* Hentschel reported that there was a request for an extension on the Windjammer Resort and a one year extension was approved.
- C. *Planners Report:* Planner Jay Kilpatrick said that Long Lake Township has been drafting a septic ordinance and are planning to move forward on an ordinance requiring time of sale inspections. Kilpatrick stated that he would keep the commissioners posted on what happens in Long Lake Township.
- D. *ZA Report:* Couturier had no report at this time.
- E. *Attorneys Report:* Township Attorney Wendling said that a letter stating that the state fee was finally received in the Rasha Road transfer station purchase. He will contact the local DNR person to see about the lease being extended pending the sale of property. Wendling also mentioned a tax tribunal case in another twp which could have consequences on the uncapping of property taxes.
- F. *Correspondence:* Additional correspondence was received and is included on commissioner desks from Wade-Trim engineer Damien Curry, Land Use Consultant Doug Mansfield and a letter relating to the proposed lakes overlay district,

## 8. **New Business:**

### A. Public Hearings

1. ***Site Plan Review 10-08; R. Clark & Associates for Ed Graft, Karu Inc: Pirates Cove; Changes to the Site Plan and Additions to the Recreational Facilities. Public Hearing and Action***

Russ Clark from R. Clark & Associates spoke on behalf of the owners of Pirate's Cove. He presented the Site Plan and

explained it to commissioners in a computerized presentation. Owners propose to remove the present building known as the former Little Caesars's structure and add a covered ticket booth, a zip line and ropes course. Some parking lot area will be removed and replaced with a seating area. All structures would comply with setbacks once the portion of building is removed. Drainage patterns would not change at all and the owners are still working on details of a lighting design and will submit a plan prior to obtaining permits. The proposed development maintains interconnectivity with all neighboring properties.

Commissioners then asked a few questions regarding heights, hours of operation, and safety on the property.

The public hearing was opened and one person commented on the safety of crossing US 31.

Kilpatrick said that the proposal was a permitted use in the district. He commented on the parking situation and there will be 99 spaces which did comply with the requirements. Aside from the lighting plan, Kilpatrick stated that could be approved subject to the six items listed on page five of his 9/29/2008 memo.

*McDowell moved to approve Site Plan Review 10-08 subject to the six conditions noted in Kilpatrick's memo dated 9/29/2008. Friend supported and the motion carried unanimously.*

## 2. **Lakes Overlay Amendment; Public Hearing & Action.**

Kilpatrick explained the background and history of the ordinance as it pertained to the township and residents. He stated that he has made changes and adjustments based on Commissioner Walter's suggestions and also changed language regarding artificial beaches. Kilpatrick explained that this would be an Ordinance Amendment to Article 2 General Provisions that established the Forest Lakes Overlay District and this amendment would pertain to only building on two or more lots in the proposed district.

Vice Chair Tubbs opened the public comment at 7:14pm. Five comments were heard which addressed artificial beaches, improvement of water quality, duplication of county and state ordinances and expense. One gentleman stated that this was a good process and that the proposed amendment was an important first step. Kilpatrick and Wendling addressed the public comments. Tubbs closed the public hearing at 7:25pm.

Nemitz questioned the overburdening of township employees in enforcing the ordinance. Township Attorney Wendling said that the ordinance was designed so that the township engineer would

help enforce the ordinance. Nemitz questioned whether the ordinance was punitive or incentive in nature. Walters pointed out a couple small minor textual changes. Hentschel commented that this ordinance amendment started from an event which made the township reactive. Friend commented that this Ordinance Amendment was an impressive and thorough process. Commissioners thanked Kilpatrick and Wendling for all their work.

*McDowell made a motion to recommend approval of the Ordinance to Amend Article 2, General Provisions, Article 3 Zoning Districts, Uses Table and Map, Sections 405 and 407 of Article 4 of the East Bay Charter Township Zoning Ordinance and incorporating all minor textual changes. The motion was supported by Hentschel and the motion carried unanimously.*

3. ***Master Plan Supplement: Public Hearing & Recommendation to the Township Board***

Kilpatrick briefed commissioners on the Master Plan supplement which incorporates slight adjustments to goals, objectives, and the zoning plan. The state has enacted a new zoning enabling plan so the township must incorporate that into its own zoning plan. Kilpatrick noted that the primary changes to the plan were centered around the Three Mile Road corridor. Tubbs opened the public comment at 7:49pm. One gentleman commented that his property abuts a proposed residential business district. Tubbs closed public comment at 8:01pm.

*Hentschel moved to table any action on the Master plan supplement until commissioners had the opportunity to look closely at the proposed changes. Nemitz seconded the motion and the motion carried unanimously.*

B.

1. ***Lot Area and Density Conformity; Review of Draft Amendment***

Planner Kilpatrick briefed the board on the Proposed Amendment to Lot Area and Density conformity. He stated that this issue came up in Ordinance 109 discussions. The proposed amendment creates a sliding scale of lot size which gets closer to the promised density stated in the zoning ordinance. Some setbacks would need to be changed as well and those have been

adjusted in the draft. The proposed amendment allows developers more density while the township creates smaller lots. *Hentschel moved to set the proposed Amendment to Lot Area and Density Conformity for public hearing and adoption to amend Sections 402 and 403 and 505 Tables 1 and 3. Friend seconded the motion and the motion carried unanimously.*

**9. Old Business:**

**1. East Towne**

Doug Mansfield represented the developers of the East Towne PUD. Kilpatrick talked about the complexity of this project and has prepared a report dated September 25, 2008 recommending either tabling the matter or moving forward for conditional approval and recommendation to the township board. Kilpatrick stated that the PUD standards have been met and walked commissioners through his memo. Kilpatrick commented on the Special Land Use portion of the application and said that the development would change the character of the area, but those changes were consistent with the master plan. Friend asked what benefit the township would receive from granting the deviations from the PUD plan. Negotiations regarding the project were discussed between the commissioners and Mansfield on behalf of the developers. Mansfield discussed his memo dated October 6, 2008 which was written in response to Kilpatrick's memo of September 25, 2008. Commissioners asked how the proposed commercial buildings would fit in with the assisted living buildings on an aesthetic level. Concerns regarding the ambulance service were also discussed between Mansfield and the commissioners. Attorney Wendling said that commissioners deserve to have the entire PUD plan at once. Wendling suggested writing findings of fact and attaching exhibits for the commissioners to review which would also stand in any court of law and would uphold commissioners decisions regarding the project.

*Hentschel motioned to table any action on the East Towne PUD until the commissioners receive findings of fact from Attorney Wendling. There was no second. Hentschel moved to table any action on the East Towne PUD pending review of legal documents drafted by Attorney Wendling and action can be taken at a special meeting on October 28 2008 at the township's expense. Walters seconded the amended motion. With Nemitz and McDowell dissenting, the motion carried.*

2. ***Process to Create a Three Mile/Hammond Road Village Center Sub-Area Plan (tabled from Sept. meeting).***

*Friend made a motion to table the matter indefinitely until a planner was possibly appointed. Nemitz seconded and the motion carried unanimously.*

10. **Adjournment:** Vice Chair Tubbs adjourned the meeting at 9:55 pm.