

REGULAR MEETING OF THE EAST BAY CHARTER TOWNSHIP
PLANNING COMMISSION
Tuesday, May 5, 2009 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, Mike Nickels and Mindy Walters

Also Present: Township Attorney Peter Wendling; Township Planner Jay Kilpatrick; Zoning Administrator Leslie Couturier; Recording Secretary, Anne Wendling;

Six (6) guests were in attendance.

1. **Call to Order:** Chairman Nickels called the meeting to order at 6:30 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 McDowell and seconded by Nemitz to approve the agenda as presented. The motion carried unanimously.
5. **Approval of the Minutes:** Tubbs made a motion to approve the Regular Minutes the Joint Meeting of April 9, 2009. Walters seconded the motion and the motion carried unanimously.
6. **Public Input:** None given
7. **Reports:**
 - A. *Township Board:* Bartlett stated that there was a Holiday Road meeting set up by the residents and it was very well attended and there would be another meeting on May 14th. She also reported that there was a Septage Plant meeting last week and a discussion will come before the board next week.
 - B. *Appeals Board:* Hentschel had no report at this time.

- C. *Planners Report:* Kilpatrick reported that he is looking at language in regards zoning for stairways leading to water. He will bring back some language for the June meeting as this may be an opportunity to preempt a problem.
- D. *ZA Report:* Couturier said that land use permits for the year stand at 22 with 12 being single family homes which is higher compared to last year. She also stated that there will be a CIP workshop on May 20th at 6pm.
- E. *Attorneys Report:* Township Attorney Wendling stated that the Rasho Road matter is still awaiting a state appraisal. Walters asked about a possible swap for other township property.
- F. *Correspondence:* Included in packets.

8. **New Business**

A. **Public Hearings:**

Essential Public Services: Section(s) 204, 303, 401 thru 415, and 421. Public Hearing and Recommendation to the Township Board.

Kilpatrick stated that the zoning ordinance has dealt with public services in a cursory manner and these services are essential. He has developed language for a hearing today and said that this change would treat all essential services on a tiered level. Depending on the size of the facility, some services would be treated as special land uses. Township Attorney Wendling suggested that the LDR or another zoning district be excluded from this amendment and gave Wolverine Power's struggle in Elmwood Township as an example. He stated that an essential service provider could go to the Public Service Commission to circumvent the zoning, but in many cases, that is an expensive option. Nemitz asked about excluding the natural area and the Mitchell Creek protection area. Kilpatrick commented that essential services will need to locate their services near people and like any SPU, conditions can be applied and providers would have to meet eight standards under the regular approval. There would be findings of fact which give the Planning Commission control over the entire process. Tubbs asked about the term "associated structure" and wondered whether it begs an argument. Chairman Nickels opened Public Comment at 7:05pm and seeing none, closed public comment. Wendling said action on this item is fairly urgent and should be

moved to the board as soon as possible. Any building larger than 200 square feet would need a special use permit. The Boardman River and Lakes Overlay districts would exclude essential services structures with the rest of the districts being subject to the ordinance.

Nemitz moved to adopt the ordinance with the elimination of the Boardman Lakes Area and the Lakes Overlay District and amend Section 204 3d, and Section 628b2 and Section 204 3e as Tubbs recommended for grammar and pass the proposed ordinance amendment on to the township board. Bartlett seconded the motion and the motion carried unanimously.

B. 1. Ralph Bergsma, East Bay Estates; Request for 3rd Extension of Approved Site Plan #11-06

Bergsma asked for an extension for another year due to the poor housing market. Bartlett asked about options besides Stafford Hall for sewer and water leading to the development and Bergsma said that some easements were discussed, but nothing is in place. Nickels asked if a two year extension would be reasonable.

Hentschel moved and Walters supported to approve an extension to Site Plan #11-06 for two additional years. ¹ The motion passed unopposed.

2. Draft Ordinance Officially Establishing the Planning Commission Under the Terms of the New Planning Enabling Act; Review and Set Public Hearing Date.

Planner Kilpatrick told commissioners that this item was merely a housekeeping issue and under the new zoning enabling act, the statute requires that a Planning Commission has to be established under the new ordinance to take effect 63 days after publication.

Nemitz moved to accept the proposed ordinance and set it for public hearing in June. Tubbs supported the motion and the motion carried unanimously.

3. Draft Amendment for Extensions of Site Plans, Special Land Uses and PUD's; Review and Set Public Hearing Date

Township Attorney Wendling stated that since this item was seen

¹ As amended/added per the Planning Commission on 6/2/2009

by commissioners, Attorney Young added a couple items and Kilpatrick also commented resulting in some minor text changes. The escrow standards have been added and Wendling said this could move forward regardless of whether the township decided not to relinquish its power of review over PUD's. Walters made a motion to schedule a Public Hearing in regards to this particular subsection of the zoning ordinance. Hentschel supported the motion. The motion was withdrawn by both Walters and Hentschel. Nickels moved to amend the agenda to add item number B.5 to this discussion. Walters seconded the motion. The motion carried unanimously. Attorney Wendling stated that the commissioners could approve these amendments with or without the language pertaining to Planning Commissions and Township Board approvals of PUD's. Planner Kilpatrick referred to his memo dated April 21, 2009 regarding the final approvals of PUD's. He has drafted amendments which take out the board approval extensions and Section 637.12 can be dropped if the commissioners recommend acting alone in regards to PUD's.

Hentschel made a motion to set the proposed ordinance amendments for sections 601.6, 637.12, 820.10 and 830, first paragraph along with subsections 1, 3 and 7 for a public hearing. Tubbs supported the motion and the motion carried unanimously.

4. Draft Amendment for Hearings and Application Escrow Deposit Amount; Review and Set Public Hearing Date.

Bartlett stated that draft language is in front of commissioners which requires that a hearing be suspended if the escrow is not up to date. She said that this option gives the township some leverage for not being able to cover fees pending from the escrow account such as legal fees or planning fees. Kilpatrick said that this language would be added to Section 831 of the zoning ordinance. Bartlett stated that this could slow the process a bit, but escrows have been an issue. Kilpatrick stated that he will draft an amendment for a public hearing in June.

Bartlett made a motion to set the proposed amendment to the escrow policy for public hearing. Nemitz seconded and the motion carried unanimously.

9. Old Business: Nemitz thanked the members of a government class who attended the meeting.

10. **Adjournment:** Chairman Nickels adjourned the meeting at 8:03pm.