



ACME TOWNSHIP PLANNING COMMISSION MEETING
Acme Township Hall
6042 Acme Road, Williamsburg, Michigan
7:00 p.m. Monday, October 25, 2010

Meeting called to Order with the Pledge of Allegiance at 7:02 p.m.

Members present: J. Zollinger (Chair), B. Carstens (Vice Chair), C. David, S. Feringa, R. Hardin, D. Krause, D. White, P. Yamaguchi
Members excused: V. Tegel
Staff Present: S. Vreeland, Township Manager/Recording Secretary
J. Jocks, Legal Counsel

INQUIRY AS TO CONFLICTS OF INTEREST: None noted

APPROVAL OF AGENDA: Motion by Yamaguchi, support by Carstens to approve the agenda as presented. Motion carried unanimously.

1. Continuing Education
 - a) Planner's Moments: Why Master Plans sit on the shelf
[Link to Video](#) – REQUIRES INSTALLATION OF [REAL PLAYER](#) ON COMPUTER
[Link to Handouts](#)

2. Consent Calendar:
Motion by David, support by Carstens to approve the Consent Calendar as presented, including:

Receive and File:

- a) Draft Unapproved Minutes of:
 1. [10/05/10](#) Board
- b) [September 2010](#) Planning & Zoning News
- c) [Status Update](#) – VGT-Phase I SUP Application #2009-01P

Action:

- d) Approve [09/27/10](#) Planning Commission meeting minutes

Motion carried unanimously.

3. Correspondence: None

4. Limited Public Comment: None

5. Public Hearings:

- a) [Proposed Zoning Ordinance Amendment 010 - Financial Responsibility](#): White continues to wonder why this ordinance has been proposed. Zollinger has been thinking about whether the questions raised should be considered differently for applicants who are individuals versus those that are business interests. For instance, should a homeowner who wants to build a garage be treated differently than a large company that would like to add on to their commercial facility? David had some concerns about the proposed ordinance last month. However, once he began to consider that people who chose to use money that could go to paying taxes for new projects may be subsidized for their public services by those who are paying their

taxes on time, he finds it reasonable. White believes that the mechanism to enforce tax payment is already in place – the tax foreclosure process. Hardin noted that the entire discussion has been focusing on taxes, but there are other monies that could be past due to the township that this would cover as well. Also, while the township is currently made whole for past due property taxes by the County, there is no law that requires this to occur. The County could stop doing this for us at any time and the township would be left holding the bag for unpaid taxes during a lengthy tax foreclosure process. Yamaguchi observed that the county has to use taxpayer money to make the township whole for unpaid taxes, if they don't need to borrow it.

Public Hearing opened at 7:26 p.m.

Ken Engle, Saylor Road read the proposed ordinance amendment online. He echoed some of White's concerns. He said that one way farmers can manage payment of their income taxes is by managing the date on which they pay their property taxes. He is concerned about the township requiring a farmer to pay a tax when they have a legal deferment for it. He believes a right would be taken away.

Vreeland stated that she is aware of two types of tax deferments; one for farmers and one for senior citizens with limited income. In both cases the deferment allows the summer taxes to be paid along with the winter taxes by February 14 of the following year and be considered on-time. She stated that any entity with a valid deferment would be not be categorized as past-due in their obligation as long as the payment is made by the final annual due date.

Public Hearing closed at 7:30 p.m.

Carstens requested a reminder about how the tax foreclosure process occurs. If taxes are past due for a sufficient period of time, the County forecloses on the property. Foreclosed properties are offered for purchase for the amount of past-due taxes, interest and penalties first to the State of Michigan and if they don't purchase it then to the municipality in which they exist. Municipalities may purchase the properties for permanent public use only. Properties not purchased by the State or a municipality may be publicly auctioned, or the County may use the land bank mechanism to make them available to certain types of development in ways that make them less expensive to develop. David recommended clarifying the proposed language to state that any legally-obtained deferments would not be a cause to deny a permit.

Vreeland noted that discussion has largely focused on the impact of past due taxes on an application process; however, this is only one part of the story. In the past few years the township has had difficulties with several potential developers who were or are still refusing to pay the full costs of their special use permit application processes to the township in a timely fashion. In some cases the past due amounts have exceeded \$50,000. Without the proposed ordinance amendment, there is nothing that would permit the township to require that past due sums for prior permit applications or any other past-due amount be paid in full before additional permit applications are processed for the debtor.

Mr. Engle asked what would happen under this ordinance amendment if there is money for a township permit or process owed by a landowner relative to a particular property and the property is sold, would the new property owner be held liable for those payments? Jocks noted that permits subject to the Zoning Ordinance relate to a

particular entity, and that entity would be held liable and not the new landowner. Tax liability would remain with the land.

Mr. Engle asked what would happen if a person seeking a permit is a member of an LLC, and either the individual or the LLC owes money to the township. Jocks observed that if the relationship is known, the township would apply this policy. The township might not be aware of the relationship. Mr. Engle noted that this would cause him to need to perform more extensive due diligence on his proposed partners to ensure they had no outstanding obligations that could cause difficulties with their business plans.

White asked if the township could attach a lien to a property if money is owed. In general terms the township cannot do this without initiating potentially expensive litigation and obtaining a judgment. Legal fee reimbursement would not be provided along with any judgment amount except in extreme circumstances.

Hardin noted that this ordinance is not intended to be difficult on normal applicants, but to prevent any potentially bad situations as described earlier from becoming worse.

Motion by David, support by Yamaguchi that the Planning Commission recommend approval of proposed Acme Township Zoning Ordinance Amendment 010 as amended to add the statement “Taxes shall not be considered delinquent for taxpayers with a deferment until that deferment expires.” Motion carried unanimously.

6. **Old Business:**

- a) **Proposed [residential neighborhood sign regulation ordinance amendment](#):** Based on staff discussion with lighting expert Jerry Dobek, the current recommendation is to eliminate limitations on light intensity from the proposed ordinance amendment. David wondered if it would be prudent to limit the number of lighting fixtures to one per sign. The allowable sign size could result in a 2’ tall by 8’ long sign; would it be possible to adequately light the sign with just one light source to a readable level? He does not understand why it is important to limit the number of light sources. Carstens and Yamaguchi concurred. Hardin expressed concern that if the township limits neither the light intensity nor the number of light sources that the intent of the dark sky ordinance will be jeopardized. Carstens expressed some discomfort with not managing the amount of light provided. Jocks suggested that one way to manage the concern is by allowing one light fixture per 4’ of horizontal sign face or some other appropriate distance.

David wondered if the reflectivity of the lit sign and its potential to create glare should be regulated. This would be difficult to measure and enforce from a practical perspective. It is already somewhat covered by the existing language prohibiting directly visible light sources.

Motion by David, support by White to set a public hearing for the proposed amendments to the residential sign lighting regulations for the November 29 meeting, with a change to the requirements for the number of light fixtures and with elimination of the reference to footcandles. Motion carried unanimously.

b) **[Action List](#)**

1. **[Report](#) from Jeff Jocks regarding SUP amendment procedure:** One of

the items on the action list is a review of the provisions for how requested special use permit amendments are handled. Questions were raised during the content-neutral ordinance re-adoption and later by temporary Zoning Administrator Marvin Radtke Jr. To clarify, there are no concerns with the process for initial consideration of a new special use permit application; the only questions are with the three possible ways to treat a request to amend an SUP.

The Zoning Administrator has the authority to approve an “insignificant” amendment administratively. The Planning Commission is granted the ability to unilaterally issue “minor” amendments where changes are noticeable but not extensive. Extensive amendments are “major” amendments requiring a full SUP approval process as if it were a new application.

The question raised was whether it is lawful for the Planning Commission to unilaterally approve minor amendments when the Board of Trustees issues final approval on new SUPs and major amendments. Jocks recommends that state zoning enabling law allows the Board to delegate its authority to perform certain functions, and in our case the Board has lawfully delegated its authority to both review and approve minor amendments.

Most of the care needs to be taken in correctly classifying SUP amendment requests.

This action list item is considered complete and the SUP amendment ordinance language considered appropriate.

Yamaguchi stated that she and Tegel have been working on the question of protected viewsheds defined in the Master Plan over the past two months. They would like to present their work in the near future, such as at the November meeting, to see what the Commission thinks. Their information could be saved for upcoming Master Plan updates if found worthy.

Carstens asked if the concept of Bates sub-area neighborhood plan has been abandoned. It has not, but it has not been assigned top priority compared to other issues on the list. The Bates area landowners themselves did not seem to feel that the matter was urgent. Zollinger thought perhaps it could be pursued again with Master Plan updates. Yamaguchi observed that, as mentioned in the training video tonight the Planning Commission should not write a neighborhood plan to impose on Bates but should find a way to get the Bates landowners – and the broader community – fully engaged in writing the plan with the Commission’s assistance.

Carstens asked about the status of Bates Road realignment. Feringa reported that he is awaiting delivery of documents from the engineer, which will be provided to the township and the County to seek approval and cooperation to move forward.

7. New Business:

- a) **Discuss Mayfield Township Zoning Ordinance Amendment regulating [deep injection waste disposal wells](#):** Zollinger observed that the Mayfield ordinance has a lot of monitoring focus over activities that have been given approval by state and federal agencies. Jocks worked with Mayfield Township for purposes of this

ordinance and agreed that they were seeking a high level of frequent oversight. One particular concern was about having the wells approved based on representations that waste would come from a certain source, but having the source of waste and the associated impacts change over time.

Jocks noted that there are several words that were inserted into item 3u of the Mayfield Ordinance that he did not write. Their ordinance says “Any Brine Disposal Facilities require review and approval under this subsection...” These are the words he did not write, and he recommends that while non-hazardous waste disposal wells may be subject to local zoning jurisdiction that wells for disposal of mineral production waste brine only or hazardous waste disposal wells are not subject to local zoning jurisdiction. Jocks also noted that this ordinance still may be subject to a legal challenge, whether that challenge is ultimately successful or not. Hardin confirmed that at the state and federal level the right to have a mineral well comes with the right to an associated brine disposal well.

Carstens went to the public hearing in Mayfield regarding the proposed waste disposal well there for leachate from Glen’s Landfill. He believes he heard that the site of the proposed disposal well is already contaminated. As part of the Northern Michigan Environmental Action Council (NMEAC) he was involved in legal action involving industrial contamination of residential water wells near a facility in Traverse City. He is concerned about a similar groundwater contamination occurring in Acme Township in light of documentation such as Dr. Grobbel’s white paper. He believes that people need to do more to pressure state and local agencies to truly protect such resources in light of questionable current investigative and permitting practices.

David feels that there has been a higher level of hysteria regarding fracturing related to mineral exploration than is strictly warranted. Carstens disagreed.

Zollinger asked the Commission whether they thought this type of ordinance is important, and if so what priority level would be assigned. Krause, David and White feel it is important but not top priority at this time. Hardin feels that it will become a priority as soon as someone wants to put a waste disposal well in, and Feringa believes that with the pace of gas and oil exploration interest in this area that an appropriate priority level would be mid-range. Yamaguchi would assign a priority ranking in the upper half of the list. Carstens agreed with Hardin and wishes something were in place already, and he feels we have capacity to handle the work at this time. David believes it will take a significant amount of effort in terms of scientific study to determine appropriate locations and/or geological conditions for well placement. Jocks observed that the ordinance does not attempt to regulate placement other than in the agricultural district only and subject to rigorous review of a particular site when an application is made. Their ordinance does not attempt to regulate depths or other technical details, many of which will be covered by the DNRE and EPA reviews and permitting processes. This ordinance focuses on whether or not there are other viable options and close examination of the requested location both at application and on an ongoing basis. Vreeland recommended that the priority level be set fairly high and that the Commission begin examining the issue carefully but fairly immediately to be ready in case an application comes. There have been a lot of applications for waste disposal wells in Northern Michigan over the past few years. Consensus was reached to take this approach.

8. Public Comment/ Any other Business that may come before the Commission:

Mr. Engle recently attended a workshop on alternative energy as a member of the Land Conservancy Board. No matter how power is generated, it must travel to where it is needed via power transmission lines. He suggested that the township could require utilities to bury power lines underground, or that perhaps we could require them to use existing rights-of-way. Vreeland and Jocks reported that to some extent this question was examined during a recent request for use of our right-of-way for new broadband Internet cables, and it was learned that if the township requires underground utility location it must pay the cost differential between underground and above-ground installation. Mr. Engle noted that getting power to “the grid” from alternative sources is new territory and provides an opportunity for leadership and seeking legislative change where appropriate. This can tie in to things like scenic viewshed protection. There might be additional community cost, but people can also impress upon corporations the need to be “good corporate citizens.” Hardin stated that the question of burying power lines also came up with a recent Consumers Energy franchise renewal.

Meeting adjourned at 9:00 p.m.