

CHARTER TOWNSHIP OF MERIDIAN  
TOWNSHIP BOARD REGULAR MEETING - **APPROVED** -  
5151 Marsh Road, Okemos, MI 48864-1198  
349-1200, Town Hall Room  
TUESDAY, APRIL 15, 2003, **6:00 P.M.**

PRESENT: Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting, Trustees Brixie, Stier, Such, Woiwode

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, Attorney Mike Woodworth

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

A. Fire Department Special Recognition

Fire Chief Frederick Cowper introduced Kaitlin Wilson for recognition as outlined in SC-3.

Supervisor McGillicuddy opened and closed Public Remarks.

5. REPORTS/BOARD COMMENT/NEW WORRIES (See Agenda Item #13)

A. Treasurer's Report

Treasurer Hunting summarized his report of current fixed and non-fixed investments as outlined in his memorandum.

Supervisor McGillicuddy reported the joint meeting with the Ingham County Road Commission has been rescheduled from May 22, 2003 to May 15, 2003 and requested to be notified if a Board member could not be in attendance.

Supervisor McGillicuddy apprised the Board of a letter she received from the Michigan Townships Association seeking participation in a Township Exchange Program. She has requested Bloomfield Hills or West Bloomfield Hills, as she believes each to be a good match for Meridian Township. A date was not set.

Clerk Helmbrecht announced approximately twenty-two (22) Clerks within Ingham County met last week to discuss the various voting systems demonstrated at a vendor meeting. As a result, Ingham County's cities and townships reached an overwhelming consensus on the voting system of choice. All new equipment will be precinct based tabulation allowing for availability of totals upon closure of the polls at 8:00 P.M. The remaining question prior to purchase is if the decision on a particular system needs to be statewide or within each county.

Manager Richards announced, as the Board's liaison on the Greenspace Committee, that the first two (2) Public Visioning Workshops for the Meridian Greenspace Plan project will be held on April 29 and 30, 2003 at 7:00-9:30 p.m. These two meetings have the same agenda and are being held to accommodate a greater number of members of the public.

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Manager Richards added that the Michigan Townships Association (MTA) Exchange Program is tied with MTA's 50<sup>th</sup> Anniversary. MTA has suggested it occur during its Michigan Week, May 17-26, 2003.

Manager Richards relayed that the Capital Area District Library Board minutes indicate the library millage rate will likely be 1.46 mills which comprises a renewal plus a small increase of approximately .19 mills. If passed, the increased millage will provide for additional hours of operation, internet library services, assistance to job seekers in new business start-ups, preservation of local history materials and replacement of the current bookmobile with a modern handicap accessible bookmobile. The millage election will be held August 5, 2003.

6. APPROVAL OF AGENDA — OR CHANGES

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

**Trustee Stier moved to amend the motion by amending the Agenda as follows:**

- **Move Agenda Item #7H to Item #10C.**

**Amendment was accepted by the maker and seconder.**

VOICE VOTE: Motion carried unanimously.

7. CONSENT AGENDA

Supervisor McGillicuddy reviewed the consent agenda.

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

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 Article: "City Keeps an Eye on Traffic with Video Technology, *American City & County*, March 2003 Edition
- BI-2 Ann L. Alchin, 2227 Hamilton Road, Okemos; RE: Walkable community concept on Hamilton Road west of Okemos Road
- BI-3 Vipul Desai P.E., Boss Engineering, 7125 Orchard Lake Road, Suite 108, West Bloomfield; RE: Conceptual drawing for mixed-use development north of Haslett Road, west of Carlton Road and south of the railroad
- BI-4 Raymond C. Kley, 4162 Mariner Lane, Okemos; RE: Application for Public Service with the Community Resources Commission

(2). Regional Linkage (RL)

- RL-1 Ingham County Road Commission, 301 Bush Street, Mason; RE Reschedule of Joint Meeting with Charter Townships to Thursday, May 15, 2003

(3). Staff Communication/Referral (SC)

- SC-1 Michigan Townships Association Legislative Fax, March 28, 2003 Edition
- SC-2 Michigan Townships Association Legislative Fax, April 4, 2003 Edition
- SC-3 Correspondence from Fred Cowper, Meridian Township Fire Chief; RE: Background of incident involving Recognition Ceremony recipient Kaitlin Wilson
- SC-4 Correspondence from Gary F. Gibbons, Meridian Township Police Chief; RE: Police Department accreditation process with Commission on Accreditation for Law

Enforcement Agencies, Inc. (CALEA)  
SC-5 Correspondence from Director of Community Planning and Development Mark Kieselbach to the Meridian Township Board; RE: Community Values, Vision, Goals & Objectives

**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 Trustee Woiwode.**

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

B. Minutes - April 1, 2003 Meeting

**Trustee Brixie moved to approve and ratify the minutes of the April 1, 2003 Regular Meeting as submitted. Seconded by Trustee Woiwode.**

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:**

Common Cash	\$ 500,224.49
Public Works	\$ 152,237.63
Total Checks	\$ 652,462.12
Credit Card Transactions	\$ 13,778.54
Total Purchases	<u>\$ 666,240.66</u>
ACH Payments	<u>\$ 441,746.97</u>

**Seconded by Trustee Woiwode.**

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. Budget Amendment - Park Restricted/Designated Fund

**Trustee Brixie moved to increase the expense budget of the Nancy Moore Park Beautification Fund by \$3,500 for improvements to Central Park. Seconded by Trustee Woiwode.**

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

E. Amend Meridian Township Taxation Ordinance - **Final Adoption**

**Trustee Brixie moved that the Township Board approve the Resolution for Final Adoption of the Ordinance Amending the Charter Township of Meridian Code, Chapter 66. Seconded by Trustee Woiwode.**

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

F. Extension of Cable Television Franchise Agreement

**Trustee Brixie moved to authorize the Township Manager to enter into an Agreement with the United Cable Television of Mid-Michigan, Inc., now Comcast of Michigan III, Inc., to extend the current cable franchise agreement to September 1, 2003. Seconded by Trustee Woiwode.**

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

G. Assessing Stipulations

**Trustee Brixie moved that the Township Assessor or Township Attorney be authorized to sign stipulations with Citizens Bank on the proposed stipulated values for Parcel Number 33-02-02-06-477-020:**

**2002 Assessed Value: \$428,700 to \$308,600**

**2002 Taxable Value: \$364,855 to \$308,600**

**2003 Assessed Value: \$380,000 to \$308,600**

**2003 Taxable Value: \$370,327 to \$308,600**

**Seconded by Trustee Woiwode.**

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 #9A, 10C, 11B)

Township authority to collect sidewalk assessment:

Q. What authority does the Township have to require residents to fix their sidewalks and then assess them?

A. There are two state statutes or sets of statutes, in addition to our Township ordinance. Both of the Public Acts, PA 246 of 1931 and PA 188 of 1954, authorize townships such as Meridian to establish, maintain, and repair sidewalks. There is a process for resident-initiated petitions as well as a procedure for the Township to initiate that process subject to hearings which the Township provides. That gives the Township the state basis. The Township also has its own ordinance provisions as well.

Homeowner as the responsible party for payment of sidewalk assessment:

Q. Since most sidewalks are in the public right-of-way, why does the homeowner pay for the sidewalk?

A. Some confusion exists over the difference between a fee ownership in property and an easement or right-of-way over it. When properties abut on the street, the property owner owns the fee interest all the way to the center of the road, but that fee interest is subject to an easement held by either the Road Commission or another agency in charge of the streets. The reason for the assessment is that the owner of the property actually owns the land, subject to the easement for road purposes. The fee owner is the resident.

9. HEARINGS

A. Modified 2003 Order to Maintain Sidewalks Special Assessment #5  
Supervisor McGillicuddy opened the public hearing at 6:20 P.M.

Director Severy introduced the next phase of the sidewalk replacement program as outlined in staff memorandum.

Vance Kincaid, 4530 Nakoma Drive, Okemos, spoke in support of the repair and replacement of sidewalks in Indian Hills for the following reasons:

- Believes original intent of Nakoma Drive sidewalk was a connector sidewalk as it connects Grand River to Mount Hope
- Serves area larger than the Indian Hills subdivision
- Significant parts are unwalkable
- Only four (4) of the thirty-five (35) homes with frontage along Nakoma are not in need of repair

Mr. Kincaid also spoke in support of a fair assessment process for his property located at 4530 Nakoma Drive and offered the following:

- Located at Nakoma Drive and Mt. Hope Road and is entrance off Nakoma Drive
- Three hundred seventy-five (375) feet of sidewalk running south to north along Nakoma Drive
- Currently a non-conforming sidewalk with heavy pedestrian use
- Current Township replacement proposal would be for approximately every third panel
- Proposal of a five (5) foot sidewalk
- Connects to the Mount Hope pedestrian pathway as a result of giving the Township a six (6) foot easement; hence a commuter sidewalk
- Used as a connector by Central School students
- Proposed formulas, taking into consideration that the Ingham County Drain Commission pay for its portion of the sidewalk over its fifty (50) foot drain easement and/or the Township pick up the cost of the sidewalk replacement over its forty (40) foot sewer easement
- Request for Board determination that at least the south entrance off Mount Hope Road and the north entrance at the bridge be a commuter pathway sidewalk

Township Attorney Michael Woodworth asked resident Vance Kincaid if there was a homeowners association where he lived.

Mr. Kincaid responded that there was, in fact, a 501(C)(3) non-profit association.

Attorney Woodworth then inquired if Mr. Kincaid was saying that no portion of his lot goes to the sidewalk. Typically, what occurs is that the fee ownership is held by the property owner and is subject to an easement or a right-of-way for the placement of sidewalks and roads.

Mr. Kincaid was unsure as the subdivision was started in 1929 and some of the records are unclear. It appears, by reading the plats, that various things were simply done by conveyance, i.e., alleys, streets and right-of-ways.

Attorney Woodworth explained the reason for his question is that this may be a situation where the homeowners association actually holds the fee title to those areas in question. The association may have responsibility, for example, to remove weeds and take care of those areas. Attorney Woodworth will provide a copy of the two public statutes to Mr. Kincaid.

Board members and staff discussed the following:

- Nakoma Drive resident request to widen his sidewalk to five (5) feet
- Homeowner interest in changing special assessment
- Nakoma resident request for extension of assessment period
- Cost estimate for Nakoma Drive resident request
- Safety factor for pedestrians to have sidewalk on the east side of Nakoma
- Existing sidewalk on east side of Nakoma
- Sidewalks built on Nakoma in 1926
- Possibility of sidewalk around bend by golf course
- Encroachment of berm on the golf course

- Function of the berm to keep water off the floodplain
- Build retaining wall to reduce the size of the berm for sidewalk location
- Fence relocation to the west
- Standard longevity of sidewalks is from thirty (30) to fifty (50) years
- Upgrade longevity by increasing thickness and quality of concrete
- Questionable specifications and/or quality of workmanship due to need for early replacement
- Move toward warranted contractor work
- Current Township warrantee period of one (1) year
- Golf course extension as a separate future project

Warranted Contractor Work: (Agenda Item #8 (Questions for the Attorney))

- Q. The state is now moving toward warranted contractor work. Can we look into asking our contractors to warrant the work for fifty (50) years, posting the necessary bonds, etc. They can then police themselves with a monetary penalty or reward.
- A. We can certainly ask them to warrant their work for a reasonable period of time given the particular project, taking into consideration the period of years and what would be the life expectancy. That could be made a condition of their bid.

Supervisor McGillicuddy closed the public hearing at 6:56 P.M.

10. ACTION ITEMS/ENDS

Supervisor McGillicuddy opened and closed public comment.

- A. Rental Housing Registration Renewal Late Fee

[Trustee Woiwode requested she be recused at 6:57 P.M.]

**Trustee Such moved that Trustee Woiwode be recused due to a conflict of interest. Seconded by Clerk Helmbrecht.**

VOICE VOTE: Motion carried 6-0.

**Treasurer Hunting moved [and read into the record] NOW, THEREFORE BE IT RESOLVED BY THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN, the Township Board hereby amends the Rental Housing Fee Schedule to include a payment of a late fee for the re-registration of rental properties as follows:**

<u>Days Late</u>	<u>Fee</u>
1 to 30 days	\$160.00
31 to 60 days	\$240.00
61 to 90 days	\$320.00

**In cases where it is determined by the Township Manager the circumstances were not the fault of the property owner, then the late fee may be waived or reduced to a maximum of \$160.00.**

**BE IT FURTHER RESOLVED that the Clerk of the Charter Township of Meridian is directed to publish the amended Rental Housing fee schedule.**

**Seconded by Trustee Stier.**

Board Members and staff discussed the following

- On-time renewal fee of \$80.00

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

NAYS: None

Motion carried 6-0.

[Trustee Woiwode reentered the room at 7:01 P.M.]

[Copy of new Rental Housing Registration Renewal Late Fee in OMB]

- B. Essential Wetland Determination, Sierra Ridge Subdivision  
**Trustee Brixie moved [and read into the record] NOW THEREFORE, BE IT RESOLVED BY THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN, pursuant to Section 22-156 of the Township Code of Ordinances, hereby identifies Wetland #4-27 as essential to the preservation of the natural resources of the Charter Township of Meridian.**

**Seconded by Trustee Woiwode.**

Board Members and staff discussed the following:

- Threatened, or endangered wildlife species habitat language out of the State Act

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

NAYS: None

Motion carried unanimously.

- C. Galyan's Judgment/Settlement for Wall Sign on Building  
**Treasurer Hunting moved to approve the settlement agreement as described by the Township Attorney in the matter of *North American Signs and Galyan's Department Stores v Meridian Township Zoning Board of Appeals*, docket no. 03-332-AA, and direct the Township Supervisor, Clerk and Attorney to execute the documents necessary to effectuate that settlement. Seconded by Trustee Such.**

Board Members discussed the following:

- Rewrite of sign ordinance for Meridian Mall
- Sign ordinance with the Township Attorney for review

Board Authority to Grant Variances (Agenda Item #8 (Questions for the Attorney))

- Q. Language in the memorandum from the Township Attorney indicates the Township will be deemed to have given all variances and approvals necessary to construct this sign. Is granting a variance something this Board can do?
- A. It can in the context of the settlement. Because this is the subject of pending court litigation, it would be this Board that must approve any settlement.
- Q. They, in effect, have the variance they applied for. The Zoning Board of Appeals is now approved by the Board?
- A. The variance they applied for was greater than the one that this Board would contractually agree to by way of settlement. The answer to your question is that this Board can approve a settlement that, in part, includes the granting of a variance.

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

NAYS: None

Motion carried unanimously.

11. DISCUSSION ITEMS/ENDS

Supervisor McGillicuddy opened and closed public comment.

- A. Amendments to Community Resources Commission Ordinance  
Manager Richards stated that Pat Munshaw and Eric Golke, members of the Community Resources Commission, were in the audience and serving on the Commission at the time the proposed changes

were made several months ago. Manager Richards mentioned the Township Attorney pointed out that, in terms of the make-up of the Community Resources Commission, the provision for a Planning Commission member to serve as a non-voting ex-officio member is prohibited by law.

Board members discussed the following:

- Meeting provision language relative to number of meeting times per year
- Eliminate remainder of sentence following "shall meet ten (10) times per year"
- Change the word "or" to "nor" in first line of Section 113-2: Commission Membership
- Under Section 113-4: Objectives/Duties, item #2, place the words "as appropriate" at the end of the statement
- Language as authority for Commission to meet community needs
- Appreciation to Commission for hard work

B. Administrative Permitting Process and Definition of Aggrieved Person

Supervisor McGillicuddy gave a brief history for the need of this language as a result of previous Board discussion regarding the wetland permitting process and definition of aggrieved person in relationship to the Hulett/Bennett Road Water Main Extension.

Director Kieselbach summarized the administrative permitting process and definition of aggrieved person as outlined in staff memorandum.

Board Members and staff discussed the following:

- Township Board as the approving body of wetland use permits
- Average of one (1) or two (2) wetland use permits per year
- With joint jurisdiction, five (5) to six (6) state permits per year
- No current notice requirement for wetland use permit
- Posted on-site sign of pending wetland use permit and published notice for comment submission to the Township as part of the ordinance
- Staff wetland permit determination based on statutory guidelines
- Staff diligence to adhere to state guidelines
- Township Wetland Consultant and Environmental Commission review of wetland use permits
- Expansion of "aggrieved person" definition and resulting procedure(s)
- Michigan Environmental Protection Act as authority for any citizen to file a lawsuit to protect wetlands
- Definition of "interested party" from attorney
- Broadened definition would enable an individual to appeal
- Preliminary plat approval & wetland use permit application timing
- Decisions made for public good v private profit not a conflict of interest

Broadened definition of aggrieved person: (Agenda Item #8 (Questions for the Attorney))

Q. What are the ramifications of broadening the definition of aggrieved person?

A. The ramification would be you will have many more potential people who would present issues surrounding the permit. This whole concept of aggrieved person arose out of the zoning statutes. As Trustee Woiwode indicated, our wetlands statute (our state statute is of more recent vintage), isn't tied directly to that aggrieved person. It would be possible for the Board to make a determination to amend the ordinance to provide for an interested party. When we start talking about aggrieved person, that immediately sets off bells and whistles among judges and lawyers as having a particular meaning. There is quite a bit of jurisprudence behind the definition of that term. However, that term is not required by the State Wetlands Act. It happens to be in our ordinance. That is the dilemma we recently faced. We were dealing with a definition that came out of a zoning concept but had been transplanted into the Wetlands Act. To answer your question as succinctly as I can, you would broaden the number of people who could potentially raise issues that were pertinent or irrelevant to the wetland request.

Q. By changing the definition of an aggrieved person, are we increasing that person's rights in the Courts? If they appealed and, hypothetically, we denied the appeal, are we putting the Township in a position where we are giving people more rights to sue the Township than they currently have?

A. We are certainly broadening the potential of people who could appeal a decision of the Board to



the Circuit Court. If someone doesn't have standing under our ordinance, because our ordinance is clearly defined, they don't meet the threshold to come before the Board to have those issues entertained. It is quite likely, then, they would be determined (even if they sought an appeal to the Circuit Court) not to have standing as they had no right to present the issue. By changing the definition of aggrieved person, that barrier would be gone. To answer your question, the Court wouldn't pause very long on the question of whether or not this person could even bring the issue for Circuit Court review.

Q. In your opinion, is this a good idea in light of that?

A. It depends on the Board's priority.

Q. Can we have a different definition of aggrieved person for wetlands v other issues?

A. Yes. For that matter, we could abandon the term aggrieved person and speak of interested party. I think that connotes something far broader than just aggrieved person. Again, I ask the Board to keep in mind that by state statute, we are required to combine wetland permit decisions with whatever group or Board that would be the deciding body of any conjunctive decision. State law says you can only subject the applicant to one hearing. When we talk about the Board entertaining all applications, there is that state law limitation. You won't entertain them all because there will be situations where they can't come to the Board by state law.

Simultaneous filing: (Agenda Item #8 (Questions for the Attorney))

Q. What if someone brought in a site plan but didn't have anything in it relevant to a wetland use permit? What if they filed the site plan and then came in a few months later and submitted a wetland use permit application where it would not be in connection with each other?

A. In that hypothetical, it could come to the Board. Currently, what our statute provides is if they are simultaneously filed. We don't have a reservation by the Board in our ordinance that it is going to hear all of these wetland applications. We could have a provision like that. Under state law, if it is being filed simultaneously, it has to go with one decision maker. If they are not filed simultaneously, we could amend our ordinance to require that those come to the Board.

Q. I am still concerned about those who do not file simultaneously. How can we reword the ordinance so that if it is in the same plat, the wetland use permit would come before the Board? Could we say that because it is the same property or it is the same plat, ergo, even if it was not filed at the same time?

A. One possibility is to say that all applications for a wetland permit which are not submitted in conjunction will be determined by the Board. If you have something that is filed simultaneously, it goes to the agency; everything else goes to the Board. I think it could be simply stated.

Wetland Modification: (Agenda Item #8 (Questions for the Attorney))

Q. Once a wetland has been modified and mitigated, is it no longer a wetland?

A. I assume your question means if it has been filled pursuant to the permitting process. The reason I raise that question is because without a permit, you can engage in some "farming activities", perhaps, and the statute provides that you don't change the character. Regardless of what ultimately happens to that wetland, you don't change its character; it's regulated.

Director Kieselbach offered that once it has been filled, there would no longer be a wetland in that area. Typically, all the mitigations the Township has had have been in conjunction with existing wetlands, making them larger to accommodate the area that has been filled.

Intended Use of Wetland Permit: (Agenda Item #8 (Questions for the Attorney))

Q. According to state statute, wetland dependent uses are suppose to be the only thing that is allowed to occur in a wetland. Do we ask about its intended use at the time of permit application?

A. The very first criteria in review is the relative extent of the public and private need for the proposed activity. If the proposed activity is that the applicant simply wants to fill the wetland, that would not suffice.

Director Kieselbach added he is not aware of any permit that has not had some associated use. Unless there were compelling reasons, the criteria to judge it by wouldn't lend itself if there wasn't some type

of land use already proposed for the site.

Supervisor McGillicuddy asked Director Kieselbach how a situation would be handled if someone applied for a preliminary plat, there were noted wetlands on it, and a wetland use permit application was not submitted at the same time. Director Kieselbach offered as an example that if the preliminary plat is for a large number of lots, a wetland exists, and it takes several years to build out, then the question becomes when the wetland use permit application needs to be made.

Potential Township Conflict of Interest: (Agenda Item #8 (Questions for the Attorney))

Q. If the Township is the applicant for a wetland permit, is there an inherent conflict of interest having the staff decide whether or not to approve a permit or pathway?

A. There certainly is the appearance of a conflict of interest in that situation. I would suggest two things at a minimum: 1) Use caution to ensure we have the data and science by the experts to support the decision; 2) Defer the decision to the state

Q. Why, then, doesn't the state make the Zoning Board of Appeals' decisions for the Township?

A. Unlike the Department of Environmental Quality (DEQ), you don't have a state Zoning Board. The DEQ has been charged with the responsibility under state law to protect the statutes.

Q. How is that conflict of interest any different?

A. We are applying our own criteria to our own request. There is the appearance that the decision may be a foregone conclusion. One approach to avoid the appearance of impropriety would be to take it to the state and see if it would make the decision on the Township's application.

In a recent court case, the Court of Appeals determined that the City of East Lansing was not subject to its own land use ordinances; it was exempt. There certainly is legal authority for that. Again, I think the issue is more one of appearance.

Q. Could we have the interested party definition for our May 6<sup>th</sup> meeting?

A. I can put together language for a proposed amendment.

Supervisor McGillicuddy stated that the Administrative Permitting Process will remain unchanged

C. Older Neighborhoods and Variance Requests

Director Kieselbach outlined the topic as summarized in staff memorandum.

Board Members discussed the following:

- Mixed use zoning and overlay districts
- New zoning district or overlay district to allow enlargement of homes in Lake Lansing area
- Allowance of the Lake Lansing Homeowners Association to have creative license
- Potential vision sessions surrounding Lake Lansing area
- Fire Marshall as reviewer of variance request which is then forwarded to ZBA

Supervisor McGillicuddy reiterated the Board's wishes to schedule future vision sessions and deal with the Lake Lansing issues since that seems to be the problem.

D. Zoning Amendment #03010 (Township Board), Planned Residential Development (PRD) Ordinance

Director Kieselbach introduced the proposed amendment as outlined in staff memorandum.

Board Members and staff discussed the following:

- Meridian Township's computation which exceed percentages of Williamstown
- In the normal platting process, open space in a planned residential development (PRD) viewed as in between a planned unit development (PUD) and regular conventional development
- Idea behind establishment of a PRD district was Township desire to have single family subdivisions
- Township subdivision regulations cannot require developer to provide open space
- Incentive to provide open space
- Subdivision regulation language challenged in court
- Different means to reach this same end

- Calculation of open space
- Retention of the PRD as is

Supervisor McGillicuddy stated that, at this point, the desire of the Board is to not act on the amendment.

- E. Zoning Amendment #02100 (Township Board), Limitation on Rezoning Requests  
Director Kieselbach reviewed the proposed zoning amendment as summarized in staff memorandum.

Board Members discussed the following:

- Specificity of definitions for newly discovered evidence and changed circumstances

Supervisor McGillicuddy acknowledged the Board's wish to move forward by placing the zoning amendment on the May 6, 2003 Township Board agenda as an action item.

- F. Rezoning #03030 (Roper), Request to Rezone Approximately 2.06 Acres on the East Side of Okemos Road from RR (Rural Residential) to RAAA (Single Family-Low Density)  
Director Kieselbach introduced the rezoning request as outlined in staff memorandum.

Ernest Stuart, the applicant's representative, gave comments on the history of the property and its intended use.

Q. If the Assessor chose to put the two (2) lots together, is that a legal combination of the two, without the property owner even knowing about it?

A. I don't think the combination by the Assessor would suffice. This is the first time I have seen two (2) lots of record here.

Q. Before we go through this process, can we look at this to see if they are really two (2) lots?

A. I'm looking at a single deed that discusses parcel one (1) and parcel two (2).

Q. What happens if the rezoning is approved, but the applicant does not acquire the variances for fill?

A. The rezoning itself would not guarantee the development of the site.

Board Members and staff discussed the following:

- Reasoning for two (2) parcels becoming one (1)
- Proof on old assessment bill which would show as two (2) separate lots
- Burden of proof of two (2) lots as a Township responsibility
- Staff research for resolution to number of lots
- Prolonged process as undue hardship for the property owner
- Approval of rezoning regardless of the number of parcels
- Spot rezoning as the result of approval
- If rezoned to RAAA, the alleged two (2) lots would be in conformance
- If rezoned to RAAA, bring three (3) nearby lots into conformance
- Driveway for single family home zoned RAA behind rezoning request lot
- Floodplain elevation
- Special Use Permit requirement of map amendment letter to FEMA for map error correction

Supervisor McGillicuddy requested staff to find out conclusive information for the next Board meeting and place the rezoning request as an action item.

12. VISION SESSION/ENDS: (None)

13. PUBLIC REMARKS

Supervisor McGillicuddy opened Public Remarks.

Vance Kincaid, 4530 Nakoma Drive, Okemos, spoke in support of changing the designation in the wetland ordinance to interested party and to mitigation as a failed practice. He also spoke to alternate proposals he

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has submitted to Engineering for the Nakoma Drive sidewalk replacement and welcomed feedback from the Board.

Vipul Desai, P.E., Boss Engineering, 7125 Orchard Lake Road, Suite 108, West Bloomfield, spoke in support of the mixed use concept for property located North of Haslett, west of Carlton and south of the railroad as presented in Board Communication BI-3.

Board Members discussed the following:

- Mixed-use concept still under Board consideration
- Setback to railroad for residential development
- Michigan Land Use Leadership Council (Agenda Item #5)  
Trustee Brixie received a letter from Larry Merrill inviting the Township to show leadership on land use issues relative to the Land Use Council put together by the Governor. The Michigan Land Use Leadership Meeting will be held on April 28, 2003. Trustee Brixie requested the Supervisor write a letter on behalf of the entire Board, giving our input.

Trustee Woiwode added there will be six (6) public hearings held by the Michigan Land Use Leadership Council. There will be a public comment section at each of the meetings. She feels it is important for the Township to be part of the hearings at the state level as it has experienced many of the challenges being discussed.

Supervisor McGillicuddy noted she will not be available for any of the six (6) public hearings. She has spoken to Manager Richards, requesting a few of the Board members attend one of the hearings downtown. She also made mention that she is participating in a focus group with the Michigan Society of Planners.

Supervisor McGillicuddy closed Public Remarks.

14. POSSIBLE CLOSED SESSION

**Treasurer Hunting moved that the Township Board go into a closed session to discuss:**

- 1) **Settlement negotiations in a pending lawsuit**
- 2) **Confidential legal opinions regarding ongoing litigation and**
- 3) **Possible land purchases**

**Seconded by Trustee Woiwode.**

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

NAYS: None

Motion carried unanimously.

Supervisor McGillicuddy recessed the meeting at 8:46 P.M.

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

**Trustee Such moved to return to open session. Seconded by Trustee Stier.**

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

NAYS: None

Motion carried unanimously.

Supervisor McGillicuddy reconvened the meeting at 9:44 P.M.

**Trustee Stier moved to direct the Township Manager or Township Attorney to go forward as discussed in closed session. Seconded by Trustee Such.**

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

15. ADJOURNMENT

Supervisor McGillicuddy adjourned the meeting at 9:46 P.M.

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SUSAN MCGILLICUDDY  
TOWNSHIP SUPERVISOR

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MARY M. G. HELMBRECHT  
TOWNSHIP CLERK

Sandra K. Otto, Acting Secretary