

CHARTER TOWNSHIP OF MERIDIAN
TOWNSHIP BOARD REGULAR MEETING - **APPROVED** -
5151 Marsh Road, Okemos, MI 48864-1198
853-4000, Town Hall Room
TUESDAY, JUNE 16, 2009 **6:00 P.M.**

PRESENT: Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Brixie, Trustees Dreyfus,
LeGoff, Ochberg, Veenstra (6:02 P.M.)
ABSENT: None
STAFF: Township Manager Gerald Richards, Director of Community Planning & Development
Mark Kieselbach, Director of Engineering & Public Works Ray Severy, Police Chief
Dave Hall, EMS/Fire Chief Fred Cowper, Attorney Michael 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

The secretary called the roll of the Board.

4. PUBLIC REMARKS

Supervisor McGillicuddy opened Public Remarks.

Ganesh Reddy, 3614 Ponderosa Drive, Okemos, urged the Board to create a finance subcommittee to discuss the pending budget deficit and expressed concern with the increase in the retainer fee for the Township Attorney without letting the contract out for bid. Mr. Reddy also spoke in opposition to Township funds being used for the Okemos Road Beautification Project and suggested the Township use that money towards the alleged budget deficit.

Andrew Finley, 3985 Windy Heights Drive, Okemos, spoke in support of completion of the Hulett Road pathway to build connectivity within the community.

Supervisor McGillicuddy closed Public Remarks.

5. REPORTS/BOARD COMMENT/NEW WORRIES

Clerk Helmbrecht announced an art exhibit housed in the Municipal Building Lobby which depicts the State Capitol made of the Styrofoam backing from the Township's absentee ballot punch card system. This sculpture was created at the Capital Area Literacy Coalition by participants in the Family-School-Partnership Star Program.

Trustee Ochberg showed a Google Earth photo of the north end of the Capstone project on the overhead projector. She believed there was an opportunity in the future, through completion of the river trail and a pedestrian bicycle crossing, for residents within the Capstone project to shop at the East Lansing Food Co-op and the Foods for Living store.

Treasurer Brixie reported she attended the Groundwater Management Board meeting where the Board continues to work to update its bylaws.

Trustee Dreyfus reported his attendance at the Grand Opening of the Meridian Historical Village Chapel on Sunday, June 14th. He noted the May e-letter from Fahey & Schultz contained an article about Townships addressing potential blight associated with vacant and foreclosed homes by adopting an ordinance to require registration and monitoring. Trustee Dreyfus also reported an April news article on using sheep as an all natural lawn care alternative.

Trustee Veenstra voiced his support on being proactive where vacant and foreclosed properties are concerned. He believed the first step in that process is for staff to secure a complete list of foreclosed properties within the Township.

Trustee Veenstra also voiced support for a pathway across the Red Cedar at the point mentioned by Trustee Ochberg. He noted the active pathway plan drawn up by the Ingham County Parks Department which commences at approximately Hagadorn and Shaw Lane, runs east along the Red Cedar River and north across Grand River, continuing northeast to Lake Lansing. Trustee Veenstra reported his attendance at the long range transportation expansion public forum for 2010-2035. He noted Michigan State University would like to extend Wilson Boulevard through to Hagadorn Road and close Shaw Lane to shift east/west traffic down to Wilson. Trustee Veenstra spoke in support of the recommendation from the Lake Lansing Watershed Advisory Committee regarding creation of an ordinance to limit the amount of phosphorus in fertilizer used within the Lake Lansing watershed.

Supervisor McGillicuddy reported she attended the Orlando Park Grand Opening, two LEAP meetings, the regional media center and the joint Economic Development Corporation/Meridian Area Business Association meeting.

6. APPROVAL OF AGENDA

Treasurer Brixie moved to approve the agenda as submitted. Seconded by Trustee Ochberg.

VOICE VOTE: Motion carried unanimously.

7. CONSENT AGENDA

Supervisor McGillicuddy reviewed the consent agenda.

Treasurer Brixie moved to adopt the Consent Agenda. Seconded by Trustee Ochberg.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Veenstra, Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
NAYS: None
Motion carried unanimously.

The adopted Consent Agenda items are as follow:

A. Communications

(1). Board Determination (BD)

BD11B-1 Judith Leibinger, 3612 Fairhills Drive, Okemos; RE: Opposition to completion of the pathway on the west side of South Hulett Road

(2). Board Information (BI)

BI-1 William H. Irving, Assistant Corporation Counsel, City of Dearborn, 13615 Michigan Avenue, Suite 8, Dearborn: Transmittal of \$10,000 check as the City of Dearborn's contribution towards the cost of FCC proceedings in the lawsuit against Comcast relative to moving PEG channels to the second tier

(3). Staff Communication/Referral (SC)

SC-1 Press release from HOM-TV Station Manager Deborah Guthrie; RE: HOM-TV as recipient of three 2009 Hometown Video Festival first place national awards for programming

Treasurer 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 Ochberg.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Veenstra, Supervisor
 McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
 NAYS: None
 Motion carried unanimously.

B. Minutes

Treasurer Brixie moved to approve and ratify the minutes of the June 2, 2009 Regular Meeting as submitted. Seconded by Trustee Ochberg.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Veenstra, Supervisor
 McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
 NAYS: None
 Motion carried unanimously.

C. Bills

Treasurer Brixie moved that the Township Board approve the Manager's Bills as follows:

Common Cash	\$ 283,308.13
Public Works	\$ 305,734.34
Retainage	
- Check #1008 –JC Linn	\$ 5,867.74
- Check #1009 –Concord Excavating	17,905.65
Total Checks	\$ 612,815.86
Credit Card Transactions	\$ 5,824.46
Total Purchases	<u>\$ 618,640.32</u>
ACH Payments	<u>\$ 349,010.88</u>

Seconded by Trustee Ochberg.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Veenstra, Supervisor
 McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
 NAYS: None
 Motion carried unanimously.

[Bill list in Official Minute Book]

D. Assessing Stipulation

Treasurer Brixie moved that the Township Assessor be authorized to sign a stipulation with Raymond and Lori Choi on the following property:

<u>YEAR</u>	<u>DOCKET NO.</u>	<u>ADDRESS OF PROPERTY</u>
2007	0333915	2499 Barnsbury, East Lansing, MI 48823
2008		
2009		
<u>Assessment</u>		
	2007	<u>AV/TV</u> \$235,000/235,000
	2008	\$234,400/234,400
	2009	\$208,500/208,500
<u>Proposed Assessment</u>		
	2007	<u>AV/TV</u> \$215,300/215,300
	2008	\$213,500/213,500
	2009	\$199,500/199,500

Seconded by Trustee Ochberg.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Veenstra, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
NAYS: None
Motion carried unanimously.

- E. Charitable Gaming License, The Steadfast Foundation
Treasurer Brixie moved approval of a request from The Steadfast Foundation of Meridian Township, Ingham County, asking that they be recognized as a non-profit organization operating in the community for purposes of obtaining a gaming license or registration and be considered for approval and further, that the Township Clerk be authorized to execute the resolution from the State of Michigan. Seconded by Trustee Ochberg.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Veenstra, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
NAYS: None
Motion carried unanimously.

- F. Meridian Economic Development Corporation Appointment
Treasurer Brixie moved to appoint Gordon A. Ferguson to fill the vacancy on the Meridian Economic Development Corporation Board created by the resignation of Craig Thiel for a term ending December 31, 2012. Seconded by Trustee Ochberg.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Veenstra, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
NAYS: None
Motion carried unanimously.

- G. Energy Efficiency and Conservation Block Grant Application
Treasurer Brixie moved that the Township Manager be authorized to apply for and accept federal funding of \$162,000 through the Energy Efficiency and Conservation Block Grant Program. Township matching Funds are not required. Seconded by Trustee Ochberg.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Veenstra, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
NAYS: None
Motion carried unanimously.

- H. Collection Agreement for Haslett Schools
Treasurer Brixie moved that the Township Board approve the "2009 Summer School Tax Collection Request and Agreement" for Haslett Public Schools. Seconded by Trustee Ochberg.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Veenstra, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
NAYS: None
Motion carried unanimously.

- I. Pedestrian/Bicycle Pathway Master Plan, Set Public Hearing Date (July 21, 2009)
Treasurer Brixie moved to schedule a public hearing for the Township's regular meeting on July 21, 2009, to review the pedestrian/bicycle pathway Master Plan and hear comments regarding whether the Master Plan should be amended. Seconded by Trustee Ochberg.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Veenstra, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
NAYS: None
Motion carried unanimously.

- J. Disposal of Surplus Equipment
Treasurer Brixie moved to approve the sale of the following surplus Township equipment at public auction, State of Michigan surplus store, State of Michigan on-line auction, or by sealed bid; or if not sold by these methods, to dispose of those items appropriately:

Copier

Konica 7055 with sorter attachment

Miscellaneous

- | | |
|--|--|
| 1. Several outdated police light bars | 9. RV generator |
| 2. 2 welding machines | 10. Ram fan |
| 3. Old prisoner screens | 11. Water cooler |
| 4. Band saw | 12. Desk |
| 5. Police storage vault | 13. Compressed air dryer |
| 6. Patrol car computers | 14. Hose reel |
| 7. Several weed whips | 15. Garden trailer |
| 8. Pump with hoses | 16. Panasonic aj-d200 box – HOMTV |

Seconded by Trustee Ochberg.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Veenstra, Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
NAYS: None
Motion carried unanimously.

8. QUESTIONS FOR THE ATTORNEY (See Agenda Item # 10A)

- Q. a) Is a Board member permitted to talk with or meet with an applicant in private?
b) What can legally be discussed and divulged? What is considered confidential?
c) Can a Board member discuss his or her perceptions of how the Board will vote on a particular issue? Can they indirectly provide that information to a third party who then discloses it to an applicant?
d) What are the ethical and conflict of interest rules that apply? What are the penalties for any potential violations of those laws?
- A. Taking them in the order, Trustee Dreyfus, that you listed them, the answer to your first question is a Board member is permitted to speak to applicants, people who have business before the Board. It is interesting that as you ask these questions, they progressively get more and more complicated and, certainly, more and more serious as far as the potential implications. The next question that you asked was what was legally permissible in terms of the discussion topics and what is confidential and what is not. There is no such thing as confidentiality. I am aware of no confidentiality provision that would protect any conversation like this. As far as what is legally permissible, certainly if there is an issue before the Board, Board members can, and I think being elected representatives, they should hear out their residents and their applicants in terms of what their concerns are. So there's no difficulty there.

The next question, discussing likely outcomes and indicating potential results; here's how I see it. This one is getting more and more sticky. Certainly somebody could say my personal opinion is this, but I don't speak for the Board; I can not speak for the Board. And that's the important thing, I think, in this entire discussion. This Board speaks only as a group and only through its official action resolutions. Tonight it has action items as it always does. When the Board makes a decision, the Board's decision is embodied in that formal resolution. We've had situations in the past where we had litigants say they want to depose Board member A or Board member C because they wanted to know what their intent was and what they were thinking. We said no, you can't do that, because what that individual was thinking and what their individual motivations were was totally irrelevant. It is the Board as a whole. You don't need to go any further than what the Board said in its resolution.

The real problem that I have with your question (and it's not with your question; it's the difficulty in the setting) is the potential appearance of impropriety, not necessarily the impropriety in fact. The idea that somehow "I, as a Board member, have some special avenue, or some premonition; I can tell you; I can do predictions." I would certainly urge, that to avoid the appearance of impropriety, no Board member indicate a likely outcome or "Here's my inside tract, I've spoken with people and I know the way they are going to decide this one." That's problematic and, of course, you get into all kinds of concerns if, in fact, that's true with open meetings, for example. Decisions of this group, decisions of any public body, are to be made in an open setting. The opportunity to be heard by the citizenry, the debate, is something the citizenry has the opportunity and legally, the right, to witness, to observe. So, if somebody says, "Look, we've discussed this between us, and we all know how this is going to come out", that's clearly a problem; violation of the Open Meetings Act. My guess is that likely doesn't happen. Someone saying, "Well, I think this is how it's going to happen." That, at least, gives rise to the fear, in my mind, that there have been discussions like that. That kind of representation should be avoided to avoid the appearance of impropriety.

The idea of what are the ramifications, in your last question, if somebody does this? Certainly, you could have misconduct in office; potential grounds for removal from office. I think more importantly, from the Township's perspective, it jeopardizes the legitimate and hard work of the Board as a whole. It can literally undo decisions that are made by the Board. If I get into a situation where I'm called upon to defend a decision in court, and am asked if it's true that this occurred, or this occurred in these earlier conversations in possible violations of the Open Meetings Act, by way of example, it presents problems; not only to the integrity of the decision, but it's also something that can very directly relate to increased costs in legal defense and having the attorneys have to go to battle. I hope that's responsive to your questions, Trustee Dreyfus. If you have anything further, I would be happy to react.

Trustee Dreyfus, if I could expand just a bit, one of the remedies to violation of the Open Meetings Act, is that the debate (whatever it was that perhaps didn't come out in open session that should have) be reenacted. The only reason I mention that is we need to make sure that the decisions that are made by this Board are made in an open session, that the debates are had, they are lively (I've watched them now for nine (9) years with this group, and they are lively), and they occur in the setting of these open meetings.

- Q. So that would also apply if a Board member talked to a third party who was not the applicant and that third party then acted as the intermediary and then told the applicant, so there wasn't a direct line between the Board member, but it went to another individual who then went to the applicant. That would also be a circumvention of the Open Meetings Act?
- A. Again, that would depend exactly on what was being represented.
- Q. I'm saying representing perceptions of how the make-up of the Board and the decision making that may be occurring; that's specifically what I'm referring to.
- A. Keep in mind; I'm not telling you, I'm not saying that my giving you my personal impression of how I think the Board might come down on this thing is a violation of the Open Meetings Act. The distinction I want to make is the violation of the Open Meetings Act is where, in point of fact, this decision has already been made. We've done that either round robin or I made some telephone calls, I've been on e-mail; I know how this decision is going to come out, and now I am reporting that. That's far different than saying, "You know, I've been listening to the debates; I've been listening to the concerns and my personal opinion is I think this is the likely outcome of that." That is not a violation of the Open Meetings Act.
- Q. If someone actually polled or asked questions of other Board members, that would certainly be a specific example of behavior, an action that is attributed to something that would be related to the Open Meetings Act at that level?
- A. Depending, again, on the extent of that; that can cross the line.
- Q. What about e-mails between Board members? If there are four (4) Board members involved in an e-mail, then that's not a good thing, right?

- A. It's not a good idea to get into that situation. It's kind of like when you tell your children that that's just a situation that can lead to trouble. When you have a majority of the Board that's visiting and exchanging e-mails and it begins to look like deliberation toward a decision, now there's where we start crossing the line in terms of potential violation of open meetings. I suggest that you simply not put yourself in that position to have that happen.

9. HEARINGS (None)

10. ACTION ITEMS/ENDS

Supervisor McGillicuddy opened public comment.

John Acken, Capstone Development Corporation, 431 Office Park Drive, Birmingham, Alabama, spoke to his written responses provided to questions posed by the Board at the last meeting. He requested he be allowed to respond to any changes offered tonight prior to Board action on those proposed changes.

Mark Clouse, Chief Financial Officer and General Counsel, Eyde Co., 4660 S. Hagadorn, Suite 660, East Lansing, added the property owner has worked with the Ingham County Parks Department to have the pathway system traverse through the Hannah property in its effort to connect from Lake Lansing to Lansing. He noted the specific location will be determined as the site is developed and the Ingham County Parks Department obtains the necessary easements from other involved property owners.

Leonard Provenchur, 5824 Buena Parkway, Haslett, spoke in opposition to MUPUD #09014 and SUP #09011.

Ganesh Reddy, 3614 Ponderosa Drive, Okemos, spoke in support of MUPUD #09014 and SUP #09011.

Supervisor McGillicuddy closed public comment.

- A. Mixed Use Planned Unit Development #09014 (Capstone), a request to develop a Mixed Use Planned Unit Development consisting of 220 multiple family residential units

Trustee Ochberg offered the following friendly amendment:

- **Amend Condition #7 by inserting at the beginning of the condition: "To facilitate the Township's goal of multiple means of safe transportation, there will be bike paths on all streets within the proposal and on a route west to meet MSU bike paths."**

The maker did not accept the amendment.

Board members discussed the following:

- Forced incorporation of bike paths on all streets within the development will unnecessarily increase the impervious surface of the site and be environmentally detrimental
- One attractive element of "old time" neighborhoods is the pedestrian oriented feel through a mix of people, cars and bicycles in a narrow slow speed environment which makes cars slow down even more
- Removal of one parallel parking lane on the roads to allow "bicycle passage" would prevent the need for additional impervious surface
- The recommended number of parking spaces in the Township's ordinance for this density is 446 spaces
- Additional bicycle pathways will allow residents an avenue to safely bike off-site to buy groceries
- Location of the bicycle lane outside of the parallel parking lane
- Bicycle pedestrian pathway system created by Meridian Township
- *Effective Cycling* by John Forester states experience indicates the safest place for bicyclists is as part of the regular traffic stream where motorists are trained to look for vehicles
- Placing bicyclists on sidewalks is dangerous for the bicyclist as every driveway becomes an intersection and motorists are not trained to look for a "vehicle" coming down the sidewalk
- Placing bicyclists on sidewalks is dangerous for the pedestrian
- Bicycle lanes on low speed streets within the project are unnecessary and undesirable
- Unmarked bicycle lanes allow the outer lane to be wider which allows additional room for the bicyclist

- If pavement is not regularly swept, marked bicycle lanes accumulate debris and become unusable
- Marked bicycle lanes may encourage bikability
- Belief a dedicated bicycle lane would prevent motorists from opening their car doors in front of a bicyclist riding by their car

Board requirement for the developer to make off-site improvements: (See Agenda Item #8 (Questions for the Attorney))

- Q. Can we, through this motion, require a pathway from this development all the way out, over and across to Michigan State University? Can we require the Capstone Development to make off-site improvements?
- A. No. You identified a very good valid concern. I was waiting for that question to come up and was almost going to volunteer myself. I commend Trustee Ochberg in terms of saying, "Look, we need to make a decision, so let's defer this to the Planning Department to decide that." However, I can see a situation where it would be impossible for Mr. Kieselbach to enforce the phrase "and on a route west to meet MSU bike paths." This is an area outside of the present phase. The applicant may not have the ability to control that property, to acquire the property necessary. They would not have the ability like a municipality to condemn private ownership for that purpose. How this thing would work from the standpoint of the applicant being confronted with the burden of trying to convince landowners from the proposed area from the site that is before you now to dedicate land to a bike path is a condition that I don't believe this Board can legally impose. They could certainly impose a condition inasmuch as it states there will be bike paths on all streets within the proposal. We often approve subdivisions and require stub streets, for example, so that when the next development, the next subdivision is built, we have a connection. That could be done. But that phrase, "and on a route west to meet MSU bike paths" is troublesome, and I certainly can't recommend it.

Continued Board discussion:

- Project was given approval for high density because the 81 acre MUPUD indicated it contained redevelopment dependent upon ownership of the 81 acre parcel
 - The 81 acre parcel contains a clear path out to Hagadorn Road
 - Belief there is no impediment by other property owners to a path meeting Hagadorn Road where there is a traffic light to enable bicyclists to safely cross to the edge of the MSU campus
- Q. I wonder, Mr. Woodworth, if you would address that possibility, that potential, given those facts?
- A. I think the difficulty here is the applicant that is before the Board now is Capstone, not the landowner. Now we happen to have a landowner representative here and perhaps the landowner's representative would like to commit (although they are not legally obligated to do that) that in point of fact, they will provide the lands necessary to extend this pathway from the development that is before the Board today, the one you must act on, through property that is not before the Board today. I hate to put Mr. Clouse on the spot like that, but that is something, I suppose, that the landowner could agree to.

Trustee Ochberg offered the following amendment:

- **Amend condition #7 by inserting at the beginning of the condition: "To facilitate the Township's goal of multiple means of safe transportation, there will be marked bicycle lanes on all streets within the proposal."**

Seconded by Trustee Dreyfus.

Continued Board and applicant discussion:

- Intent by the maker of the amendment to have a marked bicycle lane on either Hannah Boulevard or Eyde Parkway
- Hannah Boulevard and Eyde Parkway are public roads
- Marked bicycle lanes on either Hannah Boulevard or Eyde Parkway would require permission from the Ingham County Road Commission
- Intent by the applicant in its written response to have shared bicycle and vehicle lanes

- Shared lane could be marked by a stenciled bicycle symbol on the pavement
- Standard bicycle lane is four (4) feet wide
- Expansion of the road right-of-way by eight (8) feet to allow for bicycle lanes would cause a loss in the urban feel
- Expansion of the road right-of-way by eight (8) feet to allow for bicycle lanes would cut into the pedestrian area
- Removal of a parked car lane would reduce parking by a minimum of 60 parking spaces
- Removal of a parked car lane on one side of the street historically results in cars parking there anyway which causes increased monitoring issues with ticketing and towing cars
- Under Michigan law, a bicycle is a vehicle
- Posted signs which indicate cars must yield to bicycles within the development are contrary to state law
- Average speed of cars within the development will be between eight (8) and ten (10) m.p.h.

Upon request, Trustee Ochberg restated her friendly amendment as follows:

- **Amend condition #7 by inserting at the beginning of the condition: “To facilitate the Township’s goal of multiple means of safe transportation, there will be stencil-marked bicycles on all streets within the proposal.”**

The amendment was accepted by the maker and seconder.

Trustee Dreyfus offered the following friendly amendments:

1. **After the fifth “WHEREAS” insert, “WHEREAS, the Township Board reviewed and discussed the revised plan titled “Cover Sheet” dated June 10, 2009 forwarded under cover memorandum dated June 11, 2009, at its regular meeting on June 16, 2009; and”**
2. **Revise condition #1 to read, “Approval of the mixed use planned unit development design is in accordance with the “Cover Sheet” dated June 10, 2009 and the site plans dated May 26, 2009 prepared by KEBS, Inc.; and building elevations and floor plans submitted by the applicant on January 9, 2009. All plans subject to revisions as required.”**

The amendments were accepted by the maker and seconder.

Trustee Dreyfus offered the following friendly amendment:

- **Amend Condition #26 by adding: “The berm shall have a double row of interlocking evergreens that will serve as a visual and sound screen for residents of the project.”**

Board member, staff and applicant discussion:

- Type and slope of berm not yet determined
- High berms and steep slopes tend to dry out quickly and cause trees to die without frequent irrigation
- Feasibility of placing grasses or bushes that are drought resistant on the berm
- Smaller berms which have flat tops are better suited for grasses and bushes
- Concern the berm will have sufficient width to allow for a double row of trees
- Applicant has not worked out detailed landscaping at this point in the project
- Applicant willingness to accept the condition contingent upon approval being subject to the Director of Community Planning and Development

The amendment was not accepted by the maker.

Trustee Dreyfus restated his amendment as follows:

- **Amend Condition #26 after “derailments.” by inserting: “The berm shall have a double row of interlocking evergreens or similar landscape material, preferably drought resistant, to serve as a year round visual and sound screen for residents of the project, subject to the approval of the Director of Community Planning and Development.”**

The amendment was accepted by the maker and seconder.

Trustee Dreyfus offered the following friendly amendment:

29. The applicant shall comply with the Township's parking ordinance for multi-family units and will provide no more than two (2) parking spots for each dwelling unit plus a 25% bonus due to the density bonus provided to the applicant. Additional parking may be constructed after the project is completed and a demonstrated need for additional parking is established.

The amendment was not accepted by the maker.

Board member and applicant discussion:

- 440 parking spaces plus 110 additional spaces due to the MUPUD bonus for a total of 550 parking spaces
- Number of dwelling units in the project are based on the 1,010-1,159 dwelling units allowed for the 81 acre parcel
- Developer is not receiving a density bonus for this project
- Developer's extensive experience with the necessary amount of parking
- Permeable parking used in low water table areas

Trustee Dreyfus rephrased his friendly amendment as follows:

29. The applicant shall comply with the Township's parking ordinance for multi-family units and will provide no more than two (2) parking spots for each dwelling unit plus an additional 25% provided for potential additional parking needs. Additional parking may be constructed after the project is completed and a demonstrated need for additional parking is established.

The amendment was not accepted by the maker.

Trustee Dreyfus offered the following amendment:

29. The applicant shall comply with the Township's parking ordinance for multi-family units and will provide no more than two (2) parking spots for each dwelling unit plus an additional 25% provided for potential additional parking needs. Additional parking may be constructed after the project is completed and a demonstrated need for additional parking is established.

Seconded by Supervisor McGillicuddy.

Board member and applicant discussion:

- Lack of Board authority to analyze the financing capabilities of an applicant relative to the financial feasibility of the project with reduced parking
- Board is allowed, but not required, to make parking exceptions for the proposed MUPUD
- Board encouragement of a walkable community, coupled with impervious surface concerns, makes it critical the Board not grant considerable additional parking above what the ordinance calls for under any other type of development of this density
- Belief it is only an assumption that each resident in the complex will need an automobile
- Belief it is a reasonable right of the Board to limit the amount of impervious surface in the project by reducing the parking
- Developer has the experience to determine the necessary amount of parking
- Applicant does not want to unnecessarily spend money by placing too many parking spaces on the development
- Realistic parking standard for this development should be based on the number of bedrooms
- Plan could include 712 parking spaces, but not pave 62 of the spaces until needed
- Desire for the plan to include additional spaces as soon as the need is demonstrated as 712 parking spaces may not be sufficient
- Inquiry into the possibility of leasing additional undeveloped land to the east for parking
- Professional opinion of the Fire Chief that the berm is the best method of mitigating in an emergency situation
- Rail car wheels automatically lock when derailed and can no longer turn

- Gravity assists in preventing derailed cars from traveling too far off the track
- HazMat's #1 containment method is to dike and the berm would act as a natural dike
- One intent of the MUPUD is to reduce the rigid parking requirements
- One intent of the MUPUD is to keep it from being a car-oriented site, especially as other developments are added to the 81 acres
- Developer has built \$2.3 billion of development across the country
- Developer has built 50,861 student housing beds across the country over the last 20 years
- Capstone, as a company, is not willing to take the risk of having insufficient parking
- Desirable number of parking spaces for the applicant is 1.1 parking spaces per bed
- Applicant willingness to reduce the parking ratio to 1.0425 parking spaces per bed

ROLL CALL VOTE: YEAS: Trustee Dreyfus, Supervisor McGillicuddy
NAYS: Trustees LeGoff, Ochberg, Veenstra, Clerk Helmbrecht,
Treasurer Brixie
Motion failed 2-5.

Trustee Dreyfus offered the following friendly amendment:

29. The applicant shall reduce the number of parking spaces by 62 spots.

The amendment was not accepted by the maker.

Trustee Dreyfus offered the following amendment:

29. The applicant shall reduce the number of parking spaces by 62 spots. Additional parking may be constructed after the project is completed and a demonstrated need for additional parking is established, in consultation with the Director of Community Planning and Development.

Seconded by Supervisor McGillicuddy.

Board members and the applicant discussed the following:

- Parking reduction would "free up" the northern boundary to allow more buffer from the railroad tracks and a smaller buffer on the eastern and western edges
- Reduction would not affect the parking in the interior of the plan
- Erroneous referral of this project in a multi-family zoning district
- Project is proposed on PO zoned land under the MUPUD
- Intent for the applicant to design in all parking spaces, but not initially pave all spaces
- Reduction in parking spaces will not allow the project to be viable
- An increase in the number of parking spaces will necessitate a reduction in the number of beds and the project will not be viable
- Necessity of having all parking spaces on the site
- Possible arrangements with owner of existing parking lots off-site to the west of the project
- Of the 712 parking spaces designed into the plan, only 650 spaces will initially be paved
- Need for grading, etc. of the additional parking spaces during the time of construction
- Difficulty in leasing 100% of the beds without having adequate parking
- Cost for developer to come back with sufficient equipment to pave the additional parking spaces
- Disruption to tenants of paving additional parking spaces

Board consideration of the economic impact to the developer: (See Agenda Item #8 (Questions for the Attorney))

- Q. If we agreed to the applicant's request because of the economic threat of not having the project go forward without our agreement, does this bind us in any way to every single applicant in the future that presents us with such economic situations?
- A. First of all, I would urge the Board to make its decision predicated on the standards contained in the ordinance, not on the concerns the developer may have. Certainly, there is an economic component in our standards as you look at the intent of the provision. So, we do have an economic component for you to consider, but it is not the same one that the applicant may have. You consider it according to our standards, consider our economic concerns; you ought not to

be considering the obstacles or the particular things that the applicant faces. I know it is not the applicant's intent to threaten the Board with economic blackmail or anything like that; it is just that the applicant has different economic issues that they must address and this Board also has economic concerns that it must consider.

- Q. On the Zoning Board of Appeals, we've been told very explicitly that economic difficulty is not a sufficient "excuse" to grant a variance, for instance. There needs to be a practical difficulty that is more substantive than simply economic. That is why I asked the question.
- A. Yes, and the advice is not different. All I'm saying is that both under the state enabling statute and under our own ordinance, we can consider the economic impact of a project that is being proposed for the Township. Now that is different than the economic concerns, the profitability margins and things like that that the applicant is concerned with.

Board discussion:

- Amount of tax revenue generated by the project is significant
- Benefit of this project to residential areas in the Township which currently have student housing
- Lowering the rent as an incentive to park off-site not economically feasible for the applicant

ROLL CALL VOTE: YEAS: Trustees Dreyfus, Veenstra, Supervisor McGillicuddy
NAYS: Trustees LeGoff, Ochberg, Clerk Helmbrecht,
Treasurer Brixie
Motion failed 3-4.

Supervisor McGillicuddy offered the following friendly amendment:

- **Amend Condition #10 by adding at the end, "In the event installation of the permeable concrete system is found to be unsuitable, stormwater shall be detained on site."**

Board members and the applicant's engineering representative discussed the following:

- Detention already provided on the 81 acre site
- Drains to the large conservation area to the southeast of the development provides the floodplain and flood discharge detention and retention
- On-site permeable concrete provides Phase II EPA cleaning of the stormwater prior to discharge into the detention area
- Ingham County Drain Commissioner (ICDC) requirement for cleaning of the stormwater prior to discharge into the drain
- In the event the permeable concrete does not work, a separate, different cleaning mechanism would have to be provided to get ICDC approval
- ICDC controls the design and size of the detention area to standards required for a 100 year flood
- ICDC determined the 100 year flood standards during the initial development stages of Hannah Farms
- Overall development of Hannah Farms must comply with initial calculations
- If too much water is present compared to initial calculations, additional detention must be provided
- Drain as part of the overall detention area for the development
- Restrictor in the drain takes the water to a smaller pipe so all of the water cannot flow to the Red Cedar River at one time
- Portion of the water backs up and floods into the open area where it is stored prior to flowing to the Red Cedar River

Supervisor McGillicuddy withdrew her amendment.

Trustee Veenstra offered the following friendly amendment:

- **Amend condition #6 by deleting the words "A location" and inserting "Locations"**

Continued Board member discussion:

- Recycling areas are an amenity and a nuisance to live near
- Appreciation for the proposed location of the recycling area
- Recycling areas detract from the living area
- Second sentence of Condition #6 indicates number and location of recycling area(s) to be determined by the Director of Community and Planning and Development

The amendment was not accepted by the maker.

Trustee Veenstra offered the following friendly amendment:

- Amend condition #6 by deleting the words “A location” and inserting “Location(s)”

The amendment was accepted by the maker.

ROLL CALL VOTE: YEAS: Trustees LeGoff, Ochberg, Veenstra, Supervisor McGillicuddy,
Clerk Helmbrecht, Treasurer Brixie
NAYS: Trustee Dreyfus
Motion carried 6-1.

- B. Special Use Permit #09011 (Capstone), a request to construct a group of buildings greater than 25,000 square feet in gross floor area

Director Kieselbach summarized the proposed special use permit as outlined in staff memorandum dated June 11, 2009.

Trustee Ochberg moved [and read into the record] NOW THEREFORE, BE IT RESOLVED THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN hereby approves Special Use Permit #09011 to construct a group of buildings greater than 25,000 square feet in gross floor area subject to the following conditions:

1. Approval is granted based on the revised site plans prepared by KEBS, Inc. dated June 10, 2009 and May 26, 2009. All plans are subject to revisions as required.
2. Special Use Permit #09011 is subject to all conditions placed on Mixed Use Planned Unit Development #09014 and Special Use Permit #09011 for work in the floodplain.

Seconded by Treasurer Brixie.

ROLL CALL VOTE: YEAS: Trustees LeGoff, Ochberg, Veenstra, Supervisor McGillicuddy,
Clerk Helmbrecht, Treasurer Brixie
NAYS: Trustee Dreyfus
Motion carried 6-1.

- C. Zoning Amendment #09010 (Planning Commission), an amendment to Sections 86-129, 86-187, 86-188, and 86-189 to update appeal procedures and add an appeal procedure for minor amendments to Special Use Permits, **Final Adoption**

Treasurer Brixie moved [and read into the record] NOW THEREFORE BE IT RESOLVED THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN hereby FINALLY ADOPTS Ordinance No. 2009-04, entitled “Ordinance Amending the Code of the Charter Township of Meridian, Michigan, Chapter 86, Article II, Division 4, Section 86-129 by amending Section 86-129(f); Article II, Division 6, by amending Section 86-187, Section 86-188, and Section 86-189; and Article IV, Division 4, Section 86-439, by amending Section 86-439 (h)(5)d.”

BE IT FURTHER RESOLVED the Clerk of the Charter Township of Meridian is directed to publish the Ordinance in the form in which it is finally adopted at least once prior to the next regular meeting of the Township Board.

Seconded by Clerk Helmbrecht.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Veenstra, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Brixie

NAYS: None

Motion carried unanimously.

[Supervisor McGillicuddy recessed the meeting at 8:48 P.M.]

[Trustee Ochberg left the room at 8:49 P.M.]

[Supervisor McGillicuddy reconvened the meeting at 9:02 P.M].

11. DISCUSSION ITEMS/ENDS

Supervisor McGillicuddy opened public comment.

Leonard Provenchur, 5824 Buena Parkway, Haslett, spoke in opposition to the cessation of work on the South Hulett Road Pathway.

Ganesh Reddy, 3614 Ponderosa Drive, Okemos, spoke in support of the Department of Homeland Security Fire Station Construction Grant application.

Supervisor McGillicuddy closed public comment.

A. Payback District, Georgetown Sewer Main

Director Severy summarized the payback district as outlined in staff memorandum dated May 27, 2009.

Board members and staff discussed the following:

- Mud Lake Lift Station design was based on the 1993 Comprehensive Development Plan
- Use of the 2005 Master Plan numbers showed a reduction in the number of units which resulted in an increase in the payback per residential equivalent unit (REU)
- Payback district boundary is the service area for the Mud Lake Lift Station
- Decision was made during the 1993 design process not to include Section 24
- Mud Lake Life Station currently flows into a sewer system which comes down Marsh Road
- Services extended into the eastern third in 1993
- Rationale for retaining the initial 5% interest rate for payback
- Agreement with staff recommendation to change payback period to 20 years

The consensus of the Board was to place this item on for action at the July 7, 2009 Board meeting.

B. Cessation of work on the South Hulett Road Pathway pending Board Review of the Pedestrian/Bicycle Pathway Master Plan

Board members and staff discussed the following:

- Project already designed and staff would like to advertise for bid
- Procedural objection to a single home owner changing the process
- Cessation of work not a good use of time or resources
- Significant funds already spent on the South Hulett Road pathway
- Request for the Board to receive a yearly list of pathway projects in February for the coming summer
- Make copies of the pathway system available to businesses/public
- Request to complete "gap" down to Robin's Way

The consensus of the Board was to address this matter as part of the Pedestrian/Bicycle Pathway Master Plan Review scheduled for the July 21, 2009 Board meeting.

- C. Zoning Amendment #09030 (Township Board), request to amend Sections 86-2, 86-403, 86-405, and 86-432 of the Code of Ordinances to allow massage therapy and physical therapy as permitted uses in the C-1, C-2, C-3 (Commercial), and PO (Professional Office) zoning districts
Director Kieselbach summarized the proposed zoning amendment as outlined in staff memorandum dated June 11, 2009.

Board members and staff discussed the following:

- PA 471 of 2008 requires massage therapists to be licensed by the State of Michigan
- Question for the attorney on the ability to offer sales of goods related to the service
- Pilates instructors within a licensed physical therapist's office would still not be an allowed use in PO under this zoning amendment
- PO as a quieter use with fewer customers
- Possible referral of the PO portion of the zoning amendment to the Planning Commission to incorporate new changes
- Question of a licensed professional allowing a non-licensed individual to operate within their business
- Concern with Board being overly restrictive
- Pilates and yoga instructors certified through their respective organizations/associations
- Addition of secondary uses should be referred to the Planning Commission
- Set standards of certification if Pilates instructors are included in PO

The consensus of the Board was to move forward with permitted uses in the C-1, C-2 and C-3 zoning districts as an action item and continue the discussion of PO at the July 7, 2009 Board Meeting.

- D. Department of Homeland Security Fire Station Construction Grants
Township Manager Richards summarized the Fire Station Construction Grant opportunity as outlined in staff memorandum dated June 12, 2009.

Board members discussed the following:

- Current Central Fire Station is 50 years old
- Recent survey question on the Central Fire Station is currently being tabulated
- Staff belief there can be a larger building constructed if the location of the Central Fire Station changes
- Staff to provide recommendation of various matching fund amounts and their source(s)
- Need to commit Township funds to be a competitive applicant for the grant
- Retain location in downtown Okemos to aid in the revitalization efforts
- No requirement to accept the grant in the event it is awarded
- Township purchase of the Meridian Activity Center location considered the possibility of a Central Fire Station expansion
- Concern by Fire staff with keeping the Central Fire Station at its current location while promoting walkability and the revitalization of the Okemos downtown area
- Fire trucks and ambulances would be less encumbered with pedestrians and traffic if located on Township owned property on Okemos Road, north of Grand River and west of Meridian Mall
- The location west of the Meridian Mall would not require demolition of existing building(s)
- Infrastructure available to Township owned property on Okemos Road, north of Grand River and west of Meridian Mall
- Use of the purchase price of property as the Township's match for the grant application
- Possible location of a fire station towards the east
- Discussion with other governmental entities of a regional fire authority over the last several years
- Submission of the grant application without site specificity

The consensus of the Board was to apply for a grant to replace the Central Fire Station and place this item on for action at the July 7, 2009 Board meeting.

12. PUBLIC REMARKS

Supervisor McGillicuddy opened Public Remarks.

Ganesh Reddy, 3614 Ponderosa Drive, Okemos, cautioned the Board in placing too much emphasis on the Central Fire Station survey question as part of the grant application discussion. He believed the Township cannot wait for the regional fire authority to come to fruition and suggested the Board commit as much matching money as possible towards the grant application. Mr. Reddy reminded the Supervisor to make good on her campaign promises and suggested two (2) department head positions be eliminated to aid in saving the Township money.

Supervisor McGillicuddy closed Public Remarks.

13. FINAL BOARD MEMBER COMMENT

Trustee Dreyfus requested an initial discussion on a thorough MUPUD ordinance revision, including the MUPUD definition, extent of amenities, definition of dwelling units, redevelopment and other terms and open space requirements and mandates. He also suggested a moratorium on future MUPUD requests until the ordinance is thoroughly discussed and possibly revised.

Trustee Veenstra spoke to an action item at the next Board meeting where the MUPUD ordinance revision is referred to the Planning Commission and requested the referral include:

- Extending the required railroad setback to all zoning districts
- Delete bicycle racks as an amenity
- Require more amenities for a larger development
- Increasing the thirty (30) day deadline in the current ordinance for larger projects
- Address provision regarding density standards
- Planning Commission subcommittee currently discussing redevelopment
- Public hearing on the ordinance revision at the Planning Commission level
- Possible invitation to the Planning Commission to attend the next Board meeting to discuss this ordinance revision
- Planning Commission involvement in specific items the Board wants to amend v. a total revision of the MUPUD ordinance

The consensus of the Board was to place this item on for discussion at the July 7, 2009 Board meeting.

14. ADJOURNMENT

Supervisor McGillicuddy adjourned the meeting at 10:40 P.M.

SUSAN MCGILLICUDDY
TOWNSHIP SUPERVISOR

MARY M. G. HELMBRECHT, CMC
TOWNSHIP CLERK

Sandra K. Otto, Secretary