

CHARTER TOWNSHIP OF MERIDIAN
TOWNSHIP BOARD REGULAR MEETING - **APPROVED** -
5151 Marsh Road, Okemos, MI 48864-1198
853-4000, Town Hall Room
TUESDAY, JULY 19, 2011 **6:00 P.M.**

PRESENT: Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Brixie, Trustees Dreyfus,
LeGoff, Ochberg, Veenstra (6:06 P.M.)
ABSENT: None
STAFF: Township Manager Gerald Richards, Director of Community Planning & Development
Mark Kieselbach, Director of Engineering & Public Works Ray Severy

1. CALL MEETING TO ORDER

Supervisor McGillicuddy called the meeting to order at 6:00 P.M.

2. PLEDGE OF ALLEGIANCE/INTRODUCTIONS

Supervisor McGillicuddy led the Pledge of Allegiance.

3. ROLL CALL

The secretary called the roll of the Board.

4. PUBLIC REMARKS

Supervisor McGillicuddy opened and closed Public Remarks.

5. REPORTS/BOARD COMMENT/NEW WORRIES

Trustee Ochberg reported a unanimous vote was taken at the July 13, 2011 Zoning Board of Appeals (ZBA) meeting to refer the discrepancy in sign size between Professional Office (PO) and Research Park (RP) zoning districts to the Township Board. She indicated although the ZBA did not make a recommendation to the Board, it was the body's desire that the sign size be the same for both zoning districts.

Supervisor McGillicuddy responded she had already placed this issue on a future agenda for discussion.

Trustee Ochberg also noted unanimity by the ZBA to send to the Board the issue of whether directional signs could be allowed in an office park as they currently are in commercially zoned districts.

6. APPROVAL OF AGENDA

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

VOICE VOTE: Motion carried 6-0.

7. CONSENT AGENDA

Supervisor McGillicuddy reviewed the consent agenda.

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

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

NAYS: None

Motion carried 6-0.

The adopted Consent Agenda items are as follows:

A. Communications

(1) Board Information (BI)

- BI-1 Sandra K. Knight, Deputy Federal Insurance and Mitigation Administrator, Federal Emergency Management Agency (FEMA), US Department of Homeland Security, 500 C Street, SW, Washington, DC; RE: Adoption of floodplain management measure to comply with National Flood Insurance Program (NFIP) regulations
- BI-2 Ev and Ken Stoffer, 6217 Bridgewater Circle, East Lansing; RE: Appreciation for the excellent July 4th Fireworks Celebration
- BI-3 A. C. Goodson, 2487 Small Acres Lane, Okemos; RE: Ruth Moore Park maintenance proposal
- BI-4 Patricia Hilliard, 5929 Bayonne Avenue, Haslett; RE: Deer culling in Meridian Township

(2) Staff Communication (SC)

- SC-1 Memorandum from Cindy Cummings, Police Records Supervisor; RE: Current list of licensed vendors and non-licensed persons or nonprofit organizations engaged in soliciting or canvassing dated July 13, 2011

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 LeGoff.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
 NAYS: None
 Motion carried 6-0.

B. Minutes

Treasurer Brixie moved to approve and ratify the minutes of the July 5, 2011 Regular Meeting as submitted. Seconded by Trustee LeGoff.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
 NAYS: None
 Motion carried 6-0.

C. Bills

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

Common Cash	\$ 362,280.21
Public Works	\$ 461,488.03
Total Checks	\$ 823,768.24
Credit Card Transactions	\$ 7,659.78
Total Purchases	<u>\$ 831,428.02</u>
 ACH Payments	 <u>\$ 404,444.99</u>

Seconded by Trustee LeGoff.

ROLL CALL VOTE: YEAS: Trustees Dreyfus, LeGoff, Ochberg, Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Brixie
 NAYS: None
 Motion carried 6-0.

[Bill list in Official Minute Book]

- 8. QUESTIONS FOR THE ATTORNEY (None)
- 9. HEARINGS (None)
- 10. ACTION ITEMS/ENDS

Supervisor McGillicuddy opened and closed public comment.

A. Legg Park Boundary Correction

Trustee Ochberg moved to approve the sale of .47 acres of land (Parcel B), to correct the boundary in Legg Park, to Jim and Ann Wood, 3921 Van Atta Road, Okemos, in the amount of \$13,300, with the conditions that the proceeds not be utilized for planning, construction and maintenance of the proposed dog park in Legg Park, that up to five (5) dead trees are removed and replaced along the boundary and to also comply with the directive of the National Forest Service and Michigan Department of Natural Resources to spend the proceeds on improvements to Legg Park. Seconded by Supervisor McGillicuddy.

Board members and staff discussed the following:

- Appreciation by Jim and Ann Wood to have the opportunity to legally occupy Parcel B
- Purchase of Parcel B will allow the Wood’s lot to go “out to the road”
- Driveway currently across Parcel B
- Jim and Ann Wood have an existing easement off of Van Atta Road
- Easement currently exists for Parcel C
- Concern with setting a “bad” precedent by selling park land that has been encroached upon
- Jim and Ann Wood gain access to their home through Legg Park and a driveway on Parcel B
- Property immediately to the north of Parcel A has a driveway off of Van Atta Road
- Owner of property immediately north of Parcel C is not interested in purchasing Parcel C
- Inquiry if Parcel A and a portion of B would constitute a buildable lot
- Parcel B is a buffer between the existing home and Legg Park
- Parcel would be too close to park activity to be a “good” location for residential
- Parcels A, B and C by themselves do not have sufficient frontage and do not meet the minimum lot size requirement
- Inquiry if these parcels were pre-ordinance splits
- Board is creating Parcels A, B, and C through the proposed sale
- Under the Land Division Act, if there are adjoining parcels and one is sold to the other, it is not a land division, but a combination
- Suggestion to amend motion to add this parcel to the existing land owned by the Wood’s

Supervisor McGillicuddy moved to amend the motion as follows:

- **Add the following condition: Parcel B shall be combined with the existing land owned by the Wood’s so that it is one contiguous parcel. Seconded by Clerk Helmbrecht.**

Continued Board discussion:

- Jim and Ann Wood will be upset by this condition
- Township as the owner of the strip of land between the easement and Parcels A, B and C
- Property is zoned rural residential
- Parcel B is less than .5 acres, does not contain 40,000 square feet, does not have 200 feet of frontage on Van Atta Road and, therefore, is not buildable
- Assumption that the home owned by the Wood’s existed prior to Township purchase of the land used to create Legg Park

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

Continued Board discussion:

- Parcels A, B, and C total more than one acre (1.15 acres) and may be buildable
- Consideration should be given to selling Parcels A, B and C together as the Township would receive more money selling 1.15 acres

- Selling the three parcels together would provide a good location to build a home next to a Township park
- Combining the three (3) parcels would not provide sufficient frontage to build a home
- Concern with selling park land
- Violation of principle to allow a buyer to place restrictions on how the Township spends the money acquired through the sale of land
- Encroachment v. use of a legal easement

Treasurer Brixie moved to table this issue to allow Planning Staff to ascertain the “buildability” when combining Parcels A, B and C together to form one lot. Seconded by Clerk Helmbrecht.

Treasurer Brixie withdrew her motion.

Continued Board discussion:

- Issue should have been a discussion item on the agenda
- Some facts appear to be in dispute

Clerk Helmbrecht moved to table this issue. Seconded by Treasurer Brixie.

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

- B. Zoning Amendment #10010 (Township Board), a request to amend Section 86-368 (b)(2) Home Occupations to update the allowed uses and standards for home occupations, **Final Adoption**
Clerk Helmbrecht 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. 2011-09, entitled “Ordinance Amending the Code of the Charter Township of Meridian, Michigan, Chapter 86, Article I, Section 86-2, by amending Section 86-2; Article IV, Section 86-368, by amending Section 86-368(b)(2) and by adding Section 86-368(15).”

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 Treasurer Brixie.

Board members discussed the following:

- Good compromise which allows more residents to have a home business

The seconder offered the following amendment:

- **Amend Section 86-368 (b) (2) b. 3. by deleting “only those persons residing in the dwelling” and inserting “no employee other than members of their immediate family residing on the premises”**

Seconded by the maker.

Continued Board discussion:

- Amendment would make it more restrictive than what is currently being proposed

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

The seconder offered the following friendly amendment:

- **Amend Section 86-368 (b) (2) a. 1. by deleting the word “professional”**

The amendment was accepted by the maker.

Continued Board discussion:

- Current ordinance indicates 25% of the ground floor area is allowed for the home occupation
- Proposed amendment would allow both floors of a two-story home to be counted towards the 25% or 500 square feet
- Floor area has never included basements (finished or unfinished) or attached garages within the calculation
- Change to this ordinance is more generous for small two-story homes and more restrictive for large single-story homes

The seconder offered the following amendment:

- **Amend Section 86-368 (b) (2) b. 7. after glare, by inserting “outdoor artificial lighting”**

The motion died for lack of a second.

Continued Board discussion:

- Proposed ordinance is overly restrictive and anti-business
- Proposed ordinance does not reflect the recommendations of the Meridian Area Business Association (MABA) or the Economic Development Corporation (EDC)
- Proposed ordinance is unenforceable in many areas
- Proposed ordinance will make current activities within homes “illegal”
- Issue is one of “reasonableness”
- Appropriate to determine at what point it is a residence and at what point it becomes a business
- Proposed amendment allows home-based businesses and residential character to be preserved in an ordinance
- Future reconsideration of the meaning of residential neighborhood
- Current definition of residential zoning “grew” out of the return of World War II veterans who lived in English manors while waiting to invade France
- Belief the only protection needed for a neighbor is embodied in (b) (2) b. 7., “No activity related to the occupation...shall adversely impact the surrounding neighborhood or the right of surrounding residents to the quite enjoyment of their property...”

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

C. Zoning Amendment #11040 (Township Board), amendment to Section 86-436 Conservancy, **Final Adoption**

Trustee Ochberg moved [and read into the record] NOW, THEREFORE, BE IT RESOLVED THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN hereby FINALLY ADOPTED Ordinance No. 2011-10, entitled “Ordinance Amending the Code of the Charter Township of Meridian, Michigan, Chapter 86, Article IV, Division 4 by amending Section 86-436.”

BE IT FURTHER RESOLVED that 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 Treasurer Brixie.

Board members discussed the following:

- Language brings the Township in concert with federal regulations to enable citizens to obtain flood insurance
- Federal Emergency Management Agency (FEMA) map will be accurate and up-to-date

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

Trustee Ochberg 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. 2011-11, entitled “Ordinance Amending the Code of the Charter Township of Meridian, Michigan, Chapter 14, Article II, Section 14-26, by adding Section 14-26 (c) and Section 14-26 (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 Treasurer Brixie.

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

D. Streets and Sidewalks Ordinance Amendments, Final Adoption

Treasurer Brixie moved [and read into the record] NOW, THEREFORE, BE IT RESOLVED THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN, INGHAM COUNTY, MICHIGAN, hereby FINALLY ADOPTS Ordinance No. 2011-12, entitled “Ordinance Amending the Code of Ordinances of the Charter Township of Meridian, Michigan, Chapter 58, by adding Section 58-33(c) and Section 58-34.

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.

Trustee Veenstra moved to divide the question into three components.

The motion died for lack of a second.

Board members discussed the following:

- Homeowner associations can address the issue of snow removal
- Unsure that removal of dog feces has been a problem in the Township
- Concern with creating laws which are unenforceable

Trustee Veenstra offered the following amendment:

- Amend Section 58-34 (b) by inserting, “when other persons are nearby,” after “six feet or less,”

The motion died for lack of a second.

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

NAYS: Trustee Veenstra, Supervisor McGillicuddy
Motion carried 5-2.

11. DISCUSSION ITEMS/ENDS

Supervisor McGillicuddy opened public comment.

Vance Kincaid, 4530 Nakoma Drive, Okemos, spoke in support of increasing the size of flags up to 6 x 12 square feet. He cautioned government not to overreach when dealing with artistic expression in the form of free speech as it relates to regulating murals.

Supervisor McGillicuddy closed public comment.

A. Zoning Amendment #10080, request to add Section 86-444 Commercial Planned Unit Development to the Code of Ordinances

Director Kieselbach summarized the proposed zoning ordinance as outlined in staff memorandum dated July 1, 2011.

Board members discussed the following:

- Planning Commission recommendation contained in bold type on Page 11, line 415: “g. when adjacent to single family dwellings”
- Action by the Township Board when it adopted the mixed use planned unit development (MUPUD) to remove original language in g.
- Page 1, line 26 (a) allows for the process to be combined into one so that a special use permit (SUP) can be obtained concurrently with the approval of the initial commercial planned unit development (C-PUD)
- Suggestion to amend Page 1, line 26 (a) as follows: “All special use permits from the underlying commercial zoning district shall be replaced upon a commercial PUD approval. Any additional requests for special uses after a C-PUD is approved must be processed pursuant to the SUP requirements set forth in Chapter 86, Article 2, Division 4 of the Code of Ordinances.”
- Six electrical permits currently for installation of electric car charging stations in single family homes
- Preference to leave original language on Page 11, line 415: “g. Adjacent to residentially zoned property.” as some of the setback requirements and variances may be changed
- Page 1, (b) Definitions: Concern with including “or marketability to the public” as part of the definition of amenity
- Marketability is not a criterion upon which variances to a zoning ordinance should be granted
- Concern a developer may bring a project with amenities based solely on marketability
- Commercial PUD does not have a residential component
- Developers now have three (3) option for redevelopment: MUPUD, C-PUD or standard zoning for the commercial district
- Different criteria for granting variances than the criteria for having an amenity in a PUD
- Marketability as a reason to obtain a variance is not appropriate; however, marketability as it applies to an amenity in a planned development is appropriate
- From the developer’s prospective, creation of a development with amenities that make it marketable is the whole point of the planning process
- Board’s perspective is to ensure the plans received from the developer meet the criteria for the way the Board wants the community to look
- Value of an amenity is in the “eye of the beholder”
- Relaxation of setback requirements and other zoning requirements in the standard zoning category act like variances, an “exception” to our regular zoning act
- Consensus to add “6. Assist in increasing the marketability of the project to the public.” to (a) Purpose and Intent and remove “or its marketability to the public” from the definition of amenity
- Suggestion to add (e) (1) e., “Amenities shall be visible and/or accessible to the public and/or a benefit to the general public” to the definition of amenity
- Inquiry if the Board views a bus stop in front of an apartment which serves the residents where there are no businesses as marketable and of benefit to the general public

- Neighbors immediately adjacent to a project would be notified under the site plan review process for a minor amendment
- Reminder that (I) (2) (g), as currently written, makes any change next to residentially zoned property a major amendment, regardless of how minor
- Board responsibility to fulfill the buffering requirement within the Master Plan so there isn't residentially zoned property next to commercially zoned property
- Neighbors most often voice their concerns when a MUPUD or C-PUD goes through the original approval process
- Developers often meet with neighbors to address their concerns during the original approval process
- Likelihood of neighborhood attendance at site plan review v. public hearing
- The consensus of the Board was to delete (I) (2) g
- Page 11, line 410: Concern with the addition of land becoming a major amendment only when it is two times the original site size
- Page 11, line 410 deals only with properly zoned land, not land with buildings on it
- Page 11, line 410 is the same language as in the MUPUD ordinance
- Significant "blocks" of vacant commercial land not available in Meridian Township

The consensus of the Board was to place this item on for action at its August 2, 2011 meeting.

- B. Zoning Amendment #11050 (Township Board), request to amend Section 86-402(3) pertaining to the size and display of flags in commercial zoning districts
Director Kieselbach summarized the proposed zoning ordinance as outlined in staff memorandum dated July 1, 2011.

Board members discussed the following:

- Change initiated by the Board to increase the US flag size flown in the Township from 35 square feet to a recommended 40 square feet
- Planning Commission review and recommendation to increase the flag size to 40 square feet
- Banners already included in existing language; only the titles for those sections are changed
- Concern including banners in the section titles will cause confusion with the issue of banners on fences at Court One
- Board member request to increase the existing flag size of 35 square feet to 60 square feet, not the 40 square feet recommended by the Planning Commission
- 6 X 10 square foot flag is a commonly available flag size
- US flags in the Town Hall Room and outside the Municipal Building are 5 x 8 (40 square feet)
- Letter from American Legion Post 269 in favor of changing the flag size up to 60 square feet with a change in the flag pole height to properly display the flag
- Need for a standard which will work for all commercial lot sizes
- Importance of respecting the patriotic feelings of our business owners, many of who are veterans
- Prohibiting the flag size to a degree which makes it almost invisible from the road is going "too far" under the guise of public safety
- Veterans are eligible for burial with a flag which is sized 47-½ square feet
- Request to also amend the proposed ordinance to increase pole height to four (4) times the longest dimension of the flag, or 40 feet
- Large sized flags, such as the one originally flown by Belle Tire, is disrespectful to the symbols of what America stands for
- Enormous sized flags are an attempt to circumvent the Township's sign ordinance, designed to sell the store's product and not about patriotism
- Flags, as they relate to our sign ordinance, can be a safety issue and perceived as a visual distraction or clutter when they are 200-400 square foot fluttering objects
- Language contained in the existing ordinance requires all flagpoles to be set back a minimum of ten (10) feet from the street right-of-way lines
- 40 square foot flag fits a greater variety of lot sizes
- Increase in flag pole height was not initiated by the Board or sent to the Planning Commission for recommendation

- Request to introduce a change in the allowed size of the US flag from 35 square feet to 60 square feet at the next Board meeting
- Inconsistency in adopting a 60 square foot flag size without amending the height of the pole required to accommodate a flag of that size
- Suggestion to have staff prepare two motions, one consistent with the Planning Commission recommendation and one which recommends a flag pole height of 40 feet with a 60 square foot flag

The consensus of the Board was to place this item on for action at its August 2, 2011 meeting.

C. Murals

Director Kieselbach summarized the topic of murals as outlined in staff memorandum dated July 1, 2011.

Board members discussed the following:

- Appreciation to staff for its rewrite of the draft ordinance, removing “offensive” language regarding content objected to by several Board members
- Proposed language is too restrictive
- Suggestion to delete 2, 3 and 4
- Lansing and East Lansing regulate murals as a sign on commercial property
- Objection to imposing a prohibition on murals in other zoning categories
- Request for Board accuracy in distinguishing when an action is illegal and when it constitutes a civil infraction
- Concern with having more than one side of a building covered with a mural
- The cities of Lansing and East Lansing regulate murals on public property through art commissions

The consensus of the Board was to direct staff to initiate a zoning amendment consistent with draft language for review and a public hearing by the Planning Commission.

12. PUBLIC REMARKS

Supervisor McGillicuddy opened Public Remarks.

Vance Kincaid, 4530 Nakoma Drive, Okemos, questioned the inconsistencies created with passage of the Streets and Sidewalks Ordinance relative to code enforcement as it pertains to snow removal and the close of some sidewalks during winter. He stated the Animal Control Ordinance adopted by the Ingham County Board of Commissioners 39 years ago already has a leashed dog requirement.

Supervisor McGillicuddy closed Public Remarks.

13. FINAL BOARD MEMBER COMMENT

Trustee Ochberg believed passage of the dog leashing component in Streets and Sidewalks Ordinance reassures residents who are afraid of being bitten by dogs.

Township Manager Richards believed the Ingham County Animal Control Ordinance is unenforceable by the Meridian Township Police Department.

Trustee Veenstra questioned “excessive” legal costs for enforcement activity.

14. ADJOURNMENT

Supervisor McGillicuddy adjourned the meeting at 9:03 P.M.

SUSAN MCGILLICUDDY
TOWNSHIP SUPERVISOR

MARY M. G. HELMBRECHT, CMC
TOWNSHIP CLERK

Sandra K. Otto, Secretary