

CHARTER TOWNSHIP OF MERIDIAN  
TOWNSHIP BOARD REGULAR MEETING - **APPROVED** -  
5151 Marsh Road, Okemos, MI 48864-1198  
853-4000, Town Hall Room  
JANUARY 16, 2007, **6:00 P.M.**

PRESENT: Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting, Trustees Brixie, Such (6:06 P.M.), Veenstra (6:01 P.M.), Woiwode  
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 Andria Ditschman

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

Supervisor McGillicuddy opened Public Remarks.

Elias Nakfour, 1568 Downing Street, Haslett, spoke in support of Rezoning #99020 (Forsberg), alleging that businesses attract a greater demand for housing. He expressed concern that progress is being hindered in Meridian Township due to slow growth of business in the area.

Archie Virtue, 5935 Okemos Road, East Lansing, requested the Board explore the option of Meridian Township becoming a city as a means to stop the continuing annexation attempts.

Supervisor McGillicuddy closed Public Remarks.

5. REPORTS/BOARD COMMENT/NEW WORRIES

6. APPROVAL OF AGENDA — OR CHANGES

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

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 Such.**

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

NAYS: None

Motion carried unanimously.

The adopted Consent Agenda items are as follow:

A. Communications

(1). Board Determination (BD)

9C/11D-1 Noel S. Walker, 4411 Wausau Road, Okemos; RE: Appeal of SUP #06021 (Sumbal)

11E-1 Paul Brake, Executive Director, Meridian Township Downtown Development

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Authority of Okemos, 5151 Marsh Road, Okemos; RE: Tentative Preliminary Plat #06022 (Sumbal)

(2). Board Information (BI)

- BI-1 Karen Burke, 5895 Marsh Road, #220, Haslett; RE: Support for SUP #06-99091 (Wal-Mart)
- BI-2 Jim Westerlund, 1019 Cliffdale, Haslett; RE: Outdoor Lighting Ordinance

(3). Staff Communication/Referral (SC)

- SC-1 Michigan Townships Association Legislative E-Report, January 5, 2007 Edition

**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 Such.**

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

B. Minutes

**(1) Trustee Brixie moved to approve and ratify the minutes of the December 19, 2006 Regular Meeting as amended. Seconded by Trustee Such.**

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

**(2) Trustee Brixie moved to approve and ratify the minutes of the January 4, 2007 Regular Meeting as submitted. Seconded by Trustee Such.**

ROLL CALL VOTE: YEAS: Trustees Brixie, Such, Veenstra, 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	\$ 346,755.55
Public Works	\$ 171,645.26
Total Checks	\$ 518,400.81
Credit Card Transactions	\$ 12,458.67
Total Purchases	<u>\$ 530,859.48</u>
ACH Payments	<u>\$ 301,438.89</u>

**Seconded by Trustee Such.**

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

[Bill list in Official Minute Book]

D. Beginning of Year Budget Amendments, Carryover

**Trustee Brixie moved that the Township Board approve the 2007 amended budget as reflected on page 3 of the memorandum to the Township Board from the Finance Director dated January 12, 2007. Seconded by Trustee Such.**

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

E. Appointments to Boards and Commissions

**Trustee Brixie moved that the Township Board approve the four (4) appointees to various Board Commissions as follows:**

<u>Name</u>	<u>Board/Commission</u>	<u>Term Ending</u>
George Macklem	Environmental Commission	2009
Patricia Wilson	Board of Review	2008
Andrea Faes	Community Resources Commission	2008
Jeb Burns	Elected Officials Compensation Commission	2011

**Seconded by Trustee Such.**

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

F. Assessing Stipulation(s)

**Trustee Brixie moved that the Township Assessor be authorized to sign a stipulation with Lakeview Associates, on the following property:**

YEAR	DOCKET NO.	ADDRESS OF PROPERTY
2004/2005/2006	0310528	5984 Bois Ile, Haslett
Assessment	2004	AV/TV \$739,900/420,233
	2005	AV/TV \$750,900/429,898
	2006	AV/TV \$774,900/444,084
Proposed Assessment	2004	AV/TV \$540,000/420,233
	2005	AV/TV \$552,500/429,898
	2006	AV/TV \$591,000/444,084

**Seconded by Trustee Such.**

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

**Trustee Brixie moved that the Township Assessor be authorized to sign a stipulation with Lakeview Associates, on the following property:**

<b>YEAR</b>	<b>DOCKET NO.</b>	<b>ADDRESS OF PROPERTY</b>
<b>2004/2005/2006</b>	<b>0310528</b>	<b>5984 Bois Ile, Haslett</b>
<b>Assessment</b>	<b>2004 AV/TV</b>	<b>\$1,156,500/749,108</b>
	<b>2005 AV/TV</b>	<b>\$1,111,100/766,337</b>
	<b>2006 AV/TV</b>	<b>\$1,053,400/791,626</b>
<b>Proposed Assessment</b>	<b>2004 AV/TV</b>	<b>\$844,000/749,108</b>
	<b>2005 AV/TV</b>	<b>\$817,500/766,337</b>
	<b>2006 AV/TV</b>	<b>\$803,500/791,626</b>

**Seconded by Trustee Such.**

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

**Trustee Brixie moved that the Township Assessor be authorized to sign a stipulation with Lakeview Associates, on the following property:**

<b>YEAR</b>	<b>DOCKET NO.</b>	<b>ADDRESS OF PROPERTY</b>
<b>2004/2005/2006</b>	<b>0310528</b>	<b>5984 Bois Ile, Haslett</b>
<b>Assessment</b>	<b>2004 AV/TV</b>	<b>\$199,700/133,452</b>
	<b>2005 AV/TV</b>	<b>\$179,100/136,521</b>
	<b>2006 AV/TV</b>	<b>\$156,900/141,026</b>
<b>Proposed Assessment</b>	<b>2004 AV/TV</b>	<b>\$146,000/133,452</b>
	<b>2005 AV/TV</b>	<b>\$132,000/132,000</b>
	<b>2006 AV/TV</b>	<b>\$119,500/119,500</b>

**Seconded by Trustee Such.**

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

**Trustee Brixie moved that the Township Assessor be authorized to sign a stipulation with Lakeview Associates, on the following property:**

<b>YEAR</b>	<b>DOCKET NO.</b>	<b>ADDRESS OF PROPERTY</b>
<b>2004/2005/2006</b>	<b>0310528</b>	<b>5984 Bois Ile, Haslett</b>
<b>Assessment</b>	<b>2004 AV/TV</b>	<b>\$199,700/133,452</b>
	<b>2005 AV/TV</b>	<b>\$179,100/136,521</b>
	<b>2006 AV/TV</b>	<b>\$156,900/141,026</b>
<b>Proposed Assessment</b>	<b>2004 AV/TV</b>	<b>\$146,000/133,452</b>

<b>2005</b>	<b>AV/TV</b>	<b>\$132,000/132,000</b>
<b>2006</b>	<b>AV/TV</b>	<b>\$119,500/119,500</b>

**Seconded by Trustee Such.**

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

**Trustee Brixie moved that the Township Assessor be authorized to sign a stipulation with Lakeview Associates, on the following property:**

<b>YEAR</b>	<b>DOCKET NO.</b>	<b>ADDRESS OF PROPERTY</b>
<b>2004/2005/2006</b>	<b>0310528</b>	<b>5984 Bois Ile, Haslett</b>
<b>Assessment</b>	<b>2004 AV/TV</b>	<b>\$1,361,000/799,435</b>
	<b>2005 AV/TV</b>	<b>\$1,395,300/817,822</b>
	<b>2006 AV/TV</b>	<b>\$1,330,100/844,810</b>
<b>Proposed Assessment</b>	<b>2004 AV/TV</b>	<b>\$993,000/799,435</b>
	<b>2005 AV/TV</b>	<b>\$1,027,000/817,822</b>
	<b>2006 AV/TV</b>	<b>\$1,014,500/844,810</b>

**Seconded by Trustee Such.**

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

**Trustee Brixie moved that the Township Assessor be authorized to sign a stipulation with Lakeview Associates, on the following property:**

<b>YEAR</b>	<b>DOCKET NO.</b>	<b>ADDRESS OF PROPERTY</b>
<b>2004/2005/2006</b>	<b>0310528</b>	<b>5984 Bois Ile, Haslett</b>
<b>Assessment</b>	<b>2004 AV/TV</b>	<b>\$659,400/408,241</b>
	<b>2005 AV/TV</b>	<b>\$664,300/417,630</b>
	<b>2006 AV/TV</b>	<b>\$658,000/431,411</b>
<b>Proposed Assessment</b>	<b>2004 AV/TV</b>	<b>\$481,000/408,241</b>
	<b>2005 AV/TV</b>	<b>\$489,000/417,630</b>
	<b>2006 AV/TV</b>	<b>\$502,000/431,411</b>

**Seconded by Trustee Such.**

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

- G. Carlton Street Water Main, Establish Benefit Charge  
**Trustee Brixie moved to approve the resolution establishing water system benefit charges for Carlton Street (Haslett Road North to the Canadian National Railroad) establishing a cost of \$46.23 per linear foot of frontage (plus 5% annual increase); with a minimum of \$3,005.00 (plus 5% annual increase), and a maximum for single family residences of \$6,010.00 (plus 5% annual increase.) Seconded by Trustee Such.**

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

- H. Cornell Road Water Main, Establish Benefit Charge  
**Trustee Brixie moved to approve the resolution establishing water system benefit charges for Cornell Road (from approximately 190' south of White Oaks Drive to 250' to the south) establishing a cost of \$5,000 per connection, plus 5% annual increase. Seconded by Trustee Such.**

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

- I. 2007 Order to Maintain Sidewalk, **Resolution #1 & #2**, Set Public Hearing Date (February 20, 2007)  
**Trustee Brixie moved to approve 2007 Order to Maintain Sidewalk Special Assessment District #9 – Resolutions #1 and #2, which tentatively approves the improvements, and cost estimates of proposed improvements, and sets the date for a public hearing on February 20, 2007. Seconded by Trustee Such.**

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

- J. The Sanctuary Street Lighting District, **Resolution #1**, Set Public Hearing Date (February 20, 2007)  
**Trustee Brixie moved to approve the Sanctuary Streetlighting Special Assessment District – Resolution #1, tentatively declaring its intention to install and maintain twenty-one (21) streetlights and defray the cost of installation, operation and maintenance by special assessment against the 48 benefiting lots and setting a public hearing for February 20, 2007. Seconded by Trustee Such.**

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

8. QUESTIONS FOR THE ATTORNEY (See Agenda Item #9C)

9. HEARINGS

- A. 2006 Order to Maintain Sidewalks  
Supervisor McGillicuddy opened the public hearing at 6:12 P.M.  
Director Severy summarized the 2006 Order to Maintain Sidewalks as outlined in staff memorandum dated January 11, 2007.

Supervisor McGillicuddy closed the public hearing at 6:13P.M.

- B. Saginaw Street Sanitary Sewer SAD #51  
Supervisor McGillicuddy opened the public hearing at 6:13 P.M.

Director Severy summarized the special assessment district as outlined in staff memorandum dated January 11, 2007.

Supervisor McGillicuddy closed the public hearing at 6:15 P.M.

- C. Appeal of SUP #06021 (Sumbal), a request to excavate 7,026 cubic yards of fill from the floodplain of the Red Cedar River and place approximately 4,559 cubic yards of fill within the floodway fringe of the Red Cedar River to develop Gulburg Estates subdivision

Supervisor McGillicuddy opened the public hearing at 6:15 P.M.

Director Kieselbach summarized the appeal of Special Use Permit #06021 as outlined in staff memorandum dated January 12, 2007.

#### APPELLANT

Charley Guyselman, 6206 W. Saginaw, Lansing, the appellant's attorney, addressed the findings of the Planning Commission's eight (8) objections. He alleged Section 86-436(k) (6) allows for fill in the floodway fringe as long as it does not cause damage to the natural flow or impoundment capacity of the floodway fringe. He maintained no contrary expert opinion was offered that harm would be done if fill was performed in the floodway fringe. Mr. Guyselman noted Section 86-436 (g) (3) clearly provides for the extraction of sand, gravel and other materials within the floodway if a special use permit is granted to do so.

Mr. Guyselman stated the Planning Commission's second objection was that the compensating cut is outside the plat which raised concern regarding long term maintenance and preservation. He indicated the plat cannot have land located in the 100 year floodplain, and Mr. Sumbal is willing to convey the subject property separate and apart from the plat to the homeowner's association with a deed requirement that the homeowner's association maintain the land.

Mr. Guyselman addressed the Planning Commission's third objection that alternative site design and development technique could have been utilized. He stated this parcel is unique, as it is small and bordered by the river, alleging that all alternatives were explored by both the applicant and his engineers.

Mr. Guyselman addressed the Planning Commission's fourth objection that when the river exceeds 836 feet above mean sea level there will be minimal pre-treatment of storm water from the drive on lot 7. He pointed to the fact that the Ingham County Drain Commissioner's office reviewed and approved this proposal, without voicing concern on this topic.

Mr. Guyselman addressed the Planning Commission's fifth objection that the applicant has not sufficiently demonstrated that the proposed finished grade of the slope will not cause erosion or high flow velocity of the flood waters. He indicated the engineer's review indicated they do not believe it is a legitimate concern given the velocity of the floodway, slope of the hills and the placement of mulch and plant materials.

Mr. Guyselman addressed the Planning Commission's sixth objection that the applicant has not provided sufficient evidence to show the proposed project will not result in increased flooding that would impact private property to the east of the site along the opposite bank of the Red Cedar River. He stated both of the applicant's engineers, Mr. Wilson and Mr. Boulton, will indicate they met with the Township and asked if the Township needed additional information. Both of the engineers were advised that no additional information was needed. Studies provided by Mr. Wilson and Mr. Boulton have been reviewed by the Michigan Department of Environmental Quality (MDEQ), Federal Emergency Management Agency (FEMA) as well as the Township Engineer and no concern was expressed.

Mr. Guyselman addressed the Planning Commission's seventh objection that the proposed use is likely to be adverse to the safety of the public living downstream of the proposed cut. He pointed to Studies provided by the applicant which make it clear that the proposed project will not impact

flood flows up or down stream. He indicated no contrary evidence has been submitted by anyone that there is a legitimate risk, and objections seem to stem only from people's fears.

Mr. Guyselman addressed the Planning Commission's eighth objection that the compensating cut in floodway will affect capacity in the floodway which is not permitted under Section 86-436(g). He stated it is a law of physics that this statement is simply untrue.

Wallace Wilson, WA Wilson Consulting Services, 2557 Donna Drive, Williamstown, offered his credentials regarding hydrology, hydraulics and fluid river mechanics. He added that all questions posed by staff, Meridian Township residents and the Planning Commission were answered as well as granting the requested 30 day extension.

James Boulton, Resource Engineering/Consulting Services, 6718 W. Galway Circle, Dimondale, evaluated the impacts of the proposed projects on flooding of the Red Cedar River. His findings were conducted using standard engineering practices used throughout the nation and reviewed and approved by MDEQ when it issued its permit. FEMA sent a conditional letter of map revision (LOMR) after a detailed study of submitted documents.

Mr. Boulton stated when there are no changes in the flood elevations or the direction of flow, there can be no impact, either positive or negative, upstream, downstream, or across the project. He believed the Planning Commission ignored the findings when it denied the special use permit request. He indicated the hydraulic model for the 100 year flood showed the velocity of flow adjacent to the fill area to be less than .5 feet per second. He indicated that is a very slow flow, which will not cause erosion problems along the slope of the fill. Mr. Boulton indicated erosion would not take place until the velocity was approximately four (4) feet per second.

Mr. Boulton stated the proposed excavation of the floodplain is relatively small when considering the entire floodplain. When a hydraulic model is developed, common engineering practice is to not include the excavated area since the floodwaters will flow over the area and will not either add or subtract from the capacity of the floodway. The flood carrying capacity of the floodway is not increased or decreased because of the excavation in the floodway.

#### PLANNING COMMISSION REPRESENTATIVE

Tom Deits stated the Planning Commission did not disagree with the expert analyses given at the Planning Commission meeting. The Planning Commission expressed the widely held community opinion that this land is a sensitive area in the heart of Okemos. He indicated the statements in the denial was the Planning Commission's effort to express what it felt was considered public concern with the ultimate risks associated with placement of this development.

Commissioner Deits indicated the Planning Commission did suggest to the applicant that a planned unit development could be an option for alternative use and it was not brought forth by the applicant.

Commissioner Deits read from the ordinance (Section 86-436(k) uses permitted by special use permit in the floodway fringe contrasted with uses permitted in the floodway (Section 86-436(g)). He noted the use of compensating cuts is listed in the floodway fringe but expressly not listed in the floodway. Commissioner Deits felt it reasonable to infer that the writers of the ordinance did not wish to allow compensating cuts in the floodway. He also noted the ordinance is much more restrictive about the type of changes in the floodway than in the floodway fringe.

Commissioner Deits requested the Board to consider an additional condition should it decide to grant the appeal. He felt it appropriate to restrict the dump truck activity to the times when the children are not traveling to and from school, since the project is adjacent to an elementary school.

#### PUBLIC

Ann Alchin, 2227 Hamilton Road, Okemos, requested the Board support the Planning Commission's decision on SUP #06021. She expressed concern with the traffic which would be generated from this proposed development as well as noting that this property is within the Okemos DDA.

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Keith Promislow, 1884 Penobscot, Okemos, explained how he believed the river chooses its course. He stated excavation is not compensatory for river flow. He believed the proposed fill would push the water up the floodplain. He urged the Board to uphold the Planning Commission's decision on SUP #06021.

Teri Bates, 4345 Wausau Road, Okemos, read from a prepared statement on behalf of her husband, Peter Bates, regarding the compensating cut. She urged the Board to uphold the Planning Commission's decision on SUP #06021.

Lyle Marshall, 2134 Lagoon Drive, Okemos, read from a prepared statement urging the Board to affirm the Planning Commission's decision to deny SUP #06021, citing there is no provision in the code for a compensating cut in the floodway. He noted the main concern of those who live on the river is flooding of the river and sewer backups when flooding occurs.

[Prepared statement in Official Minute Book]

Philip Dwyer, 2327 Hamilton Road, Okemos, stated the Township's most valuable natural resource is the Red Cedar River and the Board is its steward. He alleged this development would "hurt" the river, as it will change the flow.

John Ohlrogge, 2124 Lagoon Drive, Okemos, alleged the definition of a floodway and floodway fringe are lacking in notation for a margin of error. He believed clear cutting of over 100 trees have already had a negative impact on the river, as each tree can allegedly remove approximately 11,000 gallons of water out of the soil per year and urged the Board to uphold the Planning Commission's decision to deny SUP #06021.

Carol Ohlrogge, 2124 Lagoon Drive, Okemos, alleged no one except the applicant has spoken in support of SUP #06021. She expressed concern with the retention pond as well as cross traffic to and from the subdivision.

Robert Martin, 2114 Lagoon Drive, Okemos, read from a prepared statement in opposition to any development which would change the contour of the river.

[Prepared statement in Official Minute Book]

Karyn Pearl, 2092 Lagoon Drive, Okemos, expressed concern with the effect on the wildlife and natural resources which has already occurred with the clear cutting of trees and increased traffic in the area. He urged the Board to uphold the Planning Commission's decision on SUP #06021.

Audrey Martin, 2114 Lagoon Drive, Okemos, read from a prepared statement in opposition to SUP #06021.

[Prepared statement in Official Minute Book]

John Brewster, 4379 Wausau, Okemos, alleged that when changes on a river are made, they cannot be changed back.

Ed Mather, 2088 Riverwood Drive, Okemos, expressed appreciation to the Township Board, as it is a steward of the Township. He noted wildlife moves up and down the river with frequency. He expressed concern that clear cutting is causing wildlife to move up into residential areas.

Noel Walker, 4411 Wausau, Okemos, urged denial of the Appeal of SUP #06021.

Vance Poquette, 2226 Kent Street, Okemos, requested the Board uphold the decision of the Planning Commission in its denial of SUP #06021.

Sean Quinn, 2070 Lagoon Drive, Okemos, requested the Board uphold the Planning Commission's decision in denying SUP # 06021.

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Michael Garrette, 2032 Lagoon Drive, Okemos, urged the Board to support the Planning Commission's decision in denying SUP #06021.

Jeff Kovan, 2080 Lagoon Drive, Okemos, stated that manipulating the river for one's own good is not permitted by the Township Board and requested the Board support the Planning Commission's decision relative to denial of SUP #06021.

John Anderson, 215 W. Newman Road, Okemos, stated most of the dry land in Meridian Township has already been built on. He indicated the Park Commission has expressed concern with this special use permit request and urged the Board to support the Planning Commission's decision to deny SUP #06021.

[Supervisor McGillicuddy recessed the meeting at 8:03 P.M.]

[Supervisor McGillicuddy reconvened the meeting at 8:18 P.M.]

Compensating cut in the floodway v. floodway fringe: (Questions for the Attorney (See Agenda Item #8))

- Q. The Board is clearly being given different interpretations of sections of our ordinance with regard to floodway fringe v. floodway and the ability to cut in the floodway v. floodway fringe. Can you provide us your understanding of the ordinance?
- A. I think the discussion primarily stems around Section 86-436 (k)(6) which talks about dumping or backfilling with any material in any manner. The second sentence in that infers that if there's no groundwater recharge or impoundment potential (which I understand is the case in this situation), that filling will occur by compensating excavation in the floodway fringe. My interpretation of this section, and I read this to say, if you have no groundwater recharge (which is the situation) that your compensating excavation will be done in the floodway fringe, not in the floodway. That's part of what I see this turning on. That's how I read this section. I don't know if Mark has anything to add to that.

BOARD MEMBER AND STAFF DISCUSSION

Director Kieselbach added that floodplain ordinances were revised in 1977 to be consistent with the National Flood Insurance Program. Staff is going back to see if there was any discussion on this issue prior to 1977. He stated he is not aware that using the compensating cut in the floodway has ever occurred before.

ATTORNEY COMMENT: We can, perhaps, give you further information on that and if there's intent of the Board when this was put into place.

Clerk Helmbrecht stated she is trying to ascertain if the proposal is to cut low and fill high or fill low (like a seawall) and cut high.

Director Kieselbach responded that the proposed fill is to raise the ground up to bring it outside the floodplain. After the work is done, FEMA would lift the conditional approval and revise the map to show the new boundary of the floodplain. The compensating cut, which would increase the holding capacity for what has been filled, is to the east of the plat.

Clerk Helmbrecht inquired how far the cut is from the river.

Director Kieselbach estimated a few hundred feet.

Trustee Veenstra inquired if fill was placed in the floodplain, would it displace water.

Director Severy responded that was correct.

Trustee Veenstra inquired if a compensating cut is required in order to make up for the water that is displaced so that it will not aggravate flooding problems.

Director Severy responded that is the intent.

Trustee Veenstra expressed concern with Statement #8 contained in Mr. Guyselman's letter of December 31, 2006 which states excavation of the type proposed by Mr. Sumbal will not increase or decrease the flood carrying capacity of the floodway in any way.

Director Severy explained the compensating cut is for storage. Mr. Guyselman's statement is correct as the cut does not increase the volume of the water which flows downstream.

Trustee Brixie asked at what point in the riparian development will the bend north of the Land Preservation area be pinched off and a new channel be formed.

Director Severy responded he did not see that happening as the force of the water coming downstream will tend to "eat" the outside of the bank as it attempts to flow in a straight line.

Trustee Veenstra asked if there was significant flowage across the base of the oxbow during the 1975 flood.

Director Severy responded that someone stated during public comment that flooding occurred across the top of the road in the 1975 flood and, if that was the case, would have allowed for significant flow.

Supervisor McGillicuddy asked staff for the elevation of the properties east of the river.

Director Severy responded that while the properties are all below the 100 year floodplain, he did not know but would obtain that information and report back to the Board.

Supervisor McGillicuddy inquired as to the flood stage of the river.

Director Severy responded the normal elevation of the river is approximately 830 feet above mean sea level and the 100 year floodplain is approximately 845.6. This would mean the depth between the normal flow of the river to the 100 year flood is 15.6 feet.

Supervisor McGillicuddy inquired as to the current elevation of the Sumbal property.

Director Severy responded Mr. Sumbal's property varies in elevation, but the elevation where he proposes to fill is 845.6 feet. The existing elevation at this location is approximately 842 feet, which would require three (3) to four (4) feet of fill at that location. Mr. Severy stated the lower edge of his lots would be at 846 feet to approximately 849 feet at the road.

Supervisor McGillicuddy asked what would happen to the business properties to the north on Okemos Road if the project is filled as requested.

Director Severy responded that the proposed fill will not raise the 100 year flood elevation because of the compensating cut.

Supervisor McGillicuddy inquired if the cut area should be in an upland area where it could have storage as opposed to being in the floodway fringe.

Director Severy stated that when the plan was first submitted, this area was labeled as a detention area. He indicated it is no longer designed as a detention area, but strictly a compensating cut which will replace the volume of storage in the river lost when the fill is placed. Director Severy added the only concern is that the cut will hold water in between rain storms and the developer will then need to make a positive drain in the bottom, which would mean placing a pipe into the river.

Supervisor McGillicuddy asked Director Kieselbach for a definition of a special use.

Director Kieselbach responded a special use is a use allowed in a district, but because of its uniqueness or characteristics the Township places a special condition or requirements which need to be met. While it is an allowed use in a district, it is not always appropriate in every location.

Supervisor McGillicuddy noted during public comment residents were denied permits for building into garages and onto their homes. She inquired as to the basis for the denials.

Director Kieselbach stated while he did not know all the circumstances, there are FEMA restrictions for improvements to an existing home in the floodplain.

Supervisor McGillicuddy asked if Mr. Sumbal can still build on this property even if the special use permit is not granted.

Mr. Kieselbach stated the property is currently zoned RA, with a minimum of 10,000 square feet per lot based upon a public road serving the seven (7) lots. He added a private road is allowed in a planned unit development.

Trustee Brixie inquired if there were any restrictions on floodplains in a planned unit development.

Director Kieselbach responded that the floodplain is part of the conservancy district which is an overlay district. It affects all properties, regardless of the zoning or its uses.

Trustee Brixie added that some of the difficulties with this proposal could have been avoided with the use of a planned unit development.

Director Kieselbach indicated there is a misconception regarding the subdivision ordinance. It reads that no portion of a platted lot can be in the floodplain; it does not state the subdivision cannot have common or open space that is part of the floodplain. He stated what the ordinance is trying to eliminate is a home being built in the floodplain.

Trustee Veenstra asked if the compensating cut is proposed to be in an area where the original elevation is 830 feet above mean sea level.

Director Severy responded in the affirmative. He stated the compensating cut is being utilized much sooner. Theoretically, until the water gets to where the fill starts, the flood level has actually been lowered by the amount of the compensating cut.

Trustee Woiwode expressed concern with the contour of the fill as the public alluded to a type of wall. She stated the drawings appeared to indicate a steep incline and was concerned with what effect that would have on the flow of the water.

Director Severy responded some of the fill will actually be above the floodplain, but the slope will be approximately five (5) feet horizontal to one (1) foot vertical which is a gradual slope. Once grass is planted, erosion should not be a problem. He believed the consultant stated the velocity in open flow is .5 feet per second which would not encounter a scouring problem. Director Severy pointed to the floodway line on a map and stated it will not change because of the development and will not change the flow characteristics of the river. He indicated that as far as the flowing water is concerned, it is to the north of the floodway line

Treasurer Hunting stated there has been reference made to the vagueness of the floodway line and asked Director Severy what assurance there is that the floodway line is accurate.

Director Severy responded there is no question that the determination of the floodway line between the floodway and the floodway fringe is not an exact line. Relative to the accuracy of the line, the Township is relying on MDEQ and FEMA to say that it is a correct line, based on the data submitted.

Treasurer Hunting asked if MDEQ and FEMA were relying on data provided by the applicant's representative in determining this is the floodway line.

Director Severy responded that MDEQ and FEMA did rely on data submitted by the applicant. The FEMA map was based on survey and contour information at the time the map was created. Subsequently, more accurate information has been supplied through newer technology.

Treasurer Hunting inquired if FEMA is waiting until the development is complete to verify their map.

Director Severy responded FEMA gives a conditional Letter of Map Revision (LOMR) which indicates what the map should look like based upon the proposal and accompanying survey and data submitted. Once the project is complete, FEMA requires verification that the project was completed according to the plans FEMA received, similar to "as built" for construction projects. .

Trustee Brixie inquired if the compensating cut had a higher elevation, would there not be better protection for the bigger floods in the event of continual wet weather events.

Director Severy responded the compensating cut does not "come into play" until the flood reaches the bottom elevation of the fill.

Trustee Brixie inquired if the MDEQ or FEMA had requirements regarding the elevation of the compensating cut.

Director Severy responded he was not aware of any, since the compensating cut is based on volume.

#### APPELLANT'S REBUTTAL

James Boulton noted the appellant is not performing work within the banks of the river or the wetlands. He also stated there is a degree of error in floodplain studies. When an estimate of flow is based upon a certain number of years of record, the years of record are extended to arrive at the 100 year flood discharge, for example. Judgments were made when the floodplain was originally estimated. The appellant has used the same estimates of flow that have the same margin of error.

Charley Guyselman reiterated there has been no dispute as to the science. He indicated the reality of the science is that residents' homes were built in the floodplain and probably should not have been.

#### REBUTTAL OF THE PLANNING COMMISSION REPRESENTATIVE

Planning Commissioner Deits quoted the ordinance with what an applicant may do in the floodway fringe and uses permitted by special use in the floodway.

Supervisor McGillicuddy closed the public hearing at 9:19 P.M.

#### 10. ACTION ITEMS/ENDS

Supervisor McGillicuddy opened public comment.

John Anderson, 215 W. Newman, Okemos, suggested the parcel in question, which he believed was next to the Red Cedar River, be donated to Land Preservation. He stated it is a significant piece of environmentally sensitive property.

Supervisor McGillicuddy closed public comment.

##### A. Legal Description Correction

Township Manager Richards summarized the proposed correction to the legal description as outlined in staff memorandum dated January 11, 2007.

**Treasurer Hunting moved that Township officials be authorized to execute a quit claim deed for the disputed portion of tax reverted parcel No. 33-02-02-25-251-010 to the George F. Eyde Limited Family Partnership for the reason that the Township does not have clear title to said parcel. Seconded by Trustee Brixie.**

Board members and staff discussed the following:

- Subject property not buildable from the Township's perspective
- Possible Township pursuit of interest in adjacent properties
- Subject parcel not part of the approved plat

**Trustee Such offered the following friendly amendment:**

- **Insert “of approximately .44 acres” after No. 33-02-02-25-251-010**

**The amendment was accepted by the maker and seconder.**

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

NAYS: None

Motion carried unanimously.

B. Fieldstone Village Street Lighting District, **Resolution #2**

**Trustee Such moved to approve Fieldstone Village Streetlighting Special Assessment District Resolution #2, which confirms the plans and estimate of costs for the Fieldstone Village Streetlighting Special Assessment District; directs the Supervisor to make a special assessment according to the roll submitted to the public hearing and confirms the assessment amount of \$3,034.00 for the first year, and \$749.00 annually thereafter, and directs that amount to be assessed against the lands on that roll; orders the special assessment roll filed with the Township Assessor for spreading annually on the tax roll; authorizes Consumers Energy to proceed with the installation of the seven streetlights, with cut-off fixtures; and authorizes the Township Supervisor and Clerk to sign the Authorization for Change in Streetlighting Contract. Seconded by Clerk Helmbrecht.**

Board members and staff discussed the following:

- Efficient high pressure sodium lights the Consumers Energy standard which now have cut-off fixtures
- Increase in cost of \$205.00 due, partly, to the increased installation costs for the first year

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

NAYS: None

Motion carried unanimously.

C. Central Park Estates Street Lighting District, **Resolution #2**

**Trustee Brixie moved to approve Central Park Estates Streetlighting Special Assessment District Resolution #2, which confirms the plans and estimate of costs for the Central Park Estates Streetlighting Special Assessment District; directs the Supervisor to make a special assessment according to the roll submitted to the public hearing and confirms the assessment amount of \$17,042.00 for the first year, and \$4,387.00 annually thereafter, and directs that amount to be assessed against the lands on that roll; orders the special assessment roll filed with the Township Assessor for spreading annually on the tax roll; authorizes Consumers Energy to proceed with the installation of the forty-one streetlights, with cut-off fixtures; and authorizes the Township Supervisor and Clerk to sign the Authorization for Change in Streetlighting Contract. Seconded by Trustee Such.**

Board members discussed the following:

- Dark sky streetlights
- Cost for cut-off fixture has been drastically reduced since original discussion
- Streetlight layout designed by Consumers Energy’s lighting engineer
- Normal residential streetlight layout is one for every other lot

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

NAYS: None

Motion carried unanimously.

11. DISCUSSION ITEMS/ENDS

Supervisor McGillicuddy opened and closed public comment.

- A. 2006 Order to Maintain Sidewalks  
Board members and staff discussed the following:
- All owners of record received a notice of the public hearing with the amount of assessment

**The consensus of the Board was to place this item on the consent agenda for February 6, 2007.**

- B. Saginaw Street Sanitary Sewer SAD #51  
Board members and staff discussed the following:
- Two property owners will split the cost
  - No sewer on the south side of Saginaw Street in this area
  - If sewer was extended, any additional sewer built would be assessed to other property owners

**The consensus of the Board was to place this item on the consent agenda for February 6, 2007.**

- C. Rezoning #99020 (Forsberg), a request to rezone approximately 4.24 acres from RR (Rural Residential) to PO (Professional and Office) north of Jolly Road and west of Jolly Oak Road  
Director Kieselbach summarized the rezoning as outlined in staff memorandum dated January 12, 2007.

Pete Preston, Trinity Engineering, 107 N. Clinton Avenue, St. Johns, addressed three (3) issues:  
(1) appropriateness of the existing zoning for the 4.24 acres; (2) the withdrawal of the mixed use condition referenced in his letter of January 5, 2007 and (3) reference by the Planning Commission regarding the drain serving as a “break” between a residential and non-residential area.

Dennis Forsberg, 2422 Jolly Road, Okemos, stated he does not need Kansas Street for access to this parcel. He responded to an earlier Board question by submitting signed petitions from Kansas Street residents who support his rezoning request. Mr. Forsberg offered several reasons for Board support of the rezoning request.

Board members discussed the following:

- Potential for continuity of residential from Coyote Creek
- Board policy objective to take a regional approach to planning
- Rezoning request does not fit into the regional planning approach
- Office designation part of the Master Plan
- Parcel visually buffered from nearby residents
- No objection from residents on Kansas Street
- Isolated area if built as residential
- Number of undeveloped PO parcels currently in the area
- Desire for more connectivity between developed areas through increased access points
- More appropriate for the parcel to be developed as mixed use
- Property of .63 acres east of the Smith Drain should be rezoned to PO
- Possible pathway connection to Kansas Street
- Board option to rezone only .63 acres east of the Smith Drain
- Office designation as a good neighbor
- Parking lot can be built within twenty (20) feet of residential

**The consensus of the Board was to have staff prepare motions for approval and denial of this rezoning request and place this item on for action at the February 6, 2007 Board meeting.**

- D. Appeal of SUP #06021 (Sumbal), a request to excavate 7,026 cubic yards of fill from the floodplain of the Red Cedar River and place approximately 4,559 cubic yards of fill within the floodway fringe of the Red Cedar River to develop Gulburg Estates subdivision

Board members discussed the following:

- Planning Commission decision hinged upon its interpretation of the ordinance

- Legality of the compensating cut in the floodway
- Request for a letter opinion from the attorney on the proposed placement of the compensating cut
- Request for additional information regarding potential increase of flood “dangers”
- Concern regarding the economic impact
- Permitting agencies allow the community to be more restrictive
- Formalized request to the attorney with regard to the location of the cut and legal precedence set

E. Tentative Preliminary Plat #06022 (Sumbal), Gulburg Estates, a seven lot single family subdivision located east of Okemos Road and north of Mt. Hope Road  
Director Kieselbach summarized the tentative preliminary plat as outlined in staff memorandum dated January 12, 2007.

Board members and staff discussed the following:

- Denial of work in the floodplain will affect design of the plat

**Trustee Such moved to postpone this item until a decision is made on SUP #06021 (Sumbal).  
Seconded by Trustee Veenstra.**

Continued Board discussion:

- Applicant willingness to write a letter requesting a thirty (30) day extension

**Trustee Such withdrew his motion to postpone.**

Continued Board discussion:

- Procedure to schedule the tentative preliminary plat for February 6<sup>th</sup> and remove upon receipt of the applicant’s letter requesting the thirty (30) day extension

**The consensus of the Board was to place this item on for action at the February 6, 2007 Board meeting.**

12. PUBLIC REMARKS

Supervisor McGillicuddy opened and closed Public Remarks.

13. ADJOURNMENT

Supervisor McGillicuddy adjourned the meeting at 10:50 P.M.

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SUSAN MCGILLICUDDY  
TOWNSHIP SUPERVISOR

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MARY M. G. HELMBRECHT  
TOWNSHIP CLERK

Sandra K. Otto, Secretary