

CHARTER TOWNSHIP OF MERIDIAN
TOWNSHIP BOARD REGULAR MEETING - **APPROVED** -
5151 Marsh Road, Okemos, MI 48864-1198
349-1200, Town Hall Room
TUESDAY, SEPTEMBER 16, 2003, **6:00 P.M.**

PRESENT: Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting, Trustees Brixie, Stier, Such (6:05 PM), Woiwode
ABSENT: None
STAFF: Township Manager Gerald Richards, Director of Community Planning & Development Mark Kieselbach, Director of Engineering & Public Works Ray Severy, Police Chief Gary Gibbons, EMS/Fire Chief Fred Cowper, Personnel Director/Assistant Manager Paul Brake, Attorney Mike Woodworth

1. CALL MEETING TO ORDER
Supervisor McGillicuddy called the meeting to order at 6:02 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.

Eldon Clark, 2415 Sapphire Lane, East Lansing, discussed Planning Commission approval regarding Special Use Permit #03051 (Newman Equities).

Eckhart Dersch, 2203 Butternut Drive, Okemos, spoke and submitted a prepared statement on behalf of his son, Karl, regarding concerns relative to the Appeal of Special Use Permit #03-94071 (Okemos Christian Center). [Written statement in Official Minute Book]

Charles Willems, 1387 Hickory Island Drive, Haslett, expressed his belief that his homestead parcel of land is not lakefront as described by the Assessing Department.

Eleanor Luecke, President, LINC, P. O Box 40, Okemos, expressed her beliefs on the negative impact Kohl's would bring to Meridian Township.

Vance Kincaid, 4530 Nakoma Drive, Okemos, spoke in support of the Appeal of SUP #03-94071 (Okemos Christian Center).

John Anderson, 215 W. Newman Road, Okemos, spoke regarding the results of the 2003 Citizen Survey.

[Prepared statement in Official Minute Book]

William White, 4695 Okemos Road, Okemos, spoke regarding a potential Downtown Development Authority (DDA) in Meridian Township.

Chief Cowper announced the Fire Department received \$45,000 in grant money from the federal government to replace the existing fire safety trailer. The new trailer is ADA approved and will enhance teaching aid capabilities. The trailer will be showcased on September 29th at 1:00 PM in the parking lot of the Township Hall.

Supervisor McGillicuddy closed Public Remarks.

5. REPORTS/BOARD COMMENT/NEW WORRIES

Lakefront property located at 1387 Hickory Island Drive: (Agenda Item #8 (Questions for the Attorney))

Q. Mr. Willems talked again about his property having the designation of waterfront. I thought the Tax Tribunal had already heard that. Can you comment?

A. Yes, that designation was presented to the Tax Tribunal.

Q. And they had decided that it was, in fact, waterfront?

A. As I recall it, that is correct.

Q. So, that really isn't a Township responsibility any longer. Is that correct?

A. As I tried to comment at the last meeting we had, this Board has gone about as far as it can go or should go on that issue. That matter is one that has already been committed to a Tribunal and decided there.

Trustee Brixie responded to public comment on the community attitude survey, focusing on individual interpretation of information. She invited citizens to view the survey results located on the Township website.

Trustee Woiwode stated the decision makers on the Hullett/Bennett Road roundabout (Ingham County Road Commission and the Okemos Board of Education) are bodies on which the Board has no effect.

Treasurer Hunting thanked taxpayers for prompt payment of summer taxes due September 14, 2003.

6. APPROVAL OF AGENDA — OR CHANGES

Trustee Brixie moved to approve the agenda amended as follows:

- **Amend Agenda Item #7G by inserting the word “Revised” before “Disposal”**
- **Add Agenda Item #7I to read “Bank Qualification of Installment Purchase Agreement”**

Seconded by Trustee Such.

VOICE VOTE: Motion carried unanimously.

7. CONSENT AGENDA

Supervisor McGillicuddy reviewed the consent agenda.

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

The adopted Consent Agenda items are as follow:

A. Communications

(1). Board Deliberation (BD)

10B-1 Eldon L. Clark, 2415 Sapphire Lane, East Lansing; RE: Attainment of Township goals in Planning Commission approval of Special Use Permit #03051 (Newman Equities)

10B-2 Eleanor Luecke, 1893 Birchwood Drive, Okemos; RE: Comments on the September 2, 2003 Board discussion of Special Use Permit #03051 (Newman Equities).

(2). Board Information (BI)

BI-1 Kelly Miller, Chair and William White, Vice-Chair, Economic Development Corporation; RE: Potential creation of a Downtown Development Authority

BI-2 David and Kirsten Rawson, 308 30th Avenue, NE, Great Falls, MT; RE: Support for streetlight installation in Ember Oaks Subdivision

BI-3 Anil and Nandita Jain, 3580 Otsego Drive, Okemos; RE: Support for streetlight

installation in Ember Oaks Subdivision.

BI-4 Eleanor Luecke, President, LINC, P.O Box 40, Okemos; RE: Information on Roundabouts

BI-5 *American City & County* August, 2003 Article: Utility offers customers green power alternatives

(3). Staff Communication/Referral (SC)

SC-1 Michigan Townships Association Legislative Fax August 29, 2003 Edition

SC-2 Michigan Townships Association Legislative Fax September 5, 2003 Edition

Treasurer Hunting 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 Brixie.

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

NAYS: None

Motion carried unanimously.

B. Minutes

Treasurer Hunting moved to approve and ratify the minutes of the [September 2, 2003 Regular Meeting](#) as [submitted](#). Seconded by Trustee Brixie.

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

NAYS: None

Motion carried unanimously.

C. Bills

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

Common Cash	\$ 351,510.65
Public Works	\$ 179,240.54
Total Checks	\$ 530,751.19
Credit Card Transactions	\$ 10,335.58
Total Purchases	<u>\$ 541,086.77</u>

ACH Payments	<u>\$ 680,451.51</u>
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Seconded by Trustee Brixie.

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

NAYS: None

Motion carried unanimously.

[Bill list in Official Minute Book]

D. 2004 Draft Budget-Set Public Hearing (October 7)

Treasurer Hunting moved that the Township Board set a public hearing date for the proposed 2004 Budget for the Regular Meeting on October 7, 2003 at 6:00 PM. Seconded by Trustee Brixie.

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

NAYS: None

Motion carried unanimously.

- E. Resignation from the Community Resources Commission
Treasurer Hunting moved that the Township Board accept the resignation of Bruce McKenzie from the Community Resources Commission as stated in an e-mail received September 5, 2003. Seconded by Trustee Brixie.

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

- F. Cable Communication Ordinance-Final Adoption
Treasurer Hunting moved NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN, INGHAM COUNTY, MICHIGAN, that the Township Board hereby Finally Adopts Ordinance No. 2003-12, entitled "Ordinance Amending the Code of the Charter Township of Meridian, Michigan, Article II of Chapter 70, of the Meridian Charter Township Code of Ordinances Regarding Cable Television," and directs the Clerk of the Charter Township of Meridian to publish the Ordinance in the form in which it is adopted at least once prior to the next regular meeting of the Township Board. Seconded by Trustee Brixie.

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

- G. Revised Disposal of Surplus Equipment and Vehicles
Treasurer Hunting moved to approve the sale of the above listed (See Revised Staff Memorandum dated September 12, 2003) surplus Township vehicles and equipment at public action or by sealed bid, or if no bids are received, to dispose of the equipment appropriately. Seconded by Trustee Brixie.

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

- H. Acquiring Title to Parcel Located in Section 6, T4N, R1W, Meridian Township
Treasurer Hunting moved NOW, THEREFORE, BE IT RESOLVED that the Township Manager is authorized to make application to the State of Michigan, Department of Natural Resources, Office of Property Management Division for conveyance of said land to the Charter Township of Meridian for a nominal fee as set by the Natural Resources Commission; and

FURTHER BE IT RESOLVED that the Township Board of the Charter Township of Meridian shall set up necessary procedures and controls to provide for the proper distribution for funds arising from the subsequent sale of the acquired property in conformity with the above mentioned act. Seconded by Trustee Brixie.

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

- I. Bank Qualification of Installment Purchase Agreement
Treasurer Hunting moved that the Township hereby designates the installment purchase agreement approved by the Township Board at a meeting held on July 1, 2003, as a

“qualified tax exempt obligation” for purposes of deduction of interest expense by financial institutions pursuant to the Internal Revenue Code. Seconded by Trustee Brixie.

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

NAYS: None

Motion carried unanimously.

8. QUESTIONS FOR THE ATTORNEY (See Agenda Item # 5, #9A, #10B, #11B, #11F, #12)

9. HEARINGS

A. Appeal of Special Use Permit #03-94071 (Okemos Christian Center)

Supervisor McGillicuddy opened the public hearing at 6:35 P.M.

Director Kieselbach introduced Appeal of Special Use Permit #03-94071 (Okemos Christian Center) as outlined in staff memorandum.

APPELLANT

Michael Kiley, 2550 Bennett Road, Okemos, stated the reasons for the appeal as follows:

- Increase in traffic
- Overly intensive use of the subject property
- Proposed addition fourteen (14) times the size of appellant’s home
- Addition is three (3) times larger than size of existing facility
- Number of proposed students
- Requirement in the Site Development Standards for the building to have harmonious appearance with the rest of the neighborhood not met
- Not an appropriate location

APPLICANT

Craig Dumont, Pastor of Okemos Christian Center, 2630 Bennett Road, Okemos, offered the following comments:

- Clarified the issue surrounding the number of students to attend
- 13,000 sq. feet of the addition will be a basement used for church fellowship
- More than fifty percent (50%) of main floor as the gymnasium
- Square footage of classroom space limited to approximately 10,000
- Application submitted in strict adherence to Township ordinances
- Daycare as a non-profit community service
- Current building used for several non-profit community activities

PUBLIC

Lynn Ochberg, 4383 Maumee Drive, Okemos, presenting herself as a “back yard” neighbor, offered the following comments and objections voiced at the Planning Commission meeting where rescission of approval was discussed:

- Design and location not consistent with Section 86-126 (3) and (4) of the SUP Review Criteria contained in the Township’s Zoning Ordinances
- The two-story building is out of character with the surrounding neighborhood
- Proposed school would disturb existing and future near-by uses due to increased hours of operation, noise, lighting needs and traffic generation
- Proposed starting hours coincide with the starting hours of nearby Bennett Woods Elementary School as it relates to traffic
- Inadequate screening and open space on the north and east side not consistent with site location standards of Section 86-654 (e) (4)
- Number of students proposed in original SUP for the current building exceeded by the church and subsequent request to amend the SUP for compliance with the law
- Concern over amount of impervious land proposed
- Confusion surrounding the motion by the Planning Commission to rescind approval of this special use permit

Appeal properly before the Board: (Agenda Item #8 (Questions for the Attorney))

Q. Mike, could you help with the question of whether or not the appeal is properly before the Board?

- A. Actually, the combination has created a little bit of confusion in that this Board has the jurisdiction under our ordinance to decide Special Use Permits involving buildings over 25,000 square feet. The matter with regard to the use itself was submitted to the Planning Commission, a determination was made there and we have the resolution. We thought in fairness to everyone, in order to process this, we would combine both of those before this Board, as it must be the ultimate decision maker, in any event, on the SUP over 25,000 square feet.

Vance Kincaid, 4530 Nakoma Drive, Okemos, stated he supported the appellants. He read into the record a letter he sent to the Department of Community Planning and Development as a purported appellant to Special Use Permit #03-94071 (Okemos Christian Center) which included the following reasons:

- The design and location not harmonious with the existing character of the neighborhood
- Intensive use will adversely affect the existing single family homes in the surrounding area
- Increase in congestion, noise, lighting and traffic
- The two-story building is out of character with the surrounding neighborhood
- Inadequate space to allow appropriate screening and open space on the north and east sides of the proposed expansion
- Not consistent with requirements regarding natural or manmade barriers to lessen intrusion of the proposed non-residential use in a residential area.

BOARD DISCUSSION

Trustee Brixie inquired why there was no sidewalk in front of the church and one is not designated on the plan. She also asked if one of the conditions was to provide a pathway.

Pastor Dumont answered that when the Church was originally built, a deposit was put down to pay for a sidewalk. After several years, the Township returned the money, stating the sidewalk was not going to be constructed at this time. The Ingham County Road Commission has requested the Church enter into an agreement for the installation of the sidewalk at the same time as roundabout construction.

Trustee Woiwode asked if the classification of Bennett and Hullett Roads was collectors.

Director Kieselbach answered he believed they were both minor arterials, which would not be a local street.

Trustee Woiwode asked, based on the traffic loads occurring on Bennett Road now, how that compares with what the expectations would be for the total load for that road.

Director Kieselbach answered that based on what the Road Commission had given the Township, he did not believe there was a problem with the amount of traffic traveled on it for the design of the road.

Trustee Woiwode stated it appeared there was going to be a major modification required to the road in front if the SUP goes into effect; i.e., acceleration lanes, deceleration lanes, extra left turn lane. She asked if that was what Director Kieselbach believed were the expectations.

Director Kieselbach answered that the conditions were the same as when it was discussed in 2000.

Trustee Woiwode asked if the traffic analysis from 2000 was for the SUP that was previously approved as opposed to the SUP currently before the Board.

Director Kieselbach answered that the applicant's traffic consultant was asked to update the traffic analysis for this modification.

Religious Land Use and Institutionalized Persons Act : (Agenda Item #8 (Questions for the Attorney))

- Q. Mr. Dumont referenced in his letter of July 15th of this year what appears to be a federal law, the Religious Land Use and Institutionalized Persons Act. Are you familiar with that and does it apply here?
- A. It only applies to this extent: the federal law prohibits any governmental entity from discriminating against churches or religious institutions. In other words, we cannot treat them differently than we would treat other applicants because they are religious institutions. It does not give churches

avored status, vis-à-vis other applicants. It does require us to treat all equally, regardless of whether they are a religious oriented institution or not.

- Q. This law does not require that we treat them exactly the way we treat public schools, since we don't have any authority over the public school use of their land?
- A. Correct. As a matter of state law, we don't have authority over public schools, that is vested in the State Superintendent of Schools. The critical element about the federal law is that we are to treat religious institutions as we would other applicants; not our public schools, as we won't see them as an applicant.

Trustee Such asked how we enforce things like numbers of students.

Director Kieselbach answered that other than visiting the site on a regular basis, that would be the only way to check it.

Trustee Such asked if Director Kieselbach planned on doing that.

Manager Richards responded that the Township also relies on information it receives in addition to site visits.

Number of students as a proper stipulation in the SUP: (Agenda Item #8 (Questions for the Attorney))

- Q. Is this a proper stipulation to put into this type of a document? Height of trees, spacing of trees, and fencing can be determined because it deals with land use. I understand that the number of students deals with things like traffic and parking.
- A. The condition would be an appropriate one. You have already hit the nail on the head in terms of the difficulty in monitoring or policing it. I would note, too, that to the extent there was a subsequent attempt to increase the number of students, because you are talking about a development adjacent to residential property, this would be a major amendment which would have to come back to the decision making body in the first instance for determination as to whether the maximum number of students would be raised.

Trustee Brixie commented that the number of students is a critical issue, because we are looking at children being dropped off and picked up every day, traffic patterns and parking spaces associated with that activity. The Fire Department has the authority to stipulate how many people are allowed in a restaurant. She expressed concern about being able to enforce this stipulation, especially given the enforcement issue in the past with the daycare center.

Trustee Brixie asked about construction of the playground not being in the proper location as was presented on the previous plans.

Director Kieselbach answered by pointing to the playground area on the overhead projector as proposed in the current plan. It is shown on the plan meeting the fifty (50) foot setback from the north property line. When out in the field, it wasn't as presented in the plan. It is closer than fifty (50) feet and would need to be corrected on the site.

Trustee Brixie asked if there is currently a special use permit on this site.

Director Kieselbach answered that there is one for the church and the daycare.

Trustee Brixie asked if the playground was on those original plans and they just didn't put it in the right place.

Director Kieselbach answered that he believed it was on the plans. If someone called in and notified the Township that the playground was not in compliance, the owner would have to make the playground compliant.

Procedure for SUP approval: (Agenda Item #8 (Questions for the Attorney))

- Q. I have a few procedural questions. I am confused about combining an appellate process with a de novo review by the Board of a SUP. I am concerned, especially since I am reading in our packet a

letter sent on July 29th on behalf of the Township to the pastor, saying that it had been approved. As far as I know it had not come before this Board, even though a 25,000 square foot project must come before the Township Board. I don't understand how that happened and I am quite concerned whether we should even be in an appeal process at this point?

- A. Perhaps Mark can respond in terms of the notification. Again, I think it is important to understand that there are two things going on. You have, first of all, the special use permit which pertains to the use itself which is directed to the Planning Commission. That would be the subject of an appeal, assuming you had someone who timely filed and had standing as we do with Mr. Kiley. Hence, we have the appeal before the Board today. In addition to that, under the section cited by Mr. Kiley, this Board has authority to grant special use permits pertaining to buildings in excess of 25,000 square feet. So the Board really is acting in a dual capacity today. As a matter of fact, if you look at the recommendations or the action taken by the Planning Commission, you have them actually approving the SUP on the use issue and making a recommendation which adopts, by reference, all of the conditions attached to the use SUP, making a recommendation to this Board to grant the 25,000 square feet SUP.
- Q. Why did we even consider an appeal when it hadn't even come before us to be finally approved? Why are we doing this as an appeal, because it changes the way the issue is raised before this Board?
- A. There was an issue with regard to notification. Once notification was given to the individual, he was given that option to pursue an appeal as he was entitled to do. In order to keep the roles of the Planning Commission and this Board separate, it is important to have the appellate rights attached to the Planning Commission's determination on the use issue. I realize that's there is some confusion here, but it stems directly from the fact that we have two SUP approvals that are required in situations of this nature. One directed to the Planning Commission, and the other one directed to this Board.
- Q. So we could deny the SUP for 25,000 square feet, but approve the rest of the use?
- A. You can make the determination, by way of example, that there was no error committed with regard to the Planning Commission and, therefore, its determination was affirmed. And then, for whatever reasons, based upon the facts that are available to this Board on the SUP in excess of 25,00 square feet, deny that SUP. The practical effect might be the project or proposed development couldn't be built.
- Q. The options given to us include referring this back to the Planning Commission. Would that be for both portions of the SUP?
- A. The Planning Commission simply makes a recommendation with regard to the 25,000 square feet, and it has made that recommendation. The provisions with regard to the appeal are the ones which speak to referring it back to the Planning Commission.

Treasurer Hunting inquired about the lack of request for a kitchen or food service facility. The letter from the Ingham County Health Department referenced that schools usually have a kitchen. He inquired if the applicant was planning to have a kitchen or food service facility in the building.

Pastor Craig Dumont answered there is a kitchen in the current building. For the school, they would use a microwave as they currently do for the daycare. There are plans to have the students bring their own lunches. That eliminates a lot of problems for the staff if the students bring their own lunches everyday.

Procedural clarification of SUP approval process: (Agenda Item #8 (Questions for the Attorney))

- Q. It is my understanding from reading the minutes of the Planning Commission that it approved the SUP at one meeting and then rescinded it at a later meeting. Can you explain how that works procedurally?
- A. Let me explain, because I did not give a complete answer to the question. In the interim, I have looked at the provision that I want to bring to the Board's attention. Under our ordinances, the Planning Commission has the ability to deny, approve or approve with conditions an application for a Special Use Permit. There is nothing in our ordinances or nothing in the law that delegates to the Planning Commission the ability to rescind a decision on a SUP once made. For that reason, the decision of the Planning Commission to approve the SUP stands, subject to this appeal. The rescission or the attempt at rescission was ineffective.

Clerk Helmbrecht asked for confirmation that since the applicant stated no variances were being requested, all issues were in compliance relative to the appropriate amount of parking, impervious/pervious ratio, setbacks, etc.

Director Kieselbach answered that the only one he was aware of that was mentioned in a staff report was the issue of the need for possible additional parking if the church was to be used for an auditorium.

Clerk Helmbrecht asked if the impervious/pervious ratio was known so that there was room if more parking was needed.

Director Kieselbach answered he would provide that information to the Board at its next meeting. The way it was worded mentioned fifteen percent (15%) of the site so the actual figure was not stated. The staff report indicated the applicant met the requirement for impervious/pervious surface coverage.

Clerk Helmbrecht noted concern was expressed that the starting time was the same as Bennett Woods Elementary. From viewing the Planning Commission broadcast, the Clerk had understood the students would begin their day at another facility first and then go to the school at approximately 9:00 or 9:30 a.m. She asked Director Kieselbach if that was correct.

Director Kieselbach answered that her assessment was in the minutes, that the students would be doing other activities before coming to the school. The material submitted, however, did indicate a proposed starting time of 8:30 a.m.

Clerk Helmbrecht asked if clarification could be given for the next meeting if the starting time pertained to the school day on or off site.

Director Kieselbach responded he would have that information available at the next meeting.

Trustee Woiwode asked if there was a standard of square footage per student used to determine a maximum number of students.

Director Kieselbach answered that there are occupancy levels contained in the construction code.

APPELLANT REBUTTAL

Michael Kiley, 2550 Bennett Road, Okemos, offered the following in rebuttal:

- Dual procedures problematic in nature

APPLICANT REBUTTAL

Craig Dumont, Pastor of Okemos Christian Center, 2630 Bennett Road, Okemos, offered the following comments in rebuttal:

- Failed effort for signed petition(s) in opposition to the SUP
- Need to adhere to ordinances
- Playground not structural so alleges no violation
- Sought counsel from national law firms specializing in this area
- School not a generator of traffic problems as they will start the school day off-site

Trustee Woiwode asked if the daycare is going to continue.

Pastor Dumont answered that it was.

Supervisor McGillicuddy asked if the physical activity of the students is taking place elsewhere and now the church wants to build this.

Pastor Dumont answered that the activity is currently off-site. There are ten (10) boys that a few men currently work with. For example, there are horses on one of the boys property and the owners have allowed the church to teach the boys how to handle and ride the horses. Another class is at a man's house who teaches chemistry and history. When there is a need for an assembly, it is done at the church.

Supervisor McGillicuddy asked if they were, in fact, being home schooled.

Pastor Dumont answered that it is currently a modified home school approach, but would morph into something different.

Planning Commission approval process: (Agenda Item #8 (Questions for the Attorney))

Q. Did the Planning Commission approve at the first meeting, rescind at the next meeting, but they didn't have the authority to rescind?

A. That is correct.

Trustee Such asked if the number of 125 students is for both the academy and the daycare center.

Pastor Dumont responded it is only for the academy. He believed there was approval for 72 daycare children, but believed the highest number to date was in the mid sixties (60's).

Supervisor McGillicuddy closed the public hearing at 7:37 P.M.

10. ACTION ITEMS/ENDS

Supervisor McGillicuddy opened public comment.

Roger Drobney, 1775 Noble Road, Williamston, partner in Newman Equities, passed out a memorandum to the Board on parking ratios for stores in the vicinity of the proposed facility.

Richard Foster, Chair of the Planning Commission, read from a prepared statement explaining Planning Commission action at its August 25th meeting relative to SUP #03051 (Newman Equities).

[Prepared Statement in Official Minute Book]

Stacy Hickox, 4291 Indian Glen, Okemos, expressed disappointment at the alleged lack of civil liberty protection in the resolution Re-affirming Police Policies and Procedures.

Srikumar Poddar, 2601 Cochise Lane, Okemos, spoke in support of the resolution Re-Affirming Police Policies and Procedures and to his belief that the Patriot Act was a negation of the US Constitution.

Richard Harrington, 820 Piper Road, Haslett, presented a narrative to express his opposition to the USA Patriot Act.

John Veenstra, 320 Piper, Haslett, suggested compromise on the number of parking spaces for the Kohl's project. He also expressed disappointment at the alleged lack of civil liberty protection in the resolution Re-affirming Police Policies and Procedures.

John Anderson, 215 W. Newman, Okemos, gave an overhead presentation in opposition to SUP #03051 (Newman Equities). [Overhead presentation in Official Minute Book]

Supervisor McGillicuddy closed public comment.

A. Resolution Re-Affirming Police Policies and Procedures

Treasurer Hunting moved NOW, THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN, INGHAM COUNTY, MICHIGAN, that the Township Police Department shall remain vigilant in respecting and protecting the dignity and constitutional rights of all persons while fulfilling its law enforcement obligations to the citizenry of Meridian Township. Seconded by Trustee Brixie.

Board Members discussed the following:

- Consideration of federal issues at the local level
- Alleged necessity for the resolution
- Continued vigilance by the Police Department on the issue of protection of civil liberties apart from the resolution

- Appreciation to the Chief of Police for his willingness to discuss the issue
- Encouragement to supporters to continue contacting federal elected officials

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

NAYS: None

Motion carried unanimously.

- B. Special Use Permit #03051 (Newman Equities), request to construct an approximate 96,500 square foot commercial retail building at the northwest corner of Newman Road and Central Park Drive, Okemos, in Section 22

Patrick Lindemann, Ingham County Drain Commissioner (ICDC), relayed the contents of the ICDC file on SUP #03051 in his office at the request of Supervisor McGillicuddy. It did not include a formal application or construction plans and no fees have been paid. He discussed the county drain and explained the approval process of his office and requirements needed from the developer.

Trustee Such moved NOW THEREFORE, BE IT RESOLVED BY THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN, the TOWNSHIP Board hereby approves Special Use Permit #03051 with the following conditions:

- 1. Approval is granted in accordance with the revised preliminary site plan prepared by KEBS, Inc., dated July 21, 2003, subject to revisions as required.**
- 2. The final site plan and landscape plan shall be subject to the approval of the Director of Community Planning and Development.**
- 3. Except for the area near the loading docks, all four (4) exterior building elevations shall be composed primarily of brick or stone material and shall incorporate architectural treatments to break up the proposed solid wall exterior elevations. The building materials and architectural treatments shall be subject to the review and approval of the Director of Community Planning and Development.**
- 4. A decorative masonry wall shall be provided adjacent to the truck wells/loading docks to block the facility so it will not be disturbing to adjacent properties. Materials used for the wall shall be subject to the review and approval of the Director of Community Planning and Development.**
- 5. The applicant shall apply for and receive all necessary variances from the Zoning Board of Appeals, or modify the plans to comply with the Code of Ordinances.**
- 6. The applicant shall obtain all the necessary permits, licenses, and approvals from the Ingham County Drain Commissioner's office, Ingham County Road Commission, and the Township. Copies of all permits, licenses, and approval letters shall be submitted to the Department of Community Planning and Development prior to issuance of a building permit.**
- 7. Prior to any work on the subject site including grading or clearing a wetland determination and if necessary a wetland delineation shall be made by the Michigan Department of Environmental Quality.**
- 8. Should a permit be required from the Michigan Department of Environmental Quality (MDEQ), no work (including grading or land clearing) shall take place on the site until the permit is final an un-appealable at the MDEQ.**

9. **Should it be determined that regulated wetlands will require the project to be re-designed, the Director of Community Planning and Development shall review the extent of the proposed changes and, if warranted, forward the revised plans to the Township Board for review and approval.**
10. **Final utility plans for the site are subject to approval of the Director of Public Works and Engineering and shall be completed in accordance with the Township Engineering Design & Construction Standards.**
11. **Exterior lighting shall be subject to the approval of the Director of Community Planning and Development. Exterior lighting shall be down-shielded so it is not disturbing to adjacent land owners in the immediate vicinity and/or create glare on adjacent roadways.**
12. **Street trees shall be installed along the entire length of the Newman Road and Central Park Drive frontages. The size, type, and location of the street trees shall be subject to the review and approval of the Director of Community Planning and Development.**
13. **A minimum five (5) foot wide concrete sidewalk access shall be provided from the pathway system to the public entrance(s) of the building.**
14. **The applicant shall grant the Township an easement for the required service drive in order to insure that access is provided to adjacent properties to the north and west. The easement agreement shall be prepared in a form approved by the Township Attorney.**
15. **There shall be no exterior speakers allowed on the site.**
16. **Maintain the required setbacks from the Towne Center Drain of fifty (50) feet, including a twenty-five (25) foot natural vegetation strip.**

Seconded by Treasurer Hunting.

Board Members and the ICDC discussed the following:

- Correlation between degradation of surface water and percentage of impervious surface
- Need for design to keep negative impact to a minimum
- Degradation of wetland in the northern portion of the site as a result of a illegal ditch or “illegal tap in” and construction of Central Park Drive
- Timeline of ICDC involvement in the process
- Possible inclusion of language which makes Board approval subject to all ICDC approvals
- Filling of illegal tap-in and resulting topical change(s)
- Site as an opportunity for water discharge staging
- Major redesign would come back to the Board
- Remove condition #14 to maintain quality of the wetland
- Connection of parking lots through easements
- Same type of easement required of MSU Federal Credit Union
- Potential service drive along the east would not infringe on wetland area
- Options to meet conditions as part of the Site Plan Review
- Rationale in parking standards relied on national standards used for parking requirements
- ZBA as the body to waive the number of parking spaces
- Newer developments (Farmer Jack, Toys R Us, Home Depot) have fewer parking spaces than proposed for this development
- Large number of parking spaces as a negative effect on the natural environment and a lack of conservation of natural resources
- Allow the ZBA to resolve the parking issue and let the ICDC resolve the health, cleanliness and volume of the water
- Number of polishing ponds to satisfy the Township’s obligation relative to discharge required

by state law

- The number of parking spaces (435) at the high end of the range
- Additional sixty-five (65) spaces could be overflow green parking area with the grid underneath
- Not to allow the developer to obtain a variance approval as an improper procedure
- Planned bike racks contained in our ordinance
- Applicant must meet minimum of thirty percent (30%) pervious surface
- Need for wetland determination as a condition as MDEQ has final jurisdiction on boundaries
- Consideration of additional ten percent (10%) parking spaces to partially meet applicant request
- Joint jurisdiction of the wetland for permit process only
- After SUP approval, site plan review subject to Director's approval, approval with conditions or denial according to ordinance
- Redesign issues relative to the wetland and storm drain already anticipated to come back before the Board as contained in the conditions
- Necessity to repeat ordinance language as conditions in the SUP for the benefit of the applicant and the public
- Significant trees located on property (40" White Oak, 12" Red Oaks, 14" Black Oaks)
- Coordination with the Township and the ICDC during reviews in the SUP approval process

Easement in the northern area of the site: (Agenda Item #8 (Questions for the Attorney))

Q. I'm concerned with condition #14 that has to do with the easements to the required service drive. As I'm looking at the map, my guess is that there isn't a whole lot of dry land in which to build a service drive. I would prefer that we sacrifice the service drive in order not to have any confusion about the Township's intention with regard to the restoration and/or protection of the wetland area. Is there any comment on that?

A. I don't see condition #14 really addressing the issue of wetlands. The fact that we may require an easement to construct a service drive does not mean we will construct it if, in fact, there are wetlands there that would be degraded as a result of that.

Q. I'm nervous about that because we run into these problems with sidewalks all the time, and this is a service drive. Does it make sense to build a service drive from the proposed Kohl's site into the Kroger site instead? This would provide you with a connection and presumably would meet the idea of having a service drive.

A. You have to have them both ways.

Q. If we removed the northern portion out of condition #14, would that suffice?

A. The ordinance calls for getting that easement. I suppose you could put language in here that nothing contained in this condition shall be construed as an expression of intent on the part of the Township to construct a service drive through a regulated wetland or other environmentally sensitive area.

Trustee Woiwode offered the following amendment:

- **Amend condition #14 by adding "Nothing contained in this condition shall be construed as an expression of intent on the part of the Township to construct a service drive through a regulated wetland or other environmentally sensitive area."**

Amendment accepted by the maker and seconder.

Number of parking spaces: (Agenda Item #8 (Questions for the Attorney))

Q. Before I could support this SUP, I feel we need to get this parking issue worked out. I'm not sure if it would be better to have a concept plan from the ICDC on the wetland concern prior to SUP approval. What do you think of this?

A. As Mark has already indicated (and I note from the recommendation of the Planning Commission), it is certainly possible for this Board to establish, within the range, a specific number of parking spaces. That number, thereafter, could not be appealed to the ZBA because, obviously, even if the ZBA granted it some variance, it would be a violation of this condition. One option is to actually delineate 435 (and I only picked that out because it was a recommendation of the Planning Commission), or it could be anywhere between there and the upper range of parking spaces.

The other thing is, as I heard Mr. Lindemann's comments (and they were very helpful), I get the distinct impression there may well be significant changes to the overall view of this project as a result of the requirements that will be imposed by his office. One possibility is exactly as proposed by Trustee Such in terms of it being subject to all permits. The other one would be to see if the Drain Commission were willing to look at it at this point to see just how those changes are going to impact the overall plan.

One of the criteria that we're supposed to be considering is that the project is adequately served by public facilities such as stormwater drainage. I've listened to the comments that the Drain Commissioner has made tonight and I now wonder about that. That, of course, is the Board's decision to make and an option if the Drain Commissioner is willing to look at it at this stage. Or the Board can simply go ahead, pass the resolution, but make it subject to his review.

The seconder offered the following friendly amendment:

- **The number of impervious parking spaces shall be limited to 435.**

The maker did not accept the amendment.

Trustee Woiwode moved to amend the motion by adding condition #17 to read:

- 17. The number of parking spaces shall be limited to 435. Any subsequent amendment of this condition shall be deemed a major amendment to which all ordinances pertaining to major amendments will apply.**

Seconded by Trustee Brixie.

Time limitations: (Agenda Item #8 (Questions for the Attorney))

- Q. Are there any procedural hang-ups with regards to time limits? I know the SUP has a one-year life, but can they come back any time on a major amendment?
A. I don't believe there are any prohibitions on coming back at any time.

Components of the motion: (Agenda Item #8 (Questions for the Attorney))

- Q. Do you think it is necessary for us to put in this motion (and, if so, it would be a friendly amendment) the reasoning why we are including this and cite the part of the ordinance you talked about earlier with regard to stormwater management?
A. The critical thing is that you have in this record the factual support for such a condition. At the outset, you have your ordinance which already establishes this as the maximum number of parking spaces. One of your factual bases would be your ordinance and the reasons which underlie that. In addition, we have heard the testimony of Mr. Lindemann tonight about the impact of the impervious surface on surface water quality.
Q. So that is adequate?
A. Yes.

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Woiwode, Supervisor McGillicuddy,
Treasurer Hunting
NAYS: Trustee Such, Clerk Helmbrecht
Motion carried 5-2.

Components of the motion: (Agenda Item #8 (Questions for the Attorney))

- Q. Is that inappropriate for us to have a special condition in here that the site plan redesign come back to the Board for final review?
A. Typically, your site plan review is done by your Director of Planning and you have a provision for that as suggested item #2 which is language contained in the ordinance.

Supervisor McGillicuddy offered the following friendly amendment:

- **The Township contracted arborist shall look over the site for significant trees which shall**

be protected in accordance with the Township's Land Clearing Ordinance provisions.

The maker did not accept the amendment.

Supervisor McGillicuddy moved to amend the motion by adding the following condition:

- **The Township contracted arborist shall look over the site for significant trees which shall be protected in accordance with the Township's Land Clearing Ordinance provisions.**

Seconded by Trustee Woiwode.

Potential condition from the arborist on significant trees: (Agenda Item #8 (Questions for the Attorney))

Q. I would feel more comfortable bringing the recommendation from the arborist relative to significant trees back before the Board. Is that possible?

A. I would like to make an observation here. Under our Land Clearing Ordinance, we already have a procedure in place whereby the Director of Community Planning & Development is authorized and, in fact, directed to retain the services of a qualified expert to provide him with advice and expertise with regard to the land clearing decision, the preservation of trees and the protection of trees. Recently, Mark mentioned that sometimes we put additional conditions into our SUP's when, in fact, all of the applicants have to comply with all of our ordinances and the conditions. I wanted to point that out. You certainly can put that in, but you already have a provision to cover that in our ordinance.

Supervisor McGillicuddy withdrew her motion.

Supervisor McGillicuddy offered the following friendly amendment:

- **Amend condition #6 to add the word "reviews" after "licenses"**

Amendment accepted by the maker and seconder.

Supervisor McGillicuddy withdrew her amendment.

ROLL CALL VOTE: YEAS: Trustees Brixie, Such, Woiwode, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: Trustee Stier
Motion carried 6-1.

Supervisor McGillicuddy recessed the meeting at 9:54 PM.

Supervisor McGillicuddy reconvened the meeting at 10:03 PM.

11. DISCUSSION ITEMS/ENDS

Supervisor McGillicuddy opened public comment.

William White, 4695 Okemos Road, spoke in support of the mixed use concept in the downtown Okemos area while expressing concern for the mixed use ordinance as drafted.

Vance Kincaid, 4530 Nakoma Drive, Okemos, spoke in support of the appeal of SUP #03-94071 (Okemos Christian Center).

John Veenstra, 320 Piper, Haslett, expressed concern over his belief that there was a budget deficit in the fund balance for this year.

Supervisor McGillicuddy closed public comment.

By unanimous consent, the agenda items were discussed in the following order:

- B. Appeal of Special Use Permit #03-94071 (Okemos Christian Center)

Dual Process before the Board: (Agenda Item #8 (Questions for the Attorney))

- Q. If we turn the appeal down, do we affirm the earlier decision of the Planning Commission? Does that amount to a recommendation that is then the second part of the dual process before us?
- A. The Planning Commission made its recommendation by way of referring to the conditions that it imposed on the SUP. In point of fact, the same type of review criteria that the Planning Commission applied, when it considered the use SUP, is what you are to consider when you deliberate the in excess of 25,000 square feet. While it is a dual capacity, you are really going to be looking at the same issue. Will an SUP be granted and, if so, under what conditions?
- Q. But it is two (2) votes. The first one is on the appeal, and the second one is on whether we approve the SUP?
- A. Yes. But when you do the appeal, you have the ability, by way of example, to affirm with modification. In other words, you could say that you are affirming the decision of the Planning Commission; however, we are striking this condition, we are modifying that condition. In point of fact, that could result in the same end result as your SUP decision on the in excess of 25,000 square feet.
- Q. Do they have to be consistent?
- A. Yes, I think they do because you are applying the same criteria.
- Q. So one language you could use for the other? I 'm just trying to get it straight in everyone's mind that we are going to have to do two (2) votes.
- A. The result of those two (2) votes should be consistent and based on the criteria.
- Q. We have a third option here, which is to refer the matter back to the Planning Commission prior to final determination of the appeal. So that doesn't do anything to the appeal except put it off until the Planning Commission looks at it again. Is that correct?
- A. Correct. By way of example, you could ask the Planning Commission what was its factual basis for condition #7 or #3; we need more information.

Board Members discussed the following:

- Refer back to the Planning Commission for further hearings or other action prior to final determination of the appeal by the Township Board
- Affirmation of the appeal and reversal of the decision of the Planning Commission
- Connection between intense use and lack of variance request by the applicant
- Special Use Permit standards
- Inconsistency of site with other schools in the area due to small land to building ratio
- Small increase in number of parking spaces

Comparison of land area around the building with other entities: (Agenda Item #8 (Questions for the Attorney))

- Q. Would it be legal or permissible for us to find out what other religious facilities that function as a private school have as land around their buildings?
- A. I think you need to be careful if you are proceeding down that road. As I said previously, with regard to the federal legislation, you are not to discriminate against religious institutions on that basis. If you narrow your focus, just to what other churches or religious institutions are doing, you may give rise to the argument that you are making that type of distinction.
- Q. But if we can't use the public schools as a comparison because they are not under our jurisdiction, then how do we make a comparison?
- A. I think from an information standpoint. You may want to consider what public schools or parochial schools are doing in terms of space. All I'm suggesting is that you broaden your inquiry so that it is not simply focused on religious institutions.

It was the consensus of the Board to request a land area vs. school area comparison. There was also a consensus to have a motion ready to send the appeal back to the Planning Commission and a motion for reversal of the Planning Commission decision ready to discuss

as an action item for the next Board meeting.

- C. Rezoning #03050 (South Whitehills Limited Partnership), request to rezone the west 280 feet of Lot 21, Carriage Hills Subdivision (an approximate 1.55 acre parcel), from C-2 to RC (Multiple Family Medium Density). The site is located on the south side of Birch Row, east of Carriage Hills Car Wash in Section 6 of the Township

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

The applicant, Michael Bone, 2970 Lake Lansing Road, East Lansing, requested down-zoning to residential in order to build a sixteen (16) unit condominium project.

Board Members discussed the following:

- Planning Commission lack of approval
- Inconsistency with the Comprehensive Development Plan
- Professional Office designation on the draft Future Land Use Map
- Project complements efforts to increase walkability within the community
- Pathway connections to commercial areas
- Applicant received input from neighbors

The consensus of the Board was to place this item on for action at the next Board meeting.

- F. Sanitary Sewer Capacity Study

Director Severy introduced the draft study for the Grand River Avenue and Mud Lake Drain areas of the Township as outlined in staff memorandum.

Board Members discussed the following:

- Peak rain events on May 1st and July 10th
- Drought conditions over the last two (2) years
- Storm sewers designed for ten (10) or twenty five (25) year storm
- Sanitary sewers designed with a peaking factor
- Increase of service area results in decrease of peak factor
- Build out projection based on the 1993 Future Land Use Map as revised in 1997
- Largest sanitary sewer infiltration during storms come from older neighborhoods
- Lift station can currently serve approximately 1,400-1,500 people
- Build-out of 9,000 population for the Mud Lake lift station service area based on the 1993 land use land
- Zoning changes in part of this area will impact how the rest of the area can be developed

Use of Report Information: (Agenda Item #8 (Questions for the Attorney))

Q. Procedurally, where do we go with this report?

- A. If the Board has the answers to all the questions that it needs to address this issue, this would certainly be a factor in considering other land use decisions in terms of capacity, whether you have the capacity to serve a proposed development and where it is that Director Severy is telling you in this report we have additional capacity. From a land use planning standpoint, you have to decide where you are going to spend that capacity. In other words, is this going to be concentric as it goes out further in the Township, etc.

What you have now with this study is a piece of data on a component that you need to consider in terms of your future land use decisions. I have some questions in my own mind about what the conclusions of this study are and what the variables are. I think some of the questions the Board has asked are also questions I have in my mind.

- A. 2004 Draft Budget

Manager Richards summarized the 2004 draft budget presented at the last Board Meeting.

Board Members discussed the following:

- Use of Board goals as a component of the budget

- Board approved modifications in the 2003 Budget

12. PUBLIC REMARKS

Supervisor McGillicuddy opened Public Remarks.

Eleanor Luecke, President of LINC, PO Box 40, Okemos, commented on the use of “green pavers” as a partial solution to the parking issue in SUP #03051, Rezoning #03050 (South Whitehills Limited Partnership), and the impact on residents near and pedestrians crossing the proposed roundabout at Hulett and Bennett Roads.

John Veenstra, 320 Piper, Haslett, spoke on SUP #03051 (Newman Equities) condition of wetland restoration.

Supervisor McGillicuddy closed Public Remarks.

Traffic Roundabouts as a structure: (Agenda Item #8 (Questions for the Attorney))

Q. There was mention of the roundabout being considered a structure. Can you respond to that?

A. It seems clear to me in the language of Section 9 that this is one of those improvements that ought to be submitted to our Planning Commission directly by the Road Commission, which has jurisdiction. After that submission, the comments, the input of the Township ought to be considered by the Road Commission in making its determination as to whether or not to go forward. We have had extensive contact with the Road Commission and asked them to follow with what I perceive to be some clear language. I think we have made a recent request in that regard with the Director of Community Planning and Development basically reiterating our request that we do that. They haven't in the past and I don't know if the Township Manager has received any indication they expect to do that in the future. Based on past practices, I wouldn't hold our collective breaths waiting for such a submission.

Q. What happens if they don't?

A. Ultimately, they have the jurisdiction, as we have discussed elsewhere under Section 9. Essentially, what the Road Commission has done is to say that they are in control of this improvement in the first instance, and while we appreciate your comment, we are going to do what we see fit.

Board members discussed the following:

- Material from Dan Burden concerning pedestrians crossing the roundabout available in Community Planning & Development
- Packet on Pedestrian Safety in roundabouts forthcoming from the Director of Public Works & Engineering

13. ADJOURNMENT

Supervisor McGillicuddy adjourned the meeting at 11:52 P.M.

SUSAN MCGILLICUDDY
TOWNSHIP SUPERVISOR

MARY M. G. HELMBRECHT
TOWNSHIP CLERK

Sandra K. Otto, Acting Secretary