

CHARTER TOWNSHIP OF MERIDIAN  
TOWNSHIP BOARD WORK SESSION MINUTES - **APPROVED** -  
5151 Marsh Road, Okemos, MI 48864-1198  
349-1200, Town Hall Room  
TUESDAY, DECEMBER 19, 2000, **6:00 P.M. — 7:00 P.M.**

PRESENT: Supervisor McGillicuddy, Treasurer Hunting, Trustees Brixie, Stier, Such (6:25 p.m.),  
Woiwode  
ABSENT: Clerk Helmbrecht  
STAFF: Township Manager Gerald Richards, Director of Community Planning & Development  
Mark Kieselbach, Director of Engineering & Public Works Roger Buell, Police Chief  
Gary Gibbons, EMS/Fire Chief Fred Cowper, Personnel Director/Assistant Manager  
Paul Brake, Director of Finance Diana Hasse, Attorney Brian Goodenough

1. CALL WORK SESSION TO ORDER

Supervisor McGillicuddy called the Work Session to order at 6:13 p.m.

2. QUESTIONS FOR ATTORNEY (None)

3. COMMITTEE OF THE WHOLE

A Library

Manager Richards discussed a proposal to acquire a building for use as an interim location for the Okemos branch of the Capital Area District Library (CADL).

Board Members discussed the following items:

- Financial Implications of Purchase vs. Lease
- Total Library Space
- Americans with Disabilities Act compliance
- Lease with Purchase Option
- Compatibility with Township HVAC System
- Division of costs between Township and CADL
- Appraisal of Property
- Input from Interested Parties
- Township Return on CADL Millage
- Funding Source

Susan Hill, Executive Director, CADL, discussed her impressions of the site and the potential improvements to library operations and service.

Board Members discussed the following items:

- Reassurances that the Haslett Library facility would continue operations

4. PUBLIC REMARKS

Supervisor McGillicuddy opened Public Remarks.

Carla Clos, President, Friends of Hope Borbos Okemos Library, discussed the importance of continuing the improvement of Township libraries. [She handed out a history of libraries in the Township.]

Bob Homan, 2176 Hamilton Road, Okemos, spoke regarding improving the library facilities in Haslett.

Judith Hurst, 3418 Lake Lansing Road, East Lansing, stated her reasons for applying to the Land Preservation Advisory Board.

Harold Schmidt, 4086, Dobie Road, Okemos, spoke regarding the outstanding paramedic/ambulance service his wife received.

Supervisor McGillicuddy closed Public Remarks.

5. ADJOURNMENT

Supervisor McGillicuddy adjourned the Work Session at 7:10 p.m.

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SUSAN MCGILLICUDDY  
TOWNSHIP SUPERVISOR

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MARY M. G. HELMBRECHT  
TOWNSHIP CLERK

Paul J. Cassidy, Secretary

CHARTER TOWNSHIP OF MERIDIAN  
TOWNSHIP BOARD REGULAR MEETING - **APPROVED** -  
5151 Marsh Road, Okemos, MI 48864-1198  
349-1200, Town Hall Room  
TUESDAY, DECEMBER 19, 2000, **7:00 P.M.**

PRESENT: Supervisor McGillicuddy, Clerk Helmbrecht (7:37 p.m.), Treasurer Hunting, Trustees Brixie, Stier, Such, Woiwode  
ABSENT: None  
STAFF: Township Manager Gerald Richards, Director of Community Planning & Development Mark Kieselbach, Director of Engineering & Public Works Roger Buell, Police Chief Gary Gibbons, EMS/Fire Chief Fred Cowper, Personnel Director/Assistant Manager Paul Brake

1. CALL MEETING TO ORDER

Supervisor McGillicuddy called the meeting to order at 7:16 p.m.

2. PLEDGE OF ALLEGIANCE

Supervisor McGillicuddy led the Pledge of Allegiance.

3. ROLL CALL

Supervisor McGillicuddy called the roll.

Trustee Such noted that Clerk Helmbrecht was absent because of the recount of the Township Clerk Race.

4. PUBLIC REMARKS\*

Supervisor McGillicuddy opened public remarks.

Max Neils, 2215 Raby Road, East Lansing, questioned the benefit of the applicant's project subject to SUP #99151 (Eyde).

John Veresh, 6054 Beechwood Drive, Haslett, questioned the assessment of his property for the construction of a sanitary sewer pump station on the Eyde Company's Central Park property.

Supervisor McGillicuddy closed public remarks.

5. APPROVAL OF AGENDA

**Treasurer Hunting moved to approve the agenda amended as follows: Move #7C (Appointments & Swearing-In) to #7A; Move #7A ((Rezoning #00160 (SPI)) to #7B; Move #7B (Standing Committees Elimination from Policy) to 7C; Move #9F (Revised Subscription Rates), # 9H (Recommended Fee Change for Court Ordered Preliminary Breath Testing for Police Department) and 9I (Recommended Change to Fee Collection Process for Gun Purchase Permits for Police Department) to #6D(1), (2) & (3) respectively; Move #7I (Sapphire Lakes Condominiums - Resolution #1), #7J (The Coves at Whitehills Condominiums - Resolution #1) and #7K (Whitehills Lakes #6 - Resolution #1) to #9C(1), (2) & (3) respectively. Seconded by Trustee Woiwode.**

VOICE VOTE: Motion carried 6-0.

6. CONSENT AGENDA

Trustee Woiwode listed her corrections to the December 5, 2000 Regular Meeting Minutes as follows:

Page 9: Item #9C...Motion #1 to rescind:

Change "Seconded by Supervisor McGillicuddy." To "Seconded by Trustee Brixie."

Page 9, Item #9C...Motion #2 to grant appeal:

Change "Seconded by Supervisor McGillicuddy." To "Seconded by Trustee Brixie."

Page 9, Item #9D...Motion (recheck tape)

Page 11, Item #15A(1)...Restate motion in final form

Page 12, Item #15A(2), Roll Call Vote, Motion #2, Introduction for Publication & Subsequent Adoption,  
Add Trustee Such to YEAS:

**Treasurer Hunting moved to adopt the Consent Agenda with the removal of item #6E(3) (December 5, 2000 Regular Meeting Minutes) to be revised as described above and returned for approval. Seconded by Trustee Such.**

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode, Supervisor McGillicuddy,  
Treasurer Hunting  
NAYS: None  
Motion carried 6-0.

Therefore, the above actions were taken with the votes as follow:

A. Banner Permit, Okemos Friends of the Library

**Treasurer Hunting moved the following**

**WHEREAS, Meridian Township has requested that friends of the Okemos Library be allowed to hang a banner across Hamilton Road near the intersection of Hamilton and Ardmore from February 5, 2001, through February 28, 2001, to announce the Okemos Library Art Sale. The banner will not obstruct traffic signals and/or signs and will be eighteen feet (18') above the centerline of the road.**

**WHEREAS, Therefore, I move the following: the Township Manager's office is authorized to request the Ingham County Road Commission to allow Friends of the Okemos Library to hang a banner over Hamilton Road, near the intersection on Hamilton and Ardmore from February 5, 2001, to February 28, 2001.**

**Seconded by Trustee Such.**

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode, Supervisor McGillicuddy, Treasurer Hunting  
NAYS: None  
Motion carried 6-0.

B. Communications

(1). Application for Public Service (\*\*\*)

- BOR-12 Satnam Singh Bhugra, 2163 White Owl Way, Okemos; RE: Board of Review
- BOR-13 James Brazier, 4185 Cornell Road, Okemos; RE: Board of Review
- CRC-4, PC-23, ZBA-12 Eldon L. Clark, 2415 Sapphire Lane, East Lansing; RE: Community Resources Commission, Planning Commission, and Zoning Board of Appeals
- OTH-26 Thomas M. Woiwode, 5088 Powell Road, Okemos; RE: Land Preservation Advisory Board
- OTH-27, PC-22 Daria N. Schlega, 2446 Burcham Drive, East Lansing; RE: C.A.T.A. & Rail Council, Planning Commission
- PC-5 Frank Webster, 3845 Roxbury Ave, Okemos; RE: Withdrawal of Application for Planning Commission
- PC-20 Robert B. Hotaling, 5696 Shaw St #10, Haslett; RE: Additions to Application for Planning Commission
- PC-21 Richard B. Foster, 4990 Country Drive, Okemos; RE: Planning Commission

(2). Board Deliberation (BD)

BD-1 Christopher M. Bzdok, Olson, Noonan & Bzdok, 420 E. Front Street, Traverse City;  
RE: Appeal of Time Extensions of SUP # 99091 (Wal-Mart) and SUP #99151  
(Eyde)

(3) Board Information (BI)

- BI-1 Terry L. Grant, 734 Grand River #C-11, Okemos; RE: Sidewalks near Winslow Trailer Park
- BI-2 Frank Webster, 3845 Roxbury Ave, Okemos; RE: Tax Rates
- BI-3 Gary Shoup, 2449 Graystone Drive, Okemos; RE: December 2000 Scientific American Article: "The Science of Smart Growth"
- BI-4 LuAnn Maisner, Director of Parks & Recreation; RE: Joint Meeting with the Park Commission
- BI-5 Michigan Townships Association Legislative Fax, December 8, 2000 edition
- BI-6 Michigan Townships Association Capitol Currents December 2000 edition
- BI-7 Michigan Townships Association Legislative Fax December 1, 2000
- BI-8 Merry G. Achors, 1200 Ascot Place, Haslett; RE: Intent to leave Cable Communications Commission at end of term
- BI-9 Henry Silverman, President, Lansing Branch, ACLU of Michigan; RE: Local Sign Ordinances as Applied to Political Campaign Signs

(4). On File in Clerk's Office (OF)

- OF-1 State of Michigan, D.E.Q.; RE: DEQ File No. 00-33-0063-P, Application from Soil and Materials Engineers for Permit for alteration or occupation of a floodplain.
- OF-2 Okemos Board of Education November 20, 2000 Meeting Minutes
- OF-3 Board of Water & Light December 12, 2000 Meeting Agenda
- OF-4 Mid-Michigan Water Authority December 14, 2000 Meeting Agenda
- OF-5 Ingham County Board of Commissioners December 12, 2000 Regular Meeting Agenda and Packet

(5). Staff Response (SR)

- SR-1 Notice to Applicant of Appeal of Time Extension of Special Use Permit #99091
- SR-2 Notice to Appellants of Appeal of Time Extension of Special Use Permit #99091

**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 Such.**

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode, Supervisor  
McGillicuddy, Treasurer Hunting  
NAYS: None  
Motion carried 6-0.

C. Bills

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

General Fund/Special Revenue	\$142,511.68
Public Works	\$431,187.20
<u>Total Checks</u>	<u>\$603,698.88</u>
<u>Credit Card Transactions</u>	<u>\$ 8,083.89</u>
Total Purchases	<u>\$611,782.77</u>

**Seconded by Trustee Such.**

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode, Supervisor  
McGillicuddy, Treasurer Hunting  
NAYS: None  
Motion carried 6-0.

[Bill list for 12/19/00 in Official Minute Book]

D. Fee Schedule Amendments

(1) Revised Subscription Rates

**Treasurer Hunting moved adoption of the revised subscription rates as submitted and detailed in the "Statement of Mailings." Seconded by Trustee Such.**

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode, Supervisor  
McGillicuddy, Treasurer Hunting  
NAYS: None  
Motion carried 6-0.

(2) Recommended Fee Change for Court Ordered Preliminary Breath Testing for Police Department

**Treasurer Hunting moved to approve a fee change for administering court ordered preliminary breath tests at the police desk to \$5.00 per test conducted. Seconded by Trustee Such.**

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode, Supervisor  
McGillicuddy, Treasurer Hunting  
NAYS: None  
Motion carried 6-0.

(3) Recommended Change to Fee Collection Process for Gun Purchase Permits for Police Department

**Treasurer Hunting moved to approve a change in the fee schedule process, which will allow for the collection of gun permit application/registration fees at the time the application is submitted for processing. Seconded by Trustee Such.**

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode, Supervisor  
McGillicuddy, Treasurer Hunting  
NAYS: None  
Motion carried 6-0.

E. Minutes

(1) December 5, 2000, Training Session

(2) December 5, 2000, Work Session

~~(3) December 5, 2000, Regular Meeting~~

**Treasurer Hunting moved to approve and ratify the minutes of the December 5, 2000 Work Session and Training Session as submitted. Seconded by Trustee Such.**

ROLL CALL VOTE: YEAS: Trustees Brixie, Stier, Such, Woiwode, Supervisor  
McGillicuddy, Treasurer Hunting  
NAYS: None  
Motion carried 6-0.

7. OLD BUSINESS (Action Items)

A. Appointments & Swearing-In

(1) Planning Commission

(2) Zoning Board of Appeals

(3) Assessing Board of Review

\* Elected Officials Compensation Commission

- \* Cable Communications Commission
- (4) Swearing-In of New Appointees

Board Members discussed the following items:

- None of the recommended applicants has any pending actions before the Township
- Balance of representation

**Treasurer Hunting moved to make the following appointments and reappointments:**

- (1) **Greg Basolo, Charles Hagen, Richard Wever, Mike Oliva, Satnam Bhugra and David Woltz to the Assessing Board of Review to two (2) year terms to expire December 31, 2002;**
- (2) **Gary Shoup to the Zoning Board of Appeals to a three- (3) year term to expire December 31, 2003;**
- (3) **Steve Stier to the Zoning Board of Appeals as the Township Board Representative to a one- (1) year term to expire December 31, 2001;**
- (4) **John Anderson and Joan Guy to the Zoning Board of Appeals as Alternates #1 and #2 respectively to a two-(2) year term to expire December 31, 2001;**
- (5) **Robert Homan and Janet Thomas to the Cable Communications Commission to a three-(3) year term to expire December 31, 2003;**

**Moreover, ratify the Supervisor's appointments and reappointments as follows:.**

- (6) **Patricia Jackson, Juan Arellano and Richard Foster to the Planning Commission to three-(3) year terms to expire December 31, 2003;**
- (7) **Lynn Jondahl to the Elected Officials Compensation Commission to a five (5) year term to expire December 31, 2005**
- (8) **Charles Wing to the Elected Officials Compensation Commission to the remainder of a five-(5) year term to expire December 31, 2004;**

**Seconded by Trustee Such.**

Board Members discussed the following items:

- Experience level and Training of recommended applicants to the Board of Review

VOICE VOTE: Motion carried 6-0.

- (4) Swearing-In of New Appointees

[Clerk Helmbrecht entered at 7:37 p.m.]

Clerk Helmbrecht swore in the newly appointed and present Planning Commissioners, Zoning Board of Appeals Members, Assessing Board of Review Members, and Cable Communications Commissioners.

[Clerk Helmbrecht left the room at 7:40 p.m.]

**B. Rezoning #00160 (SP Investments) – Final Adoption**

Director Kieselbach introduced the request to rezone approximately 5.03 acres north of Jolly Road, east of Okemos Road and west of Hiawatha Lakes subdivision from PO (Professional Office) and NS (Neighborhood Service) to CS (Community Service) and PO (Professional Office).

**Trustee Woiwode moved that the Township Board hereby Finally Adopts Ordinance No. 2000-19, entitled "Ordinance Amending the Zoning District Map of Meridian Township Pursuant to Rezoning Petition #00160" from NS (Neighborhood Service) to PO (Professional Office). Seconded by Treasurer Hunting.**

VOICE VOTE: Motion carried 6-0.

[Signed and Sealed Resolution in Official Minute Book]

- C. Standing Committees Elimination from Policy (Rule 8, Board Rules & Procedures)  
**Treasurer Hunting moved to Delete Rule No. 8 from the Board's Rules & Procedures regarding Standing Committees of the Township Board. Seconded by Trustee Such.**

Discussion:

- Replacement of Standing Committees by a Committee of the Whole
- Provision for Ad-Hoc Committees
- Difficulty of scheduling standing committee meetings to involve public
- Discussion and Understanding by entire Board in Committee of the Whole format
- Possible schedule change to add time to Committee of the Whole discussions

VOICE VOTE: Motion carried 6-0.

- D. Designation of Dr. Martin Luther King Day for Non-Union Employees  
Manager Richards introduced the proposed holiday designation.

**Trustee Such moved to designate Martin Luther King Jr. Day as an official Township government holiday by closing administrative offices in observance and to amend the Non-Union Personnel Policy, Section 12.12 (Holiday Provision) to include the same as a paid holiday for those employees covered by this policy. Seconded by Trustee Stier.**

Discussion:

- Remaining bargaining units to add holiday

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

NAYS: None

Motion carried 6-0.

- E. 4<sup>th</sup> Quarter Budget Amendments  
Manager Richards introduced the budget amendments.

**Trustee Brixie moved that the Amended 2000 Budget as reflected on pages 2 and 3 of the memorandum to the Township Board from the Finance Director, dated December 19, 2000 be approved. Seconded by Trustee Such.**

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

NAYS: None

Motion carried 6-0.

- H. Additional Credited Service - Firefighter MERS Pension  
Manager Richards introduced the Pension Service Credit.

**Trustee Brixie moved approval of the additional credited service of 12 years, 10 months, under the MERS Pension System for Mark A. Hornberger and the Township Clerk be authorized to execute the Authorizing Resolution. Seconded by Trustee Such.**

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

NAYS: None

Motion carried 6-0.

[Authorizing Resolution in Official Minute Book]

8. HEARINGS

- A. Appeal of Time Extension for Special Use Permit #99151 (Eyde)

Trustee Woiwode disclosed her relationship with the appellants' attorney, Christopher Bzdok, and that the Township Attorney has determined there is no conflict of interest.

Director Kieselbach outlined the hearing procedure. He introduced the appeal and the original request for a Special Use Permit to work in the floodplain of the Mud Lake Drain and the groundwater recharge area for the proposed Times Square Drive.

Supervisor McGillicuddy asked Paul Cassidy, Recording Secretary to introduce a new communication submitted to the Board.

Paul Cassidy Introduced from Scott R. Knapp, Dickinson Wright, PLLC, 215 S. Washington Square, Ste 200, Lansing; in opposition to the appeal of the time extension for Special Use Permit #99151 (Eyde). (See Communication BD-6 for January 9, 2001).

Supervisor McGillicuddy opened the hearing.

#### APPELLANTS

Christopher Bzdok, Olson, Noonan & Bzdok P.C., 420 E. Front Street, Traverse City, Representing the appellants, stated the reasons for reversing the approval of the time extension of the Special Use Permit. His stated reasons for appealing the approval of the time extension are as follows:

1. The Special Use Permit should not have been extended as the original Permit was issued in violation of the Conservancy Overlay District as set forth in Section 82-16 of the Meridian Township Code of Ordinances.
2. The Applicant's development establishes prohibited uses including commercial structures in the Floodway Overlay Portion of the Conservancy District; this district being designated by Ordinance by the U.S. Department of Housing & Urban Development Flood Boundary and Floodway Map.
3. The Applicant allegedly, submitted incorrect flood boundaries to the Planning Commission in applying for the Special Use Permit.
4. The Gainer vs. Board of Trustees Case establishes that a Township Board can not issue a valid permit resulting in a violation of the Zoning Ordinances, based on an incorrect application.
5. This is a land use issue, which is within the authority of the Township Board to decide.

#### APPLICANT

Scott R. Knapp, Dickinson Wright, PLLC, 215 S. Washington Square, Ste 200, Lansing, representing the applicant, stated the reasons for affirming the approval of the time extension of the Special Use Permit. His stated reasons for approval of the time extension are as follows:

1. The application for a time extension of the Special Use Permit was made to preempt the potential issue of whether construction had begun within the one (1) year time frame considering the Circuit Court's injunction.
2. Consideration of a time extension for the Special Use Permit was unnecessary, as construction had already started within the one- (1) year time frame.
3. The appellants did not contest the time extension at the Planning Commission.
4. The appellants have no standing as defined in the law to "suffer special damages."
5. The Township Board has made no determination of "special damages" to be incurred by the appellants
6. The Township Board is allegedly acting outside the law in holding this hearing. The applicant presents an argument on this appeal out of necessity, and does not concede standing of the appellants.

He yielded the balance of the applicant's time to Dave Haywood.

Dave Haywood, D. Haywood & Associates P.C., 618 S. Creyts Road, Ste B, Lansing; rebutted the appellants' arguments as follows:

1. The Federal Emergency Management Agency (FEMA) maps are an approximation and at a scale as to provide no exact delineation of flood elevations or conservancy districts.
2. The applicant provided no projections of the floodway to the Planning Commission or to the Township.
3. The State of Michigan's chief regulator on matters of floodplain regulation made a determination of the floodway based on existing elevations, which is in variance to the location represented by the appellants.
4. The Planning Department relies on the delineation provided by the Michigan Department of Environmental Quality (MDEQ) for the establishment of floodways in Meridian Township.
5. The map, by which the appellants make accusation of a submission of incorrect flood boundaries to the Planning Commission in applying for the Special Use Permit, was only submitted to the MDEQ
6. The applicant proposes neither development nor activity that impacts on the floodway.
7. The MDEQ makes no reliance on the FEMA maps to determine the actual floodplain on the site.

#### PLANNING COMMISSION

Planning Commissioner Robert Smith discussed the Planning Commission's approval of the time extension of the Special Use Permit. He made the following points:

1. Extensions of Special Use Permits are usually granted by the Planning Commission if there is some progress in proceeding on the project, or if there are extenuating circumstances keeping the applicant from making progress.
2. There are two (2) extenuating circumstances in this case in addition to the consideration that the project had in fact started; although there was a question of the significance of the work done: 1) The work was stopped by Court Order, which is outside of the control of the applicant; and 2) The understood intent of the Judge was to freeze the project in time with a stay, thus raising the question of whether the clock continued to run on the Special Use Permit.
3. The applicant would be damaged if there were no extension of the SUP, and if there were a legal interpretation that the clock continued despite the Court's stop work order.
4. The extension of the SUP does not change the requirement on the applicant to meet all conditions of the original SUP.

#### BOARD DISCUSSION

Trustee Woiwode asked Director Kieselbach why the applicant would not have been asked to identify the floodway on its map in applying for the Special Use Permit

Director Kieselbach stated that based on the information provided by the applicant, there would be no work done in floodway.

Trustee Woiwode asked how the Planning Department or Planning Commission knows where the floodway is and should this information have been known in advance.

Director Kieselbach stated the issue of the floodway is determined through the expertise of the MDEQ. He stated there are two (2) parts: the floodway and floodway fringe based on a single elevation at 845.1.

Trustee Woiwode stated there is an elevation on the map showing an elevation of 845.1 covering the entire site "A."

Director Kieselbach stated the division of the floodway and the floodway fringe is what the MDEQ determines for the Township.

Trustee Woiwode stated the ordinance does not refer to a determination procedure, but to a dated map for delineation of the floodway boundary.

Director Kieselbach stated the Township recently adopted the new FEMA map dated August 2000, but there was not a study conducted of the area in question to update the boundaries from the 1977 map. He stated the Wetland Ordinance also includes a map, which is used only as a general guide by Township staff; as is the FEMA map.

Trustee Brixie asked how the Zoning Board of Appeals grants variances without having this determination of the floodway.

Director Kieselbach stated the variances granted were not related to the floodplain, but the County Drain and wetland setback.

Trustee Such asked if the applicant provided a delineation of the floodway.

Director Kieselbach stated the applicant only provided the boundary for the floodplain.

Treasurer Hunting asked for confirmation that should the Township grant any permits or approvals based on incorrect information that those permits or approvals would be invalid.

Director Kieselbach stated any such permits or approvals would be invalid. He stated the Planning Commission required the applicant get the appropriate MDEQ permit for work in the floodplain and get approval through a map revision from FEMA.

Treasurer Hunting asked for confirmation that any approvals from the Township would be conditional approvals.

Director Kieselbach stated this is correct.

Trustee Such asked if there had been any incorrect information used by the Planning Commission in considering the Special Use Permit.

Director Kieselbach stated he does not believe there was anything incorrect submitted to the Planning Commission, but the issue is moving through the process and having the appropriate experts determine the physical location of the floodway boundary.

Trustee Such asked for confirmation that the MDEQ drew the floodway line.

Director Kieselbach stated the FEMA engineers drew the floodway line on the FEMA map. He stated that floodway boundaries are not always located where FEMA has mapped them because of errors or changes to the floodplain. He stated the area has not been studied since the original mapping study in 1976.

Trustee Such asked for confirmation that the FEMA map boundaries alert Planning staff of the need for MDEQ and FEMA review.

Director Kieselbach stated this is correct. He stated any other concerns would go through the State Coordinator for the Michigan FEMA map.

Trustee Such stated there was no false information from the applicant as information regarding the location of the floodplain came from the MDEQ.

Director Kieselbach stated the matter is to verify the location of the floodway, which is why the conditions for MDEQ and FEMA approval were imposed.

Trustee Woiwode asked whether the SUP is invalidated based on the conditional approval, if the FEMA map is different from the determination of the floodway.

Director Kieselbach discussed how the FEMA map is corrected or amended. He stated a Letter of Map Amendment (LOMA) is used to correct errors in the map. He stated a Letter of Map Revision (LOMR) is used to amend the map based on fill or some type of change to land elevations. He stated the applicant is moving through the process for a LOMR.

Trustee Woiwode asked for confirmation that the LOMR would be based on the topography after construction rather than before construction.

Director Kieselbach stated the approval would be given prior to construction to reflect the topography after the proposed construction.

Trustee Woiwode asked if the Township can request an update of the map to reflect the existing topography.

Director Kieselbach stated Township staff could submit a request for a LOMA.

Trustee Such asked the appellants' representative if the appellant's in this matter included in entirety: Eleanor V. Luecke, Jean Nicholson, and Richard Baumgartner as specified in the staff memorandum.

Mr. Bzdok stated this is a complete list of the appellants in this matter, but he had other clients involved in matters related to this case.

Trustee Brixie asked what effect a conditional LOMR has on a SUP extension.

Director Kieselbach stated the condition didn't include any time requirements on the LOMR. He stated he was just informed by the applicant that a request has been submitted for both a LOMA to correct the current map as well as a LOMR to receive approval to change the topography.

Trustee Brixie stated the applicant's representative argues that the Board can not hear this appeal. She asked if the Township requires an applicant for an SUP to get an extension.

Director Kieselbach stated if the applicant does not begin construction within the first year, the SUP would become null and void without an extension.

Trustee Brixie asked if there is an application fee for a SUP extension.

Director Kieselbach stated there is no fee.

Trustee Brixie asked who aggrieved parties appeal to in seeking relief from a decision of the Planning Commission, and what is their relief.

Director Kieselbach answered appeals to decisions of the Planning Commission come before the Township Board.

Trustee Woiwode asked the applicant's representative if his client has submitted a request for a LOMA and LOMR from FEMA.

Mr. Haywood stated the LOMA and LOMR are essentially the same. He stated the applicant has requested a LOMR to correct the errors in the approximation of the floodplain boundaries, and amend the map based on the intended fill to modify floodplain boundaries.

Trustee Woiwode stated she would like to study the distinctions between the two-(2) maps showing the topographical corrections and the intended changes. She stated this is an important consideration in considering the appellants' argument.

Mr. Haywood quoted condition number 8 requiring the applicant to obtain a LOMR or LOMA and place it on file with the Director of Community Planning and Development.

Trustee Woiwode asked when a response from FEMA is expected.

Mr. Haywood stated he does not know when to expect a response, but the Township Engineer has submitted the material to FEMA.

Trustee Brixie asked if condition number 2 requiring that the fill not increase the floodplain elevation is in conflict with the proposed changes to the floodplain.

Director Kieselbach stated the applicant could place fill to raise lower elevations up to or just above the level of floodplain. He stated that according to the Code of Ordinances, the addition of each cubic-yard (yd.<sup>3</sup>) of fill must be compensated for by the removal of one cubic yard (yd.<sup>3</sup>) in the floodplain.

Trustee Woiwode asked Director Kieselbach to review both approval letters to the applicant for consistency.

Supervisor McGillicuddy asked what happens to the properties down stream if the floodplain elevations are changed on this site.

Director Kieselbach stated he is not an engineer and unable to make such a determination. He stated the shopping center to the south was built when the Meridian Town Center Drain was installed to alleviate storm drainage. He stated the Ingham County Drain Commissioner has been involved in this project and has given his approval to the storm drainage plans. He stated the Code of Ordinance prohibits changes increasing downstream flooding, which is why MDEQ approval was made a condition of SUP approval.

Supervisor McGillicuddy asked how one would know the impact of elevation changes until after the fact.

Director Kieselbach stated the purpose of compensating cuts is to prevent significant impact of storm drainage off site.

#### APPELLANT'S REBUTTAL

Christopher Bzdok, Olson, Noonan & Bzdok P.C., 420 E. Front Street, Traverse City, Representing the appellants, rebutted the applicants statements as follows:

1. The land use issue is regulated by Township Ordinance, and is distinct from environmental impact issues regulated by MDEQ.
2. The floodway is defined by the Code of Ordinances Section 82-16.2(j) and determined by the U.S. Department of Housing and Urban Development and as indicated on the FEMA map.
3. The Floodway Conservancy District is established by Ordinance solely by the FEMA map.
4. The applicant relies on a determination of the floodway made by State of Michigan's chief regulator on matters of floodplain regulation drawn on a map during live testimony.
5. The LOMR and the language of the SUP only deal with the floodplain.
6. The alleged false or incorrect information provided to the Planning Commission is: "the statement that this blue line is traced from the FEMA map."
7. The issue of whether or not an extension was legally necessary, was created by the applicant by rushing to begin construction before resolving all impact issues, resulting in the Circuit Court's injunction

#### APPLICANT'S REBUTTAL

Scott R. Knapp, Dickinson Wright, PLLC, 215 S. Washington Square, Ste 200, Lansing, representing the applicant, rebutted the appellant's statements as follows:

1. The Township Board specifically limited the discussion of the appeal to the topic of the propriety of the extension of time for the SUP.
2. The extension of the time for the SUP was appropriate considering the Circuit Court's injunction.
3. The appeal is brought on an allegation that the applicant deliberately or accidentally submitted incorrect information, which has been shown false.
4. Issues of flood boundaries will be addressed by MDEQ and FEMA, which will determine the validity of the SUP.

#### PLANNING COMMISSION FINAL COMMENTS

Planning Commissioner R. Smith reiterated his previous remarks and made the following points:

1. The Planning Commission and Township Board routinely approve requests with multiple conditions requiring applicant compliance before official approval is granted.
2. The Circuit Court Judge recognized that excessive delay in the administrative process could cause considerable unnecessary harm to the defendants if they ultimately prevail.
3. The time extension holds the applicants place in the process pending the resolution of the Circuit Court case and MDEQ hearing.

#### BOARD DISCUSSION

Trustee Brixie stated she did not believe the time extension should have been granted, when she considered the matter as a Planning Commissioner. She stated the Planning Commission needed more information from the Circuit Court Judge and the MDEQ before deciding on the issue. She stated the Board is in the same situation in requiring the same

information in determining the appropriateness of the time extension.

Trustee Woiwode stated the Township Board must consider more than just the appropriateness of the time extension, but the merit of the original SUP as questioned by the appellants. She stated the appeal of the original SUP was denied, which means there was not the opportunity to raise the issues. She stated that considering the new information available to the Board, the question of merit of the original SUP is inseparable from the question of the time extension.

Treasurer Hunting asked if it is typical for an applicant to initiate construction after conditional approval is granted, but before those conditions are met.

Director Kieselbach stated the applicant had met all the conditions to get the grading permit, and commence grading on the site.

Treasurer Hunting asked for clarification as to whether the applicant was within rights to begin construction, considering the comments of the Circuit Court Judge that the applicant had proceeded "to their own detriment."

Director Kieselbach stated that the only issue related to the grading permit was whether it remained valid following its appeal. He stated the MDEQ verified the validity of the grading permit submitted to the Township. The issue the Judge may have been considering in making his comment is that grading had begun despite the appeal before the MDEQ.

Supervisor McGillicuddy asked if there was another step at the Administrative Law Court in the court challenge.

Director Kieselbach stated the original Judge made a determination that the appellants did have standing.

Trustee Stier asked Director Kieselbach to characterize the approval of the Ingham County Drain Commissioner.

Director Kieselbach stated the Ingham County Drain Commissioner approved the project, the relocation of the drain and the storm detention ponds. He stated the Drain Commissioner increased the compensating cuts over the one-to-one requirement of the Township Ordinances. He stated the Drain Commissioner only approves the engineering of the storm drainage.

Trustee Stier asked if the MDEQ provides any on-site oversight of the construction.

Director Kieselbach stated he is not sure of their practice. He stated he believes the MDEQ looks at the original project submission against the required completed project submission. He stated he is not aware of any on-site inspections by the MDEQ.

**Trustee Such moved to close the hearing. Seconded by Treasurer Hunting.**

VOICE VOTE: Motion carried 6-0.

B. Appeal of Time Extension for Special Use Permit #99091 (Wal-Mart)

Director Kieselbach introduced the appeal and the original request to construct an approximate 141,000 square foot retail store with an outdoor garden center, an automobile

service facility and work in the groundwater recharge area on the east side of proposed Times Square Drive.

Supervisor McGillicuddy opened the hearing.

#### APPELLANTS

Christopher Bzdok, Olson, Noonan & Bzdok P.C., 420 E. Front Street, Traverse City, representing the appellants, stated the reasons for the appeal of the time extension of the Special Use Permit. He pointed out the location of the proposed Wal-Mart and the Conservation Overlay District. He stated the parking lot requires its own SUP.

#### APPLICANT

Tyler D. Tennent, Dawda, Mann, Mulcahy & Sadler, P.L.C., 39533 Woodward Ave, Suite 200, Bloomfield Hills, MI, representing the applicant, stated the reasons for affirming the approval of the time extension of the Special Use Permit. His stated reasons for approval of the time extension are as follows:

1. Wal-Mart can not begin construction without the construction of Times Square Drive.
2. The Circuit Court's injunction prevents the construction of Times Square Drive
3. All permits and approvals have been obtained by the applicant for this project.
4. Appellants are asking the Board to perform the same function as the Circuit Court and are making the same argument.
5. The appellants have had three opportunities to demonstrate to the Township the proposed development would be improper: November 1999 appellants objected to the SUP application and to its approval; November 2000 appellants objected to the grant of extension.
6. Appellants do not have standing, and Township Board previously determined the same.
7. All issues raised by the appellants have been resolved
8. The granting of standing to appellants without legal standing, and the reopening of consideration of the SUP renders the Township Ordinance meaningless.
9. A revocation or rescission of this SUP would be a violation of Township Ordinance as the Board has no authority under the ordinance to do so, and would cause Wal-Mart and the Eyde Company immediate and irreparable injury.
10. Wal-Mart has proposed no construction within the floodway at any point in the approval process.

#### PLANNING COMMISSION

Planning Commissioner Robert Smith discussed the Planning Commission's approval of the time extension of the SUP. He stated the issues and reasons for the extension of the SUP are the same as discussed in the previous hearing. He stated the extenuating circumstances in this case are more significant than many other SUP's for which extensions are granted.

#### BOARD DISCUSSION

Trustee Woiwode asked the applicant why Wal-Mart has not begun construction.

Mr. Tennent stated the building permit was denied.

Trustee Woiwode asked staff on what basis the building permit was denied.

Director Kieselbach stated the building permit was not denied, but has not been issued. He stated the Building Department could deny the building permit, but it was decided to hold the building permit pending the Circuit Court Case. He stated a building permit cannot be

issued with the understanding that there may not be a public road to serve the site.

Trustee Brixie asked what happens to Wal-Mart's SUP if Times Square Drive is not constructed.

Director Kieselbach stated the applicant would have to amend the site plan and the SUP by extending the plan out to Marsh Road or Central Park Drive to front an existing public street.

Trustee Brixie asked how this change to the plan would be handled procedurally.

Director Kieselbach stated the applicant could submit for an amendment to the SUP as permitted by ordinance, and as would be required for the construction of the planned parking lot to the north.

Trustee Woiwode asked why plans for future expansion of the site are shown on the site plan despite not having been considered for approval.

Director Kieselbach stated the question of plans for future expansion of the site came up during staff review, and was answered and reflected in the site plan.

Trustee Woiwode asked where the FEMA floodway map shows the floodway relative to what has actually been approved.

Mr. Bzdok stated the current proposal is within the Floodway Overlay District and any future expansion would increase the infringement.

Trustee Woiwode asked staff under what circumstances are parking lots allowed in floodplains.

Director Kieselbach stated unpaved parking lots are allowed by right in the floodway, and paved parking lots are permitted by SUP. He stated any fill in the floodway fringe requires a SUP.

#### APPELLANT'S REBUTTAL

Christopher Bzdok, Olson, Noonan & Bzdok P.C., 420 E. Front Street, Traverse City, Representing the appellants, rebutted the applicants statements as follows:

1. There is no attempt to drag the Township into the administration of MDEQ permits, into the Circuit Court Case, but consider the land use issue.
2. The SUP was granted based on a lack of understanding of the Floodway Overlay District, and as such is invalid and can not be extended.

#### APPLICANT'S REBUTTAL

Tyler D. Tennent, Dawda, Mann, Mulcahy & Sadler, P.L.C., 39533 Woodward Ave, Suite 200, Bloomfield Hills, MI, representing the applicant, rebutted the appellant's statements as follows:

1. The topographical information presented shows the floodway is well outside the Wal-Mart property boundary.
2. Giving the appellants a third attempt at the Township level is bad precedent
3. The SUP conditions have all been addressed, and for matters of floodplain and floodway issues, the Township defers to the MDEQ.

PLANNING COMMISSION FINAL COMMENTS

Planning Commissioner R. Smith stated the Planning Commission does not believe this is a land use issue as the land use issues were decided last year by the Planning Commission and the Township Board. He stated the other issues would be resolved by the Circuit Court and the MDEQ.

BOARD DISCUSSION

Treasurer Hunting asked Commissioner R. Smith if the Planning Commission was made aware that a decision it made had relied on incorrect or incomplete information that would have demonstrated a violation of the ordinances, would he decided the case differently.

Commissioner R. Smith stated the Planning Commission would not need to reconsider the matter as any information determined to be incorrect or false by the courts or MDEQ prohibiting necessary permits would terminate the SUP.

Treasurer Hunting re-asked the question in regards to the Planning Commission's original decision regarding approval of the SUP.

Commissioner R. Smith stated if the Planning Commission was aware that any part of a proposal did not comply with the standards, there would not be an approval.

Trustee Such asked if there was any incorrect information presented at any time during consideration of the SUP.

Director Kieselbach stated the only time any information was questioned as to its accuracy was at the MDEQ hearing.

Trustee Such asked staff for confirmation that the flood boundaries were established in accordance with usual procedures and that there was no misrepresentation of fact.

Director Kieselbach stated it is assumed that no incorrect information was submitted. He stated the FEMA maps show an elevation for the floodplain, which staff used in establishing the floodplain in considering the site plan. He stated the map elevations were the basis for the conditions requiring approval from both MDEQ and FEMA.

Trustee Such asked for confirmation that this is the usual process in considering each application with floodplain considerations.

Director Kieselbach stated the Planning Department regularly works with the MDEQ regarding floodplain issues, regardless of which entity is approached first.

Trustee Such asked if this process is used to establish an accurate floodway boundary.

Director Kieselbach stated this is correct.

Trustee Such asked for confirmation that the FEMA map is used as a guide to alert the Planning staff to possible floodplain issues, and defer to the MDEQ in establishing the exact physical flood boundaries.

Director Kieselbach stated this is correct if the Planning Commission considers the proposal before the MDEQ grants any permits related to the floodplain.

Treasurer Hunting if there is doubt as to the location of flood boundaries, is it reasonable to request verification from the MDEQ.

Director Kieselbach stated the Township can always ask for such a verification.

Trustee Such asked if the Township has not already asked for verification of the flood boundaries.

Director Kieselbach stated the Township did ask for such verification by conditioning approval of the SUP on the MDEQ.

Trustee Such asked whether the Circuit Court Judge would be making a determination as to where the floodway lies.

Director Kieselbach stated he did not know if the court would be this specific.

Treasurer Hunting asked if there is any doubt, would it be reasonable to pass the final decision onto the MDEQ.

Director Kieselbach stated if a proposal requires a permit from the MDEQ, this permit is made a condition of an SUP approval. He stated work in the floodplain requires a SUP by Township Ordinance and a permit from MDEQ by state regulations. He stated if there is a concern that something is wrong, the Planning Commission could request verification of specific information when forwarding the approval to the MDEQ.

Trustee Woiwode urged the Board to focus specifically on the issue of how the Township ordinances apply to this particular case. She stated the Board has authority regarding the issuance of a SUP under the ordinance.

**Trustee Such moved to close the hearing. Seconded by Trustee Woiwode.**

VOICE VOTE: Motion carried 6-0.

Supervisor McGillicuddy closed the hearing.

Supervisor McGillicuddy recessed the meeting at 10:12 p.m.

Supervisor McGillicuddy reconvened the meeting at 10:20 p.m.

C. FY2000 Local Law Enforcement Block Grant (LLEBG) Award

Chief Gibbons introduced the Local Law Enforcement Block Grant Funds.

**Treasurer Hunting moved to open the public hearing on the award and use of Local Law Enforcement Block Grant Funds. Seconded by Trustee Such.**

Board Members discussed the procedure and notification for holding this hearing.

VOICE VOTE: Motion carried 6-0.

Supervisor McGillicuddy opened the public hearing

No one spoke.

**Trustee Such moved to close the public hearing. Seconded by Treasurer Hunting.**

VOICE VOTE: Motion carried 6-0.

Supervisor McGillicuddy closed the public hearing.

BOARD DISCUSSION:

Trustee Woiwode asked the intent of the hearing.

Chief Gibbons stated the hearing serves as an opportunity for citizens to comment on equipment purchases that would be desirable. He stated any equipment purchases using grant funds would require Board approval.

9. NEW BUSINESS (Discussion Items)

A. Creation of Land Preservation Advisory Board (See Item #9B: Items 9A & 9B discussed together):

B. Adoption of Land Preservation Site Screening Criteria

Board Members discussed the following items:

- Future discussions during a Committee of the Whole
- Submission of ideas on structure of the Advisory Board beyond the millage question
- Quality of Land Preservation Task Force Final Report
- Public mandate and importance of action
- Board discussion of what specific actions to take
- Possible hearing to invite comment on ways to proceed
- Evaluation of pro's and con's to the addition of appointed positions
- Reluctance to delay process
- Review of draft motions
- Current actions being considered:
  - Adoption of Site Screening Criteria
  - Creation of Land Preservation Advisory Board
  - Appoint members of the Advisory Board
- Possible procedures and changes to Advisory Board
- The Board has option and authority to amend the Advisory Board after creation if necessary
- Public distribution of Land Preservation Task Force Final Report

C. Street Light Policy

Manager Richards introduced the Street Light Special Assessment District Policy, adopted by the Township Board, December 7, 1993.

(1) Sapphire Lakes Condominiums - Resolution #1 - Establishment of Street Light District

**Trustee Such moved to approve Sapphire Lakes Streetlighting District Resolution #1 tentatively declaring its intention to install and maintain nine (9) streetlights and defray the cost by special assessment against the benefiting parcels and setting a public hearing for January 23, 2001.**

**Motion died for lack of support.**

Board Members discussed the process for handling new items before the Board.

Board Members discussed the following items:

- Purpose of policy to permit residents to determine whether streetlights would be installed.

Director Buell discussed the installation of street lighting. He introduced the proposed street light district for Sapphire Lakes Condominiums.

**Trustee Such moved to approve Sapphire Lakes Streetlighting District Resolution #1 tentatively declaring its intention to install and maintain nine (9) streetlights and defray the cost by special assessment against the benefiting parcels and setting a public**

**hearing for January 23, 2001.**

**Motion died for lack of support.**

Board Members discussed the process for handling new items before the Board.

Board Members discussed the following items:

- All units are owned by the developer
- Unavailability of new construction without streetlighting
- Option of homebuyers to buy property with or without street lighting
- Increased expense of post-construction installation
- Street lights would be consistent with surrounding neighborhoods
- Public Safety issue
- Advantages of installing underground infrastructure only
- Amendment to the January 23, 2001 hearing date

- (2) The Coves at Whitehills Condominiums - Resolution #1 - Establishment of Street Light District

Director Buell introduced the proposed street light district for the Coves at Whitehills Condominiums.

- (3) Whitehills Lakes #6 - Resolution #1 - Establishment of Street Light District

E. Open Appointments

G. 2001 Budget New Positions

Manager Richards introduced the new positions authorized by the 2001 budget.

Board Members discussed the following items:

- Contracting for services under description of "Network Operations Assistant
- Stability and expertise of an employee
- Concern for amount of growth of staffing
- Prioritization of hiring
- Roll of Chief Executive in staffing decisions

10. EXTENDED PUBLIC COMMENT

Supervisor McGillicuddy opened public comment.

Wayne McLellen, 1459 Cheboygan Road, Okemos, spoke in support of the Township as final approval authority rather than granting conditioning approvals based on other permits.

Trustee Such reported the completion of the Township Clerk recount and announced that Clerk Helmbrecht won by a margin of 104 votes.

Manager Richards reported the Ingham County Road Commission reinstated \$99,000 from the unspent funds for 1999 and 2000 for street resurfacing. He suggested that the Board review the road resurfacing policy.

Supervisor McGillicuddy closed public remarks.

11. DETAILS OF NEXT MEETING

Hearing: Appeal of SUP #00011 (Gould Investors) - Farmer Jack's

Trustee Brixie commended the Supervisor and Staff on the improvements to the presentation of the Board packets. She recommended the labeling of the agenda items be placed on the upper right-hand

corner of the page.

Manager Richards discussed his intent to present information to the Board at the next meeting regarding a water & sewer rate study.

12. ADJOURNMENT

Supervisor McGillicuddy adjourned the meeting at 11:20 p.m.

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SUSAN McGILLICUDDY  
TOWNSHIP SUPERVISOR

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MARY M. G. HELMBRECHT  
TOWNSHIP CLERK

Paul J. Cassidy, Secretary