

**PLANNING COMMISSION MEETING  
MINUTES  
Wednesday May 6, 2009**

**I. Call to Order - Pledge of Allegiance - Roll Call**

The meeting was called to order at 7:00 p.m. and opened with the Pledge of Allegiance.

**Roll Call**      **Francis McNamara – present**  
                     **Donald Hartwick – present**  
                     **Keri Kittmann – present**  
                     **John Maahs – present**  
                     **Ronald Overton – present**  
                     **Richard Turcotte – present**  
                     **Ulrika Zay – absent w/notice**  
                     **Charles Openlander – present**  
                     **Beth Ball – present**

**Also present – Andrea Polverento**, Planning Director

**II. Communications Received –**

**Polverento** pointed out that there were two Planning and Zoning News on the tables for them. **Polverento** outlined the article she passed out from CNN about a city in Kansas that was destroyed by a tornado and as they rebuild they are going green. Also, there are suggested changes from **Turcotte** to the Committee nominations; this will replace the list that was in their packets.

**III. Agenda Approval**

**MOTION** by **OVERTON** and seconded by **MAAHS** to approve the agenda as presented.

**Passed 8-0, 1 absent.**

**IV. Public Comment – Non-Agenda Items - None**

**V. Approval of Minutes from March 4, 2009, Regular Meeting**

**MOTION** by **OVERTON** and seconded by **MAAHS** to approve the 3/4/09 minutes as amended. Change **Landes** to **Kittmann** in the attendance portion of the minutes.

**Passed 8-0, 1 absent.**

**Turcotte** welcomed **Kittmann** to the Planning Commission.

**VI. Public Hearings - None**

**VII. Unfinished Business**

**A. Committee Assignments**

**Polverento** explained that the suggested assignment sheet dated May 2009 that was on the table tonight was the most current suggestions. One of the things to

be included this time was assigning a Chairperson to each committee so it was known going into the meetings who would be running the meeting. **Hartwick** asked if there was an ORC meeting recently. **Polverento** responded that there was a recent meeting of the ORC. **Hartwick** does not recall being notified of the meeting but since he is an alternate he would like to know about the meetings so he may attend them. He asked that he be put on the list to receive a packet in the future. **Overton** asked if everyone on the Planning Commission could be notified of Committee meetings so they are aware of upcoming meetings and can attend if they wish to. **Turcotte** feels that is a great idea. **Polverento** responded that she would work out the details.

**Turcotte** asked for changes or suggested to the proposed Committee appointments. These appointments will be effective from today until April 2010. Bylaws state that Committee appointments be reviewed in April of every year.

**MOTION** by **MAAHS** and seconded by **OVERTON** to concur with Chairman Turcotte's Committee appointments as presented.  
**Passed 8-0, 1 absent.**

## **VIII. New Business**

### **A. Wind Energy Conservation Systems**

**Polverento** explained that the ORC discussed it at their meeting last month and there were a number of ideas brought up on how to approach developing regulations. She explained that there are several model ordinances available that can be formatted to fit the Township's situation. The ORC seemed the most interested in implementing the regulations in phases rather than trying to do it all at one time. **Polverento** feels it may be easiest to work on some of the definitions first so everyone is comfortable with the terminology. Maybe then move onto the smaller scale, permitted uses and then the larger scale, special land use operations. She feels that early in the process there will need to be a discussion about setbacks, height restrictions and any zoning districts they should be excluded from. **Polverento** explained that Delta Township and Clinton County are both working on wind ordinances currently. She has found that most Townships developing this type of Ordinance are modeling their ordinances after Huron County's Ordinance. **Polverento** would be happy to develop some Phase I suggestions and bring them to the Planning Commission next month.

**Overton** reviewed the state's suggestions for regulating turbines. The state specifies that under and over 20 meter turbines be listed in two categories. **Overton** explained that those under 20 meters were typically permitted uses in most zoning districts and were a use by right. Turbines over 20 meters were generally the large scale industrial/utility turbines that would need a special land use permit. **Hartwick** asked if those larger turbines produce significant noise. **Overton** replied it's not significant but it is noticeable noise, much like a flutter.

**Polverento** met last week with Dan Leonard, assistant planner from Clinton County. He made a trip to Ubyly where John Deere has installed several turbines. He said that when you are standing directly under the turbines, it's a noticeable noise but not loud. The noise that they made was very minor and after a few

minutes, you didn't even notice the noise. Leonard is talking about taking his County Commission to Ubyly in the near future and **Polverento** has made arrangements to make that trip with them as well.

**Hartwick** asked **Polverento** to send or e-mail the Commissioners a copy of the Huron County Ordinance and the State Guidelines.

**Openlander** feels that turbines are becoming more and more popular and that there are several ordinances already in place in many communities that the Township can model an ordinance after.

**Turcotte** recapped a meeting that he attended with the County Planning Commission regarding the regulation of wind turbines. He explained that addressing the large scale system first would be the best way to go, that the potential problems and conflicts were greater than with the smaller systems. He also explained that the smaller scale turbines tended to be louder than the large commercial turbines because they tend to spin much faster than the larger turbines. They discussed some of the newer technology that are available that may in fact make the turbines ready for much lower wind velocities.

**Overton** suggested that height and zoning districts should be looked at carefully.

**Hartwick** feels that if a single unit turbine is placed on a property, it would be considered an accessory building therefore, all the rules for accessory buildings would apply to it. **Turcotte** would agree other than cell towers are not accessory building, the Township basically has no authority or control over cell towers.

**Maahs** brought up that he had been reading about some places installing wind turbines on top of commercial and/or industrial buildings.

**Polverento** explained that one option that could be considered in the meantime the Planning Commission could suggest to the Township Board that they start a moratorium for a certain amount of time, allowing an ordinance to be developed before any turbines are allowed to be placed.

**Ball** asked if the Humane Society placed the anemometer that they received the variance for. **Polverento** responded that they received the variance but they only had one year and shortly after it was approved, the two people who were heading up that project left the organization and the project never got going. The variance expired in March, and they would need to reapply if they wanted to proceed in the future.

**MOTION** by **OVERTON** and seconded by **OPENLANDER** to have **Polverento** begin the task of modifying sample ordinances to permit wind turbines in the Township.

**Passed 8-0, 1 absent**

**McNamara** thinks this is a move in the right direction. **Turcotte** thinks they are limiting themselves, which they are leaving out a number of possible stakeholders, including developers and Granger. **Turcotte** had invited Tonia Olsen from Granger to the ORC meeting; she could not make the meeting but is

very interested in participating in developing the language. **Turcotte** feels the Commission should get started in developing some language but he feels the audience needs to be widened to receive more input. He feels this can turn out to be a controversial issue.

**Hartwick** agrees with **Turcotte** but from his perspective he has to have something to start with. He feels that they need to bring someone in who is knowledgeable on this issue to provide some advice and guidance.

**Polverento** explained that what she would be bringing back next month for everyone will be just a shell but the blanks can be filled in along the way. She might make recommendations but there will still be a lot of discussion as this progresses.

**Maahs** explained that down the road the Township might be interested in placing wind turbines on the Township property along the highway.

**Overton** agrees with **Turcotte** and **Hartwick** that there is a need to get input from experts as things progress. **Polverento** explained that in speaking with Dan Leonard at the County, they did encounter a fair amount of resistance over this issue in Bengal Township. There was a fairly large contingent of people who simply didn't like the idea at all. Along those same lines, what the Township could do is send a press release to the local papers saying that the Township is going to start talking about this issue and if you are interested please come to a Planning Commission. **Overton** suggested an article in the next Township Newsletter.

## **B. Solar Energy Systems**

**Polverento** explained that solar energy was briefly discussed as well at the ORC meeting. **Polverento's** personal opinion is that at this point it's not much of a Planning and Zoning issue. The majority of the panels that people are installing are on their homes either on the roof or on the sides. As long as they get the permits they are supposed to be getting, she does not feel they are causing any major problems. There are a few of them out there but not a lot. She has been approached by one resident who wants to install solar panels and do some net metering, or contracts between the energy producer and the utility company. **Polverento** does not see that as something that the Township needs to get involved in, it's regulated by the Michigan Public Service Commission. If anything, it is a task for the Township Manager's office; they handle the utility projects. **Polverento** explained that solar access could become an issue if trees grow too large and get in the way. **Polverento** pointed out that Consumers Energy has a very informative website about their net metering program if anyone would like to learn more about it.

It's **Polverento's** opinion and the opinion of the ORC that there are really no issues involving solar panels to address at this time.

The Commission discussed in length about accessory building and accessory use and how their definitions would apply to solar energy sold to companies.

**Overton** feels that the Township is covered right now on the Solar panel issue.

## C. Accessory Buildings

### 1. Required Front Yard Setbacks

There was discussion about limiting accessory buildings in the front yard and not allowing them there. The ORC looked over the current ordinance and right now they are not recommending any changes to what the ordinance currently states. It currently reads that Accessory Buildings are not permitted in the required front yard.

**Hartwick** would like to prevent a big pole barn being built in the front yard of a home that sits 500 feet back from the road. He does not feel they are as aesthetically pleasing.

**Overton** feels that if you are on a 5 acre lot where you are set back off the road and build an accessory building in the front of the house, he does not see the fact that there is garage or a pole barn set to the front of the house as a negative. The ORC felt that most of the time this was not going to be a problem because where the issues would arise such as subdivisions, there is no additional front yard beyond the required setback to place an accessory building. **Polverento** explained that generally it is her policy when someone calls to ask questions, to discourage any building of accessory buildings in the front yard.

**Hartwick** agrees with all the comments made. **Polverento** explained that there also is a concern that changing the ordinance could create a lot of non conformities.

**Turcotte** feels that the ordinance is fine as it currently reads.

### 2. Farm Buildings

**Polverento** explained that the ORC is not recommending a change in the Ordinance at this time. The task of determining if a building is a farm building and being used for a legitimate farm use falls on the Planning Director. **Polverento** does everything within her power to discourage residents who are creating an agricultural use with the bare minimum required to make it an AG use just so they can store their toys, etc in the barn.

**Overton** pointed out that both of the definitions in the ordinance for Agriculture and Farm include the word income.

Everyone is in agreement with the ORC findings; no further action was taken by the Planning Commission.

## D. SLUP Commercial PUD Multi-Family reference

**Polverento** explained that when the codification happened, Municode made a change to section 28-606, Special Land Uses, 13, Commercial Planned Unit Developments, a change was made in reference to uses. The previous ordinance required the multiple family dwellings within a CPUD to comply with the standard requirements of the R-3 zoning district. Municode

changed that reference to require compliance with Section 28-606, Special Land Uses, 23, Multiple Family Dwellings.

**Polverento** explained that the difference between those two designations were that the R-3 zoning district regulations are those that regulate lot coverage, setbacks, minimum lot size, etc., and that the Multiple Family Dwelling section regulates things like parking regulations and landscaping requirements.

**Polverento** said that the ORC feels that change was actually better and beneficial than just meeting the standard R-3 Zoning District requirements, because the CPUD as a whole has its own set of those requirements, which vary from the R-3 requirements, and that while the most restrictive would be enforced, any variation between that could present issues in the future.

**Turcotte** asked if the Commissioners felt the language change that Municode made is acceptable. Everyone was in agreement that the language change was for the better and no action was taken by the Planning Commission.

#### **E. Contractual Zoning**

**Polverento** explained that for a long time contractual zoning was illegal in Michigan and is in fact still illegal in many states. In 2006 when they merged all of the Zoning Acts into the Zoning Enabling Act, it became legal for communities to implement. It is voluntary on the part of the developer, the Township can allow contractual zoning but in order for it to happen the developer has to propose using contractual zoning. Contractual zoning is an agreement between the developer and the Township that the developer will do something, whatever that might be; an example would be sewer and water in order to get the Township on board for a re-zoning. It's a contract submitted by the developer that the Township Attorney would review for the Township to consider. The Planning Commission would either recommend the approval/disapproval of the contract to the Township Board of Trustees; the Planning Commission does not act on the contract. They are all required to have a provision for retraction so if the developer does not live up to their end of the bargain then they do not get their rezoning and the land reverts back to the original zoning.

Discussion took place about contractual zoning. **Turcotte** feels that none of the Commissioners are really in favor of implementing contractual zoning. **Turcotte** is very against it, he feels that it is very risky for the Township. **Polverento** does not recommend moving forward with contractual zoning.

**McNamara** feels that a motion should be made that the Planning Commission does not wish to move forward with contractual zoning so it is in the permanent record.

**MOTION** by **MCNAMARA** and seconded by **OVERTON** to put into the record that the Planning Commission talked about contractual zoning but the

Planning Commission did not feel that this procedure should be used within the Township at this time.

**Passed 8-0, 1 absent**

**IX. Committee and Staff Reports**

- A. Executive Committee Report – None
- B. Ordinance Review Committee Report – **Overton** outlined the meeting on 4/15/09.
- C. Site Plan Review Committee Report – None
- D. Board of Trustees Report – Draft Minutes 4/20/09 – **Maahs** presented the Board of Trustees Report.
- E. Zoning Board of Appeals - None
- F. Non-Motorized Circulation Plan Committee Report – **Polverento** explained at the March meeting of the Board of Trustees, she asked for permission to contact the property owners across the road from the Township Hall to ask if they would be amendable to the Township installing a small patch of concrete at the end of their driveway to create the Road Commission's required transition to install a cross walk at the Township Hall. **Polverento** received permission to contact the homeowner and the homeowner is supportive of that. **Polverento** also got permission to apply for the application from the County Road Commission to do the installation of the cross walk. The Township did receive the permit. **Polverento** will be at the next Board Meeting and recommend holding a public hearing on the Non Motorized Plan. At that public hearing **Turcotte** would like the issue of putting utility easements into the plan as well.
- G. Capital Improvements - None
- H. Staff Reports
  - 1. Directors Report, April 2009, **Polverento** updated the Commission on the status of the codification. The draft is back from Municode and **Polverento** has been reviewing it. The only problems that are persisting are with the layout of the tables. She drafted a memo to Municode that included examples of how the tables should look. She feels like they are making good progress. **Polverento, Tubbs** and **Freeman** met with a representative from Municode. They are aware of the problems that have been encountered and they have now established an open line of communication. **Overton** still wants a digital copy of the Ordinance so it can be adjusted as needed. **Polverento** noted that zoning complaints are up. General discussion took place about the type of complaints being received.

- 2. Assistants Report, April 2009

**X. Comments and Questions from Audience, Staff and Commissioners-**

There were questions about wind/solar people making contact with the farmers to rent or lease property for these types of operations.

**XI. Adjournment**

**MOTION** by **OVERTON** and seconded by **OPENLANDER** to adjourn the meeting.

**Planning Commission Meeting Minutes**  
May 6, 2009

**Passed unanimously**

Meeting was adjourned at 8:52 p.m.

Date approved:

---

Richard Turcotte, Chair

---

Beth Ball, Secretary

**DRAFT**