

BENZIE COUNTY PLANNING COMMISSION

July 10, 2008

MINUTES

**MEMBERS PRESENT:** Graves, Damm, Roberts, Moorman, Pitcher, Ralston, Ross  
**MEMBERS EXCUSED:** Tanner  
**STAFF PRESENT:** Neiger, Flynn  
**GUESTS PRESENT:** Jeanne Strathman, Robb Bollenberg

I. **Call the Meeting to Order** Chairman Graves called the meeting to order at 7:03 p.m.

II. **Approval of the Agenda** The agenda was amended by deleting "Wastewater Treatment System and it will remain off the agenda and adding Planning Department Budget and Zoning Department Budget under New Business. **Motion** by Moorman seconded by Damm to approve the agenda as amended. Ayes: All Present Nays: None Excused: Tanner **Motion Carried.**

III. **Public Hearing – Zoning Ordinance Amendment 08-02, Renovation Part II**

A. Open the public hearing and Introduction of Planning Commission Chairman Graves opened the public hearing at 7:05 p.m. Each Commissioner introduced themselves.

B. Staff Report Chairman Graves explained we are amending the zoning ordinance to comply with the new legislation and Article XXVI (26) Flynn reviewed staff memo, Damm asks why # 8 is relevant. Neiger explained about takings and how the County needs to be careful that zoning regulations don't result in one. Damm feels answer is vague. The Commission felt that that answer would be better stated as "Better defining wireless towers and updating noticing requirements in this case does not affect any specific property".

C. Open Public Input None

D. Commission Deliberation Chairman Graves suggests a motion with a second, to approve or deny the amendment, and then a second motion with a second to approve or deny the findings of fact. Commissioner Damm submitted some formatting and grammatical changes by Ross. Roberts states that 8.b in Article 16 needs to be clarified. Pitcher suggests replacing "newspaper" with a newspaper with paid circulation in Benzie County. There was lengthy discussion on changing Section 8 b of Article 26 to make it easier to understand. It was decided to rewrite 8.b as follows: *"The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the Applicant at least two (2) times, no less than 7 and no less than 14 days in advance of the first test date in a newspaper of paid circulation in Benzie County.*

F. Decision **Motion** by Moorman seconded by Roberts to approve the amendment to the Wireless Communication Towers Article with the 3 changes, and to approve the changes relating to the new zoning legislation Discussion on tower map. It stated that it will be the responsibility of the Zoning Administrator to create and keep. Ayes: All Present Nays: None Excused: Tanner **Motion Carried**  
**Motion** by Roberts seconded by Ralston to approve the findings of fact. Neiger explained that this doesn't affect a specific application or property but does affect the overall ordinance. Fact # 8 is changed by deleting "involves a broad range of properties and inverting "in this case does not affect any specific property. Fact #9 is changed by adding in the first paragraph of the response a single word sentence, No. Ayes: All Present Nays: None Excused: Tanner **Motion Carried**

G. Close Public Hearing Chairman Graves closed the public hearing at 7:32 p.m.

IV. **\*Approval of the Minutes of the June 4 and June 12, 2008 Meetings**

**June 4, 2008** **Motion** by Moorman seconded by Pitcher to approve as submitted. Ayes: All Present Nays: None Excused: Tanner **Motion Carried**

**June 12, 2008** The minutes were corrected as follows:

Page 4 Line 6, deleting the word "states" and replacing with "asks Seger to confirm"

Page 4 Line 10, deleting "RFQ" and replacing with "the motion" **Motion** by Roberts seconded by Moorman to approve the minutes as corrected. Ayes: All Present Nays: None Excused: Tanner **Motion Carried**

V. **Public Input** – Items on the Agenda none

## VI. Committee Reports

A. Zoning Ordinance Update Committee Report – Graves reports that the Zoning Ordinance Rewrite Committee considers the Special Land Use package to be complete and ready for a public workshop. Graves explains that the workshop will be noticed and public invited. There was discussion on also putting an advertisement in the paper in addition to the legal notice. **Motion** by Damm seconded by Pitcher to schedule a workshop on August 6, 2008 at 7:pm. And to put a regular advertisement in the Record Patriot as well as the legal notice. Ayes: All Present Nays: None Excused: Tanner **Motion Carried.** Graves reports that next Zoning Ordinance Rewrite Committee meeting will be a bus tour to look at development in various areas of the county. Flynn is directed to send a notice with the details by mail and email to all Planning Commission members. Graves reports that wind energy is the next topic for the Zoning Ordinance Rewrite Committee and in parallel with that will start work on the zoning districts. Neiger reports that the new energy incentives for large wind energy farms will be for large corporations and they may eliminate local zoning control. Graves pointed out area along the shoreline where there is good wind. He states that Seger suggests an overlay district and also that a committee be formed of himself, Pitcher and Roberts to communicate with the units of government along the shoreline that we might be thinking about this and get their input on a possible overlay district.

Ross arrived 7:51

Some discussion on the committee and there was consensus that it be made up of Commissioners from the shoreline townships. **Motion** by Moorman seconded by Ralston to empower the committee to go out and speak to local units of government on the advantages and disadvantages of working together on this subject. Neiger reports Evangeline and 2 other townships are against wind energy systems. The committee will get together the middle of August. There was discussion that there are citizens and businesses interested in wind energy. Ross reports that Benzie Central Schools is still interested in having a wind energy system. Pitcher explained what businesses are looking at wind energy. Damm suggests educating the Planning Commission and the Board of Commissioners before going out the units of government. Ayes; All Present Nays: None Excused: Tanner **Motion Carried**

~~B. Wastewater Treatment System – Damm no report~~

C. Updating Comprehensive Plan Neiger reports there was some confusion on noticing requirements, but it is 48 days, and identified those entities that need a copy. He reports that it will be on the website and he can make digital copies if requested. He states the date for public hearing will be Sept. 3, 2008 to approve the socio-report and Roberts will have a presentation. Reports he has been working on the forestry report, and the assessment table is done. He will be mailing it out soon. He states there are more agencies that will need to be notified. He reported that there is a government committee as part of the update, and all governments were invited to appoint a member and alternate to the committee. He states he has been attending meetings and sending emails and they have 9 appointments so far, and hopes to have a majority of the units of governments by next week. Gilmore Twp appointed Doug Holmes w/Ron Beyete as alternate. Disc on Colfax appointing Bill Johnson with Sue Besey as alternate. He reports there will be a meeting on Aug. 20, 2008 at 7p.m. and Steve Fouche will facilitate a focus group session to find out what the issues are. Will be one of the first meetings in the county except for the old CAC, where all the townships and villages come together. He states assessment and implementation charts are going out tomorrow (July 11), and he is working on the residential paper now. He reports that the Parks and Recreation Commission is moving along and they are updating the recreation plan with historic/cultural elements.

2. Implementation of Intergovernmental Strategies–Ralston reports the communications group is meeting tomorrow and the proposed mission statement has been distributed. Goals include setting a date for the next summit and they will set other goals. Are thinking of using the government group to work with the update to the master plan. Roberts reports having something to hand out at tomorrow's meeting for comments and priorities and then the focus group meets on Aug 20. Ralston reports they are looking for guidelines and will start with a survey. Ross reports the education group is very enthusiastic, they have submitted a grant proposal to the tribe to use the old part of their facility for an alternative school/adult education school and they may know in August if they get their grant. She explains what alternative education is. She reports there is much support in the community and it will be countywide, including Frankfort/ Elberta, Benzie Central and possibly Manistee.

D. Grand Vision – Pitcher reports the consultants are working. Neiger reports he attended the public information group meeting, there were some amendments to the contracts, breaking out our counties from the group and is more money and more work. End product will be available in October. They will have time for more educational meetings and they will be at the August regular Planning Commission meeting.

## VII. Unfinished Business

A. RFQ Motion by Pitcher seconded by Ralston to bring back from the table the motion made and tabled at the June 12, 2008 meeting. Ayes: All Present Nays: None Excused: Tanner **Motion Carried**. Flynn read the motion. Pitcher calls the question second by Ross Ayes: All Present Nays: None Excused: Tanner **Motion Carried**. Vote on the motion: Ayes: None Nays: All Present Excused: Tanner. **Motion failed**. Graves states that his research into this motion reveals that Seger is looking for two (2) things. He read from Section 14.7.5.C.1 that says “fees for professional services may be charged to the applicant. He states Article 14 already empowers the Zoning Administrator to get professional support when necessary. Graves doesn’t feel that he has to come here . Flynn states that Seger is looking for support on permit services when necessary, but also that the Planning Commission will need professional review when the zoning ordinance (or other like projects) is rewritten. Pitcher reports conversation with the County Administrator, that there is no money in the line item, but there is money elsewhere. There was some confusion on which version of the RFQ the members were reading from. Damm feels there should not be a vote and it is confusing. Graves asks to finish this, we’ve had this for 3 months. Roberts thinks we need to find someone to review these projects, zoning ordinance etc. Damm comments that we can get someone to do the review on the special land use package. Neiger states that the problem is this is the ordinance Mark Wyckoff wrote and Dick Figura has a totally different opinion, and if we get someone else there may be a third opinion. He adds if you have someone to review you should keep him. Discussion on difference between legal opinion and planner review. There was more discussion on which version was correct. Chairman Graves called a recess for 6 minutes 8:52 – 8:58 while Flynn re-copied the final draft and passed it out. Motion by Moorman seconded by Ross to approve the RFQ presented on 7-10-08. Neiger has no objections to this draft – looks like it has been sanitized. Ayes: All Present Nays: None Excused: Tanner **Motion Carried**

## VIII. New Business

A. Planning Commission Ordinance and By-laws Graves reports that we are required to adopt a new ordinance recreating the Planning Commission. Graves drafted one based on Figura’s handout that Figura certifies as legal and pointed out the paragraph under members on Ex Officio members. There was considerable discussion on what an “ex officio” member is. Roberts read from the MSUE seminar on the new legislation. Ex officio are full members. Discussion on how ex officio County Commissioner’s work. There was consensus that we need to check with Attorney Figura, are Damm and Pitcher ex officio or not. Do they have regular terms? Dave says no more than 1/3 can be ex officio, that even though the County Board appointed and affirmed Pitcher and Damm, the new legislation trumps how they were appointed. Questions to ask Dick Figura: Can a county commissioner be appointed not in an ex office capacity? The Same question applies to school board member? If a planning commissioner becomes a county commission do they then become ex officio and only stay on for their term of office? Cliff asks if a paragraph should be inserted that states that the new program only goes into effect as new Planning Commissioners are seated. There was more discussion on ex officio members. There was discussion on Section 2 and what appointment criteria would be used? Neiger comments that Schindler and MSUE have a long list of groups, and the Board of Commissioners can be general or specific, he suggests deleting 3 and going with A. There was discussion that “ex officio members cannot be chair or vice chair. Tanner (via phone call to Graves) suggests changing chair or vicechair to “Officer”. Conflict of Interest – every one agrees with cliff’s definition. There was discussion on the definition of “conflict of interest” and the duty to vote. Roberts read from MSUE examples of “conflict of interest”. This question is also highlighted for Attorney Figura. Neiger states capital improvements has always been a duty but the new planning act is a little stronger. We are supposed to weigh in on all projects. He also commented that an annual report is required, and he used to submit a zoning report but didn’t last year.

By laws Graves read the changes to the first draft including: a quorum for meetings; voting and quorum vote, and explained how a quorum vote can be affected by attendance. He added new section 10 on performance reviews. He points out in bylaws the attendance requirements on page 2. There was

discussion on inserting 72 hours previous notice if a member is going to be absent. There was no objection to adding that. There was discussion and consensus that the public hearing meetings count for attendance. Graves wants excused absence to go away – absence is absence. Pitcher says she likes having it. Graves will continue to work with Dave and Chris and bring Attorney Figura into it as well.

B. Planning Dept. and Zoning Departments Budgets. Dave reports his has gone to the budget committee. Explains the amounts are for public relations or matching funds for grants, doing special studies or holding outside conferences. He states he thinks he will have 3 special topic presentations on issues pertaining to the update. He explained that more funds are needed for filing fees, travel/mileage is up a third, reports that federal rate is 55 cents state is close to that. Commented that several commissioners are not reporting mileage and they can. Discussion on mileage per diem totals. Flynn presented zoning budget explaining how she calculated her estimates. Pitcher suggested giving the calculations and method of determining the numbers to the budget committee to support the budget request.

**IX. Zoning Administrator’s Report** Flynn reviewed the report – attached.

**X. Director’s Report** Neiger reports he has given most of it already. He reports another project is working on a connector trail between the Betsie Valley Trail at Thompsonville and the Tart Trail. He is working with Scott Gest on a stakeholders groups list (who will be impacted by new trail, who might want it) and it will go on the old Pere Marquette railroad bed. They will try to bring in the townships the trail crosses and has sent an email to 6 or 7 and have heard from 3. He reports that the Benzie Snowbirds Club will work with them. Pitcher states they need to have the MDNR in the stakeholders list. He also reports he is working on getting the Trail Management Council and the Parks and Recreation Commission back together. Pitcher asks about Lake Township’s Platte Lake Management Plan.

**XI. Correspondence** None

**XII. Presentations and Announcements** Pitcher reports Green Cuisene will be held at Food For Thought on the 16<sup>th</sup>. Graves reports Aug. 2 is the Rotary chicken bbq. Moorman reports that someone from the MILUI has been calling about Colfax leaving County Zoning and wants to go on record that they are not considering this. He intends to call Glen Puit and set him straight.

**XIII. Public Input – Items On or Off the Agenda, within the Planning Commission’s Jurisdiction**  
None

**XIV. Adjourn** Chairman Graves adjourned the meeting at 10:25 p.m.

Respectfully Submitted,

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Kathy Ralston, Secretary

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Christi Flynn, Recording Secretary