

BENZIE COUNTY PLANNING COMMISSION
November 13, 2008
Minutes

MEMBERS PRESENT: Damm, Tanner, Moorman, Ross, Pitcher, Ralston, Roberts
STAFF PRESENT: Neiger, Flynn, Seger,
OTHERS PRESENT: Glen Puitt, Bob Bieglow *Bigelow^{cf}*

I. Call the Meeting to Order Chairman Ralston called the meeting to order at 7:00 p.m.

II. Approval of the Agenda Under New Business B add Other Protocol for Motions. There was a brief discussion on the LSL contract status. **Motion** by Moorman seconded by Tanner to approve the agenda as amended, Ayes: All Nays: None **Motion Carried**

III Approval of the Minutes

Revisit September 11, 2008 Minutes Correct by inserting Anne Damm's motion as read by Ralston. **Motion** by Tanner seconded by Damm to amend the minutes to include the motion that was omitted as read by the Chair. Ayes: All Nays: None
Motion Carried

October 1, 2008 Ralston postpones October 1, 2008 and Oct. 7, 2008 minutes due to the need for more review.

October 9, 2008 Corrected as follows: Insert Marcia Stobie, County Commissioner, ~~Ten Ted~~^{cf}Curran and Robert Bigelow as Others Present. Delete the second the in the heading Approval of the minutes. The motion by Moorman to adopt the September 8 minutes as corrected was seconded by Ross. The motion by Moorman to approve the Sept. 11, 2008 minutes as corrected was seconded by Ross.

Page 1, Under Item IV. Public Input: In the second line delete the word "has". In Line 6 "2, 3 and" were inserted between Article and 16. In line 7 insert the word "doing" between only and some and change "get" to "getting". In line 11 insert "who were" between the words people and sent. Page 2, first line, insert "he" between states and doesn't.

Page 2, Under Item V. Committee Reports ,A. , In line 2 change "th ereport" to the report. In line 3 change the question mark to a period.

Page 2, Under Item V. Committee Reports, A., 1., a. In lines 7 & 8 insert "setting up" between on and October and insert 27, 2008 after October. In line 12 of the same paragraph correct the spelling of community.

Page 2, Under Item V. Committee Reports, B. Grand Vision In line 2, delete the word "and" leaving a period after m., and capitalize the word Ballots. Line 4 change "Benzie Central Schools" to "Benzie Central High School". Line 6 delete "regional" and insert "the Kickoff at Benzie Central High School".

Page 3, Under item VII. Unfinished Business A. In line 2, insert "on the Planning Commission" after the word representation.

Page 3, Under Item VII. Unfinished Business B.1. In lines 1 and 2, change hand to handed and change principals to principles. In line 14 insert "inadequate" between the and dollar, insert a comma after the word Plan, delete "which is inadequate".

Page 3, Under Item VII. Unfinished Business A. In line 18 delete the stand alone letter "f".

Page 4, line 22 change meant to mean.

Page 4, line 30 change oan to open.

1 There was more discussion on VII. Unfinished Business B.1 that it didn't make sense and
2 needs revision. There was discussion on the motions highlighted. **Ralston** states that she
3 got a motion from Neiger's notes so she could make a statement at the Board of
4 Commissioner's meeting. ~~Damm doesn't remember saying something. Roberts has issues^{cf}.~~
5 **Flynn** suggested postponing approval of these minutes if there were problems with the content
6 beyond all the typos as there wasn't room to rewrite the minutes. Ralston and Ross
7 volunteered to review and bring back new language. **Motion** by Roberts seconded by Tanner
8 to postpone adoption of all the minutes until all the corrections have been completed. Ayes:
9 All Nays: None **Motion Carried**

10
11 **IV. Public Input – Items on the Agenda** **Eric Van Dussen** reads part of the Open
12 Meetings Act relative to keeping minutes of meetings. He states corrected minutes must show
13 both the original entry and the correction. He commented that amendments were made to
14 minutes that referenced a motion made by Anne Damm where the motion was not included
15 and that the minutes must show both the original and the correction. His second issue is
16 that a motion was made to postpone correcting minutes to a future meeting which is contrary
17 to the Open Meetings Act. He says he cannot find anywhere in the Open Meetings Act where
18 that is allowed or discussed and he doesn't understand why that is a policy of the Planning
19 Commission. **Eric Van Dussen** passes out copies of 2 police reports. One he states is a
20 report filed when Mr. Seger called the police on him for asking to see a topo map. The second
21 report submitted by Mr. Van Dussen was a copy of a police report filed by Mr. Seger's. He
22 states that Mr. Seger said he (Van Dussen) was threatening and feared that he (Van
23 Dussen) would become violent with him or his staff when he asked to see the topo map. He
24 explained that his words may have some bite and may irritate Mr. Seger, but he doesn't
25 believe anyone else in the building thinks he is threatening. He states he won't be treated the
26 way he was treated and if it happens again he will sue the County.

27
28 Chairman Ralston states the next item is the public hearing. **Tanner** comments that we have
29 to deal with the minutes now, as Eric Van Dussen states. There was some discussion on
30 how to deal with the minutes. **Flynn** suggests if the Planning Commission feels the minutes
31 can not be approved, they should not vote approval of the October 9, 2008 minutes and then
32 ask Attorney Figura how to deal with the situation.

33
34 **V. PUBLIC HEARING Zoning Ordinance 08-03 Article XVI Package**

35 A. Open the public hearing, welcome to applicants and guests Chairman Ralston opened
36 the Public Hearing at 7:38 p.m.

37
38 B. Introduction of Planning Commission and Call for Conflict. All the Commissioners
39 introduced themselves, with no conflict reported.

40
41 C. Presentation of Amendment Seger explains that the amendments to Articles 2, 3
42 and new Article 16 are in front of the Planning Commission. He briefly reviewed the history of
43 this amendment process commenting that the Zoning Ordinance Re-write Committee put a lot
44 of work into these Articles. He states he appreciates all the input he's received and
45 comments that it appears there will be no further delay. At the workshop the amendments
46 were covered in detail, the modifications from that evening were minor in all the Articles.
47 Roberts questions which version is proposed for adoption.

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49 D. Public Input Chairperson Ralston opened public input at 7:45 p.m. There was no
50 public input.

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E. Close Public Input Chairperson Ralston closed public input at 7:46 p.m.

F Commission Deliberation **Tanner** comments that he didn't see the draft until the first of this week and has some comments. He states that the definitions of Farm and Farm Operations sound like commercial farming. He asks if it is the intent to reference only commercial, or should the definition include those who do sustenance farming. He suggests changing the second sentence to "commercial or sustenance products". **Roberts** asks if there is a difference in sustenance farming or a big garden. **Tanner** says yes it could include cows, pigs, etc. **Neiger** doesn't think there is any difference between sustenance and commercial. **Tanner** states he thinks the word commercial should be taken out. **Roberts** wants to make sure we're not putting undue restrictions on people who have big gardens. There was discussion on what is agriculture. **Motion** by Tanner seconded by Roberts to delete the word commercial in the two (2) definitions; farm and farm operations. **Seger** asks if the Planning Commission would want the changes reviewed by the County Attorney. **Pitcher** states we don't have the budget. Neiger comments there was an intent in the old land use table where gardens were an accessory to a residential use. There was discussion on uses in the Rural Preservation Districts. **Moorman** asks if this is the definition that is in the right to farm act. He comments that if it is maybe it should stay. There was more discussion on gardens and agriculture and what is allowed in the different districts as a use by right and a special use. **Roll Call Vote:** Damm: Nay Ross: Nay Moorman: Nay Pitcher: Nay Roberts: Nay Tanner: Aye Ralston: Nay **Motion Failed** 6 Nay 1 Aye

Tanner states he has comments on Article 16:

16.4. Campgrounds .C restricts uses to occupants of the park, such as a swimming pool.

Ralston suggests looking at the current ordinance language. **Seger** comments that a few changes such as the existing language that allowed the storage of vehicles was taken out because it's covered elsewhere in the ordinance. **Seger** adds this use, campgrounds, are slated for a major overhaul. **Tanner** asks if the user is not an occupant and just paying for use of the accessory (pool) would that be allowed. **Tanner** reads 16.4.C.3. He states he would like numbers 2 & 3 stricken.

16.11 Hunt Club. Tanner states he would prefer to not use C setback requirements & D hours of operation, but to use the Michigan Hunting Guide. He read from the 2008 Michigan Hunting and Trapping Guide "Safety Zones around Buildings. He stated following the Hunting Hours in the Guidebook (pages 14 & 15) would be more reasonable. There was discussion on whether hunt clubs followed the regular hunting seasons. There was discussion on the difference between a hunt club and target shooting. Ross states she can't support the setbacks Tanner is offering; she thinks there needs to be additional restrictions near residential areas. There was comment that the hours of operation should be dawn to dusk. There was more discussion that the setback should be from any residence, not just occupied ones. Tanner states the 500' setback makes no sense.

16.14 – Junkyards Tanner has issues with the transition strip, especially related to a 10 acre parcel. The transition strip would leave very little area to use for the junkyard. Tanner comments on discussion he's had with an owner of a junkyard. Tanner suggests changing the setback to 25 or 50 feet because all other laws would need to be complied with anyway. There was discussion on parcel size, fences and other proposed setbacks. There was discussion on noise.

1 16.17 Marinas and Canoe Liveries and 16.20 Outdoor Recreation. **Tanner** asks why they
2 must be on a major thoroughfare. **Seeger** responds that this is what is in the ordinance.
3 Note: there are two (2) Sections 16.25 and the article needs to be renumbered from that
4 point. **Tanner** comments that he's worked on boats and it's hard to work on the boat unless
5 it's in the water. **Tanner** questions the requirement of green roofs for buildings over 20,000.
6 **Seeger** explains a green roof is a roof partially or completely covered and covering the entire
7 roof may not be required. He states this is a step to building low impact development and the
8 Council of Governments is really pushing it right now. There was discussion on how and who
9 determines how much is green. It was commented that we had talked about this at a
10 previous Planning Commission meeting and several ZORC meetings.

11
12 **Tanner** states we have to deal with the 200' setback issue for junk yards, and for hunt clubs
13 to follow the state law. **Pitcher** comments that we have read this so many times over the past
14 year she isn't really inclined to make any more changes now. She states we can work on
15 changes during the next revision to the zoning ordinance. **Damm** states she is uncomfortable
16 with requiring the green roof would prefer encouraging such and thinks possibly a discount in
17 the form of a lower permit fee would be better. **Neiger** agrees, especially with the economy
18 the way it is. **Damm** comments that she would be more comfortable with stating upfront that
19 this is a work in progress. There was some discussion that this just patches up the zoning
20 ordinance and there will be work starting on a new ordinance soon. There was more
21 discussion on side yard setbacks on Junkyards.

22
23 **Motion** by Tanner seconded by Moorman to delete G in 16.14 and default to the setbacks in
24 the district. Discussion on fencing, what could happen if the neighbor built a junkyard, and
25 legal review. There was discussion that junkyards are allowed in many places in the county.
26 **Roll Call Vote:** Roberts: Nay Damm: Nay Tanner: Aye Ross: Nay Moorman:
27 Aye Pitcher: Nay Ralston: Aye **Motion Failed 4 – 3.**

28
29 **Motion** by Tanner seconded by Moorman to change 16.14.B to 20 acres. **Roll Call Vote:**
30 Ross: Aye Roberts: Aye Moorman: Aye Tanner: Aye Pitcher: Nay Damm:
31 Aye Ralston: Aye **Motion Carried 6 - 1**

32
33 **Section 16.11 Motion** by Tanner supported by Pitcher to change 16.11C so that hunting will
34 not occur within 450 feet of an occupied building as per Michigan State law and Change D
35 hours of operation to legal hunting hours. Tanner read the Safety Zone paragraph of the
36 Michigan Hunting Guide and pointed out the hunting hours chart in the Guide. There was a
37 brief discussion on noise. **Roll Call Vote:** Pitcher: Aye Moorman: Aye Ross: Nay
38 Roberts: Aye Damm: Aye Tanner: Aye Ralston: Aye **Motion Carried 6 - 1**

39
40 G. Decision **Motion** by Tanner seconded by Roberts to recommend to the Board of
41 Commissioners that they adopt Article 16 Special Land Use Permits Supplementary Use
42 Regulations as amended and corrected incorporating the previous motions and renumbered.
43 Ayes: All Nays: None **Motion Carried**

44
45 **Motion** by Tanner seconded to Damm to approve and forward to the Board of
46 Commissioners for adoption, amendments to Article III General Provisions and
47 Amendments to Article II Definitions Ayes: Damm, Moorman, Ross, Pitcher, Ralston,
48 Roberts Nay: Tanner **Motion Carried 6 - 1**

1 There was discussion that Attorney Figura has been writing the adoption language for the
2 County Board to sign. The Zoning Dept. will forward to the attorney the information needed
3 for him to write the adoption language.
4

5 H. Close Public Hearing 8:57 p.m.
6
7

8 VI. Committee Reports

9 A. Zoning Ordinance Update Committee Report **Moorman** reports the Nov. 6, 2008
10 meeting had about 15 people in attendance. They looked at a draft of a wind energy
11 ordinance and several people are going to a seminar on wind energy. They looked at the
12 Platte Township Zoning District and should be able to move pretty quickly on that. There was
13 discussion on the Platte Lakes Watershed and they have invited the Lake Township Zoning
14 Administrator (Nancy Simmons) and Jim Sheets to the next ZORC meeting for their input. He
15 reports there are concerns about the vegetation issues. He thinks wind energy will take the
16 longest. He states the next meeting is December 4, 2008. **Pitcher** comments that Lake Twp
17 meets at 7 p.m. that night. **Tanner** states he is puzzled as to why there is a need to create a
18 Platte Township Zoning District. He asks if we could create a zoning district that could be used
19 elsewhere. **Seger** says that it could be put into one of the future districts and used anywhere
20 in the County. **Seger** comments that they just went to the master plan and took out uses that
21 they didn't want. **Neiger** comments that Platte Township didn't like the Rural Preservation
22 districts being a dumping place for uses that didn't fit anywhere else and some of their desires
23 are already addressed in the new land use tables. **Tanner** comments he thinks we should
24 revisit density zoning again. There was some discussion on the Turtle Lake Overlay District.
25 **Moorman** reports Inland Township is waiting for someone from Turtle Lake to come to them.
26 There was some discussion on conflict with Wind Energy Seminar and Betsie River Natural
27 River zoning appeal.
28

29 B. Updating Comprehensive Plan

30 1. Committee Reports- **Neiger** reports the work is in limbo until a decision is made
31 on his position. He reports that he has been working on the Parks and Recreation
32 Commission's plan with their consultant, the trail and some work on the reports. **Tanner**
33 reports on the Joint Parks and Recreation Commission and Planning Commission meeting and
34 public input session reporting that representatives of the trail, lighthouse and other recreational
35 groups attended and a report will be forthcoming. He adds the surveys were well responded to
36 and are done. **Neiger** commented it was an important meeting, historic because it was a joint
37 meeting and addressed historical and cultural issues. **Tanner** will be scheduling another goal
38 setting session.
39

40 Chairperson Ralston Recessed the meeting at 9:16 p.m.

41 Chairperson Ralston Reconvened the meeting at 9:26 p.m.
42

43 2. Implementation of Intergovernmental Strategies-**Ralston** reports Summit will be
44 February 21, 2009 at the PRA Hall and will focus on the active groups and possibly bring in an
45 agriculture component. Steve Fouch has ideas for a couple presenters. **Damm** reports they
46 are getting a stronger team all the time. **Neiger** reports on broadband and suggested using
47 the trail as part of the backbone. There was discussion on groups interested in broadband
48 such as schools, homeland security, sheriff dept., and hospital. There was discussion on
49 potential speakers. **Damm** described a broadband system in Mansitee County.
50

1 a. Report on sub-committees activities Reported above

2
3 C. Grand Vision – Pitcher reports 12,084 ballots were returned in the 6 county area. The
4 goal was to have 15,000 contacts and between the ballots and people who worked they made
5 that goal. Feb. 4, 2009 preliminary reports should be out. This phase will be over and there
6 will be a list of potential projects eligible for some funding. Pitcher believes the implementation
7 funding will be about 2.4 million. Pitcher and Ralston say some of the implementation funds
8 will be available to us. Glen Puitt states they are pursuing other funding sources as well.
9

10 **VII. Unfinished Business**

11 A. Recommendation to BOC on LSL Contract for Zoning Pitcher reports that Dawn
12 Olney told her that at the October Commissioner's Meeting any discussion was postponed until
13 the November meeting.
14

15 B. Joint Meeting – Board of Commissioners, Planning Commission, and Townships
16 on representation on the Planning Commission **Ralston** reports that she and Mark Roper
17 have been working with Richard Figura, Esq. and Kurt Schindler, MSUE Cadillac Office and
18 the townships. They have met with both Figura and Schindler and they have suggestions for
19 the planning commission ordinance. There is another meeting set for the 21st. They are
20 looking at December 15 or 17 as date for the meeting. There was some discussion on dates.
21 Ralston states the Board of Commissioners meets on the 16th and no decisions can be made
22 until after the joint meeting.
23

24 Honor Planning Commission Ordinance. Discussion on how Don Tanner got a copy of it in his
25 packet. Neiger states the new law has differences in villages from counties. Tanner state he
26 thinks it's worth looking at.
27

28 Pitcher excused 10:00 a.m.
29

30 **VIII. New Business**

31 A. Recording Minutes Protocol Discussion on how long tapes have to be kept.
32 **Motion** by Tanner seconded by Moorman to keep tapes of meetings for one (1) year. Ayes:
33 All Nays: None **Motion Carried**
34

35 B. Protocol for Meetings in General Ralston reports that we now have a motion
36 recorder and a sheet to keep track of votes. **Tanner** states he doesn't have a problem with
37 public input being general public input. **Ross** explains that having allowing public input off the
38 agenda in the beginning can really slow down a meeting. She states they do it at the school
39 board. **Ralston** states that we will do more roll call votes.
40

41 Dealing with minutes **Tanner** reports he has attended meetings where they
42 have high tech equipment. **Neiger** states that he sent his draft minutes to some of the
43 commissioners for input. **Eric Van Dussen** again read portions of the open meetings act
44 regarding the minimum standard. **Tanner** reported on action taken by the Court requiring the
45 establishment of a record when a Zoning Board of Appeals denied an application. There was
46 a directive to put the October minutes on the next agenda.
47

48 **XI. Zoning Administrator's Report** Seger reports that part of his job is review and
49 approval of any storm water documents. He states that his position as Deputy Drain
50 Commissioner takes care of some of what the zoning administrator used to do, which is to

1 review site plans for storm water issues. He reported on the Cold Creek Watershed, working
2 within the drain code, and possibly establishing drainage district (controlling damage caused
3 by storm water) where needed. Seger briefly described what the drain code does, who does
4 it. There was discussion on the draft overview of the Cold Creek Drainage area. **Seger**
5 explains this will be a long term project involving the MDEQ and MDNR. **Tanner** states there
6 are 2 other county drains, formerly under the supervision of the County Road Commission and
7 that Harold Saffron could tell where they are.

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9 Roberts excused 10:13 p.m.

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11 **XII. Director's Report** Neiger reports slow work on the comp plan, and that he has been
12 working on the Parks and Recreation Commission Master Plan. He announced an oil and gas
13 well seminar has been scheduled for Dec. 6, 2008, at the Benzie Central High School
14 Auditorium at 10:00 a.m. Neiger did an email blast to supervisors and other government
15 officials about the seminar and also sent it to surrounding counties. He reported on successful
16 Joint Parks and Recreation Commission and Planning Commission meeting. He reports
17 nothing is happening with the new trail, that it is bottlenecked in Lansing. He reports a section
18 of the rail bed from Kaleva north has been purchased by the State, expects other sections to
19 be purchased soon. He reported on putting the broadband backbone along the trail.

20
21 **XII. Correspondence None**

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23 **XIII. Presentations and Announcements None**

24
25 **XIV. Public Input – Items On or Off the Agenda, within the Planning Commission's**
26 **Jurisdiction** **Eric Van Dussen** wonders why some couldn't stay to the end of the meeting.
27 He states his digital recorder adequately picks up Anne Damm. He states he thinks this board
28 should bring up getting better equipment at the joint meeting. He asks if a special meeting will
29 be scheduled between the Joint Meeting and the end of December when Mr. Neiger is to be
30 eliminated. He asks if anyone has reviewed the appeal the MDNR filed on the CLPRA suit.
31 He states that he thinks the Planning Commission should get it and get aggressive and
32 knowledgeable about the issue. He states that he thinks the Planning Commission should
33 look for different counsel, he doesn't think Mr. Figura is working for the Planning Commission
34 but is working for Chuck Clarke and certain commissioners. He states he has used the
35 meeting tapes in his lawsuits and they were helpful. **Tanner** reports that he has spoken to
36 David Bedells (county attorney for the suit) and he was told that he was the only commissioner
37 who has inquired except Chuck Clarke. He reports that they are setting up a meeting with
38 Neiger and himself to discuss continuation of working on the case. Several planning
39 commissioners state they want to attend the meeting. **Tanner** reports that the Attorney
40 Bedells has jumped on with the MDNR and that Attorney Bedells is continuing to act as if he is
41 retained because he has not heard from the county otherwise. **Tanner** states he would like to
42 see him continue to represent the Planning Commission. Responding to comment about Dick
43 Figura he thinks questions have been very carefully put to him, especially the question of mis-,
44 mal- and non- feasance. He asks Ralston if she can make headway with respect to that.

45
46 **XV. Adjourn** Chairperson Ralston adjourned the meeting at 10:33 p.m. The next meeting
47 will be December 11, 2008 at 7:00 p.m.

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49 Respectfully Submitted:

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3 **Karen Roberts, Secretary**

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6 **Christi Flynn, Recording Secretary**