

**BENZIE COUNTY PLANNING COMMISSION
MARCH, 12, 2009
MINUTES**

MEMBERS PRESENT: Mike Moorman, Don Tanner, Karen Roberts, Kathy Ralston, Katherine Ross
MEMBERS EXCUSED: Mary Pitcher,
MEMBERS ABSENT: Anne Damm
STAFF PRESENT: David Neiger, Christi Flynn
OTHERS PRESENT: Wilfred Swiecki, Glenn Puit, Bob Bigelow, Tom Mountz

I. Open the Meeting ~~Moorman~~ *Ralston^{cf}* opened the meeting at 7:19 p.m.

II. Approval of the Agenda **Motion** by Roberts seconded by Moorman to approve the agenda as submitted. Ayes: All Nays: None Excused: Pitcher Absent: Damm **Motion Carried**

III. Approval of the Minutes of the Jan. 8, 2009 Meeting **Motion** by Moorman seconded by Roberts to approve the Minutes as submitted. Ayes: All Nays: None Excused: Pitcher Absent: Damm **Motion Carried**

IV. Public Input – Items on the Agenda

- Mr. Swiecki makes the following comments:
 - The definitions in the plan are Benzie County's.
 - The plan has been adopted by Lake Township, and he doesn't speak for Lake Township.
 - There is a spending issue where money was spent and they weren't informed beforehand.
 - He doesn't know what the Planning Commission wants him to do.
 - His experts and the State of Michigan agree the PLIA management plan is good.
 - Benzie County may approve permits, but had better be sure they don't violate the 8 micrograms of phosphorus per liter as per the Settlement Agreement. If the PLIA finds out that approved plans will allow an increase of phosphorus into the lakes they will be after the county.
 - He thinks the county doesn't want to work with them (PLIA).

- 1 • Neiger comments that the memo passed out tonight was dated in January but the
2 Planning Commission didn't receive it until just before the February meeting which was
3 canceled.

4

5 **VI. Committee Reports**

6 A. Zoning Ordinance Update Committee Report (ZORC)

- 7 • Moorman reports:

- 8 ▪ The Platte Lakes Area Management Plan has been forwarded to the
9 Planning Commission for action.

- 10 ▪ Roberts is chairing a wind energy committee working on a wind energy
11 component for the Zoning Ordinance.

- 12 ▪ The committee is working on new language for Platte Township zoning as
13 suggested by legal counsel. They are working to amend the current Rural
14 Preservation District to try to meet Platte Township's needs.

- 15 • Neiger reports on the rural preservation district, and the history that allowed so
16 many non-residential uses in the district.

- 17 ▪ He is splitting the existing Rural Preservation District with 4 different lot sizes
18 into 4 separate districts which will have different uses allowed in each.

- 19 ▪ He explains how to use the land use table.

- 20 ▪ Conservation Planned Unit Developments (PUDs) are the only PUD
21 available in the large districts.

- 22 ▪ He believes that most of Platte Township is in favor of this.

- 23 ▪ The larger acreage districts will be more restrictive than the smaller ones
24 (RP 2.5 and RP-5). Additionally more types of PUDs may be allowed in the smaller
25 acreage districts, possibly including Mixed Use or Commercial PUD's.

- 26 ▪ Places where different uses should be allowed were discussed.

- 27 ▪ He states there is minimal industrial zoning at this time but it may be
28 expanded later on a case by case basis.

- 29 ▪ The wind energy committee meets at 3 p.m. on the first Thursday of the
30 month.

- 31 • Tanner states that Joyfield is very interested in this process.

32

33 B. Updating Comprehensive Plan

1 1. Comprehensive Plan Update Committee(CPUC)

- 2 • Neiger reports his primary focus has been the Parks and Recreation Commission
3 Master Plan. They have been working on the goals, objectives and action strategies,
4 plus cultural and historical amenities and services.
- 5 ▪ Approximately 10 projects, including trail development from Thompsonville
6 to Interlochen and connecting the Betsie Valley Trail to the High School and the
7 Village of Honor are included.
- 8 ▪ The final draft should be ready by next month.
- 9 • Neiger reports that the SocioEconomic report needs to be updated, although the
10 Planning Commission has adopted it. It needs to have some comments inserted.
- 11 • Forestry is almost finished but there are some problems with the text.
- 12 • He will try to schedule a joint Comprehensive Plan Update Committee/government
13 subcommittee meeting to get as much input as possible. He hopes to have the meeting
14 the last week in March.

15
16 2. Intergovernmental Cooperation Summit Ralston reports the Summit was
17 held on February 21, 2009.

- 18 • She hopes there will be more involvement from the community.
- 19 • The leaders of the “initiatives”/”alliances” from this summit will become the steering
20 committee for future summits.
- 21 • Communication is top issue.
- 22 • Roberts reports that MLUI is planning to hold some “summit” type, groups looking
23 at cooperation.
- 24 • Glenn Puit states it will not be a formal entity but will be a group looking at forms of
25 communication and coordinating with other organizations that are doing the same thing.
- 26 • As goals and objectives are developed perhaps some of the groups could combine.
- 27 • Funding for the Summit is an issue as it is not self funding. Ralston states that if
28 the Summit continues we will have to look at some outside sources of funding. She
29 reports that it cost \$1,631.03 to put the summit on and \$795 was taken in. She adds
30 hearing comments that having the local food was a plus.
- 31 • Ross reports that Tom Longanbach, Equalization Department, is on the grants
32 group and he signed them up with a yahoo group where people can post grants that are
33 available

- 1 • An ICC meeting is scheduled for May 8, 2009.

2

- 3 C. Parks and Recreation Commission Covered above.

4

- 5 D. Zoning Board of Appeals – Tanner states the statute allows him to be on the ZBA.
6 Flynn announces 2 ZBA applications are being processed.

7

8 **VII. Unfinished Business**

- 9 A. Amendment Adoption Process

- 10 • Moorman reviewed existing policy.
- 11 • There was discussion on consultants and legal reviews.
- 12 • Neiger states we're just about finished with 1st rewrite and need to replace Mark
13 Wyckoff with someone of that caliber to work on the next stage.
- 14 ▪ Neiger would like language fairly well set before review.
- 15 ▪ Tanner states the review process will vary depending on the complexity of
16 the proposed amendment(s).
- 17 ▪ Moorman would like to add two (2) times for legal counsel, if required.
- 18 ▪ Neiger states when we get done with the issues we're working on and start
19 on the new rewrite we must have a consultant on board who will present a
20 package.
- 21 ▪ Neiger reports in the past, the consultant wrote the language, then it went to
22 a committee or the Planning Commission, and then for legal review if it was
23 necessary. He states if the consultant has enough experience in writing Zoning
24 Ordinances, you don't need as much legal review.
- 25 ▪ Roberts suggests that the consultant prepare the amendment, then it goes
26 to the ZORC, then to the Planning Commission, then to legal review, and then to
27 public hearing.
- 28 ▪ After further discussion the proposed amendment process reads as follows
29 and is shown on the attached flow chart:
- 30
- 31 Prepare, review and present to the ZORC by the Consultant. ZORC reviews and either
32 returns it to the consultant or presents to the Planning Commission for Public Work
33 Session. After the work session the Planning Commission/ZORC either returns it to the

1 ZORC for additional work or forwards to the Zoning Attorney for Legal Review. The
2 Planning Commission reviews the legal opinion and revises, then forwards to Public
3 Hearing. The decision of the Planning Commission is forwarded to the County Board of
4 Commissioners for action.

5

6 **Motion** by Roberts seconded by Tanner to approve and adopt the amendment procedure
7 as shown on the flow chart (attached). Ayes: All Nays: None Excused: Pitcher
8 Absent: Damm **Motion Carried**

9

10 Chairperson Ralston called a recess at 8:15 p.m.

11 Chairperson Ralston called the meeting back to order at 8:22 p.m.

12

13 *B. Platte Lakes Area Management Plan

14 ● Moorman suggests reviewing the “Talking Points” submitted by Wilfred Swiecki
15 before going to the staff report.

16 ● Neiger reports that the plan went to committee in 2005 and the consensus was that
17 the Planning Commission had a full plate at the time. He states the Planning Commission
18 still has a full plate. He adds that there never was enough interest to take up the issue.

19 ■ The typo on #5 was corrected to 2008.

20 ■ Neiger states the following:

21 * Lake Township did adopt the proposal in 2005.

22 * He did work on the committee, but it was written for Lake Twp.

23 * The big issue is the single focus on phosphorus versus our focus on
24 the whole water body not just the phosphorus numbers.

25 ● Neiger comments on the application fee and the escrow account:

26 ■ Yes the application was received in 2008 and fee was paid.

27 ■ Mr. Swiecki was not contacted in advance of the outside review but he
28 thought there was money in the account. When he found out there were no funds
29 left in the escrow account, it was too late.

30 ■ The Planning Commission was in agreement to get the outside opinion, they
31 had questions on the content and legal opinion and they felt Dr. Grobbel was the
32 best person for an outside opinion.

33 ● Ross asks for summary of the difference in opinions on the buffer issue.

- 1 ▪ Neiger reports that some of the previous reports have caused some people
2 to believe that vegetation should be harvested to prevent phosphorus from getting
3 into the lake.
- 4 ▪ There were previous discussions with Mr. Swiecki and it was explained that
5 an undisturbed vegetation buffer will prevent phosphorus and other nutrients from
6 getting into the lake.
- 7 ▪ He had agreed at the time that harvesting the vegetation would be good for
8 Lake Township.
- 9 ▪ Neiger states that Dr. Grobbel felt that the buffer was moving towards more
10 of a structure setback and not a buffer zone, as did some of the Planning
11 Commissioners.
- 12 ▪ Neiger states the buffer should be between 25 and 100 feet wide, which
13 could be a problem around the lakes due to what is there now.
- 14 ▪ Neiger states the best management practice is an undisturbed buffer with a
15 minimal amount of beach.
- 16 ● Neiger adds that the prevailing wisdom at the time the Plan was being drafted was
17 about the same as it is now. There was information from Wisconsin stating that a 100 foot
18 buffer was best, input from Ron Harrison (formerly of the Conservation District), Mary
19 Pitcher (as Director of the Conservation District) and Diane Hash (formerly of the
20 Conservation District) expressing concern about the Plan. Additionally there was
21 information from studies done in Minnesota.
- 22 ● Tanner would like to think that at some point there could be some agreement.
- 23 * He states he sees issues of harvesting vegetation, and removing the
24 clippings.
- 25 * He adds that we can't adopt legislation requiring buffer strips.
- 26 * Additionally, re-vegetating can be done, but it needs to be done voluntarily.
- 27 ● Neiger comments on the procedure to process the application:
- 28 ▪ The Zoning Administrator looks at it and determines it's complete or not.
- 29 ▪ The Zoning Ordinance Rewrite Committee has had many discussions on
30 this matter.
- 31 ▪ We now have a fee that needs to be paid, and the PLIA says they won't pay
32 it.

- 1 ▪ It is difficult to continue with discussion, when it seems like the PLIA does
2 not want to work together.
- 3 ▪ The Zoning Ordinance Rewrite committee sent it to the Planning
4 Commission and the Planning Commission should move on to public hearing.
- 5 ▪ We can't make a determination that it is incomplete at this point.
- 6 ▪ We have an escrow process that we followed, but there are no funds left in
7 the escrow fund.
- 8 • The escrow account fund balance and how it was used was discussed. Ralston
9 states that we might owe Mr. Swiecki an apology, but that she thinks the Planning
10 Commission followed the Ordinance.
- 11 • Getting a map of the proposed management area was discussed.
- 12 • Tanner comments that we can extend an apology to PLIA, acknowledging that we
13 may have differences of opinion in reading the ordinance and ask for the money, and
14 move on to working to get something that we both can agree on
- 15 • Wilfred Swiecki states:
- 16 ▪ When the document was put together PLIA used 99.9% of Don Swartz's
17 language because they didn't want Don Swartz to challenge it.
- 18 ▪ There is an 8 micrometer per liter limit of phosphorus per the Settlement
19 Agreement.
- 20 ▪ There are 2 ways to handle the issue, if the Plan is not adopted he will
21 challenge each and every permit that is issued in the watershed, and if not resolved
22 satisfactorily they will fight it out in court.
- 23 ▪ The PLIA has the data to challenge everything Dr. Grobbel says.
- 24 ▪ The Plan doesn't mandate that you have to mow the grass, but if you do,
25 you have to do it right.
- 26 • People aren't happy with a 25' x 4' beach away from the lake.
- 27 • He can't do anything that will increase the load of phosphorus into the lake.
- 28
- 29 • Neiger states he thinks we are obligated to act on the language that has been
30 presented as there has been no acceptance of changing the language. Additionally he
31 states Minnesota and Wisconsin both have different plans. Mr. Swiecki states that
32 Minnesota has passed a statewide phosphorus ban. Mr. Swiecki offers to assemble the
33 experts and bring them.

1 • Neiger comments that we have been working on this since September, and
2 believes the Zoning Ordinance requires that we act promptly on the application. Flynn
3 states that the ordinance does require that we act promptly but we cannot force the
4 applicant to change their application. But, if the PLIA and the Planning Commission agreed
5 to step back and take another look we would have an obligation to do that. There was
6 some further discussion on negotiating, getting more expert opinions and grandfathering.
7 There was consensus that the Planning Commission wanted an opinion of its own. Tanner
8 suggests adopting what the Planning Commission thinks is best and see if Mr. Swiecki
9 comes in and says it's a violation of the settlement agreement if we approve permits. Mr.
10 Swiecki is sure he will find them.

11
12 **Motion** by Ross seconded by Roberts to move the application and supporting documents
13 to public hearing. The supporting documents include, but are not limited to the letters from
14 Attorney Figura, the January 25, 2009 letter from Mr. Swiecki, Dr. Grobbel's letter, the
15 "Talking Points" submitted by Mr. Swiecki, the documents passed out at Dr. Canale's
16 presentation, and the DNR letter of approval. Flynn will work with Mr. Swiecki to get all the
17 documents together. Ayes: All Nays: None Excused: Pitcher Absent: Damm

18 **Motion Carried**

19
20 Tanner excused at 9:15 p.m.

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22 The meeting adjourned at 9:15 p.m. due to lack of a quorum. The next regular meeting will
23 be April 9, 2009.

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26 Respectfully Submitted:

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30 _____
31 Katherine Ross, Secretary

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35 _____
36 Christi Flynn, Recording Secretary

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41 chris P:\pcminute\2009\MARCH 12\3 12 09 minutes.doc