

1 BENZIE COUNTY PLANING COMMISSION  
2 JUNE 11, 2009  
3 MINUTES  
4  
5

6 **MEMBERS PRESENT:** Ralston, Pitcher, Ross, Moorman, Damm, *Roberts* <sup>(cf)</sup>  
7 **MEMBERS EXCUSED:** Tanner  
8 **OTHERS PRESENT:** Chuck and Donna Clarke  
9

10 **I. Open the Meeting** Ralston opens the meeting at 7:05 p.m.  
11

12 **II. Approval of the Agenda**

- 13 ● **Ralston** states she has additional items for the agenda.
- 14 ● **Roberts** reports that Flynn had asked in a ZORC meeting for direction on the Zoning  
15 Ordinance. It is stated that the Zoning Ordinance issues would be discussed later in the  
16 meeting.
- 17 ● Ralston adds The PLIA Annual Meeting under Unfinished Business as A and Board of  
18 Commissioners/Planning Commission Communications as B, she comments that there are a  
19 couple things, including the Ordinance and Planning Commission reconstitution and  
20 Production Industries Decision Follow Up. Production Industries is added as C under New  
21 Business. **Neiger** comments that there is no correspondence that he is aware of, there are a  
22 couple documents he passed out. **Motion** by Pitcher seconded by Damm to approve the  
23 agenda as amended. Ayes: All **Motion Carried**  
24

25 **III. Approval of the Minutes of May 6 and May 14, 2009**

26 **MAY 6, 2009**

- 27 ● Neiger states he passed out an email from Dan Wagner (Gourdie Fraser) making  
28 changes to the minutes in the public hearing for Production Industries portion of the meeting.
- 29 ● **Pitcher** states she has no problem with the changes.
- 30 ● **Moorman** makes the following corrections:
  - 31 ▪ Page 2, line 5 change the second "Wagner" to "McGrew),
  - 32 ▪ Page 2 item 47, delete the word "the" between extra and insulation,
  - 33 ▪ Page 3 line 33, delete commas,
  - 34 ▪ Page 4 line 5, correct Homes to Holmes,
  - 35 ▪ Page 4 line 36 insert "have" between tests and been, and
  - 36 ▪ Page 7 change wasted to waste.
- 37 ● **Motion** by Pitcher seconded by Ross to approve the May 6, 2009 Minutes as corrected  
38 by Dan Wagner and Mike Moorman. Ayes: All **Motion Carried.**

39 **May 14, 2009**

- 40 ● **Moorman** makes the following corrections:
  - 41 ▪ Page 5 line 4 change states to stated.
- 42 ● **Neiger** makes the following correction:
  - 43 ▪ Page 6 line 28 change Cyrus to Syrus, and Bingham to Bingman
- 44 ● **Ralston** makes the following correction:
  - 45 ▪ Page 7 line 9, correct Ann to Anne
- 46 **Motion** by Moorman seconded by Ross to approve the May 14, 2009 Minutes as corrected.  
47 Ayes: All Nays: None **Motion Carried**  
48

- 1 **V. Public Input** None  
2
- 3 **VI. Reports**
- 4 A. Zoning Ordinance Update Committee
- 5 • **Moorman** reports nothing new on Land Use.  
6 • A schedule for the Wind Energy Ordinance was drafted. **Roberts** reports that July 2 will  
7 be the last committee meeting; July 9 will be the workshop at the Planning Commission, then  
8 to Dick Figura for legal review and a possible August 13, 2009 public hearing date.  
9
- 10 B. Comprehensive Plan Update Committee **Neiger** reports it has been at a standstill since  
11 everything has been reprioritized. There is less staff and less time to work on it. He adds that  
12 he has been working on the Capital Improvements Plan, which has risen in priority because it  
13 needs to be done before the budget process is completed. **Ralston** adds that Annual Report,  
14 Capital Improvements and Budget are pressing issues.  
15
- 16 C. Intergovernmental Cooperation Committee **Ralston** reports she is trying to get  
17 something in front of the County Board based on the last brainstorming session. She has  
18 some ideas about communication.  
19
- 20 D. Goals and Objectives
- 21 **Damm** asks about getting a consultant budgeted and the part time position in the  
22 Planning Department.
- 23 • Staff Training and Professional Development **Ralston** reports on conversations about  
24 having a classroom situation for Citizen Planner. **Neiger** reports that they are working on one  
25 for Leelanau County, but they do not have a location set yet. There was brief discussion on  
26 the possibility of joining with that one.
- 27 • Zoning The Wind Energy Article is almost done.  
28 • Updates to Zoning Districts
- 29 ▪ **Neiger** reports that he is working on the districts, the land use table, and the  
30 dimensional use criteria (Phase IV). He states he is pretty close to getting a draft of the  
31 Capital Improvements to Ralston and Moorman. **Neiger** reports that only Planning  
32 Commission projects and staff activities are left on the annual report. He asks if everyone got  
33 a copy of the Zoning Report. **Ralston** will send it out to everyone. **Neiger** describes the  
34 permitting portion and states it is difficult to get a trend. He asks the Planning Commission if  
35 they like the format of the permitting document. He states there is something not quite right  
36 about it, but it might be easier to read if there are some changes made to it. He asks for  
37 feedback on it.
- 38 ▪ **Neiger** states he has started work on the budget.  
39 • Determine Direction for Zoning Ordinance, immediate and long term. Brief discussion  
40 on reorganization and editing that Flynn was going to do.
- 41 • Planning and Zoning Improve Outreach to Community.
- 42 ▪ **Ralston** comments that what is going on with the Ordinance is going to be a big  
43 outreach to the Community.  
44 ▪ **Neiger** reports that he has shared our ordinance with the Village of Benzonia and  
45 the Village of Beulah might be looking for input on their ordinance.  
46 ▪ **Ralston** comments that the Web Site is achieving some community outreach as  
47 well.

1           ▪       **Pitcher** comments that LIAA is coming to the County Board meeting on June 19,  
2 2009 at 10:00 p.m

3       •       Adopt the Planning Commission Ordinance. Done  
4

5       •       **Ralston** states the By-Laws need to come next. Completing a draft needs to be done.  
6 The new Planning Commission Ordinance requires this. There is discussion on creating a  
7 Statement of Ethics for the Planning Commission and Zoning Board of Appeals. **Neiger**  
8 passes out samples. He states he will send Kurt Schindler's manual on how to do bylaws to  
9 each Planning Commissioner.  
10

11       •       **Damm** suggests that the application process be reviewed and she recommends  
12 involving all those affected. She recommends a site visit as early as possible. **Neiger**  
13 comments that the procedure is contained in various places in the ordinance. He adds that he  
14 likes to have 2 planning commissioners at the pre-application conference. There is discussion  
15 on following the requirements in the Zoning Ordinance. The following comments are made:

16           ▪       There is a lot more to look at than down shining lights and landscaping.

17           ▪       Public opinion should not be the deciding factor on a major special land use.

18           ▪       **Neiger** comments that once you have established a process in the ordinance you  
19 should follow it. He adds that we only require one public hearing, and sometimes that public  
20 hearing goes on because of the length the amount of input. But the pre-application process  
21 normally does not have any public involvement.

22           ▪       We need to be more familiar with the project from the beginning. And if the  
23 project is not suitable, we could say this is not going to go over instead of having the public  
24 show up at the hearing and point that out.

25           ▪       Going to the site well in advance of the public hearing with the site plan in order  
26 to put the project in context and become familiar with the area(s) is suggested.

27           ▪       We have to look at the good of the whole county, and you do not get that just  
28 looking at paper.

29           ▪       Dan McGrew made the point that the Planning Commission never went to the  
30 existing plant to see what actually goes on. There was discussion on how upset Mr. McGrew  
31 was and there was consensus that we should have gone to the plant.

32           ▪       There is discussion on whether or not changing the pre-application process  
33 would require a major amendment to the Zoning Ordinance or just be a minor procedural  
34 change. There is discussion that the Zoning Ordinance Rewrite Committee could work on the  
35 organizational structure of the Zoning Ordinance. Reviewing the pre-application process is  
36 added to Goals and Objectives.  
37

38 E.       Parks and Recreation Commission       **Neiger** reports that the Parks and Recreation  
39 Commission has completed the Parks and Recreational Plan, it's in draft form and out for  
40 public review. He described the review process and states the Public Hearing is scheduled for  
41 June 22, 2009. He states that it will come to the Planning Commission for review as a  
42 recreation white paper after adoption. **Neiger** explains that the Plan is used by the DNR for  
43 prioritizing grants.  
44

45 F.       Zoning Board of Appeals       **Neiger** explains the After-The-Fact setback case and stated  
46 the ZBA ruled in favor of the applicant in that case. He reviews the Griffen/Stal/Collins appeal  
47 in relation to a driveway permitted within the 15-foot driveway setback. He states the ZBA  
48 upheld his decision but comments that the decision may be challenged in Circuit Court. He

1 announces that the County Board had determined that the ZBA should be 5 members with 2  
2 alternates and appointed the two alternates. There is brief discussion on the Sand Dunes Act  
3 and the Wetlands Act.  
4

### 5 **VIII. Unfinished Business**

#### 6 A. County Board of Commissioners/Planning Commission Communications.

- 7 • There is discussion on budget items, the need for consulting funds, funding for  
8 an Assistant Zoning Administrator and a part time person in the Planning Department.
- 9 • There is some discussion on re-organizing the Zoning Ordinance.
- 10 • Re-submission of Ralston's March letter to the County Board was recommended.

#### 11 B. Platte Lake Improvement Association Meeting Report

- 12 • There is discussion on the natural vegetative buffer.
- 13 • **Ralston** reports that Mr. Swiecki will not stop natural vegetative buffers, but the  
14 PLIA will do nothing that will raise the phosphorus level. **Ross** adds that if people choose to  
15 have the buffers the PLIA will insist and enforce people to remove all the clippings.  
16

17  
18 Chuck and Donna Clarke arrive and the discussion moved back to budget issues.

- 19 • Clarke explains how the current budget was adjusted and why. He explains how  
20 legal fees are paid. He states he does not adjust salary items without Board Approval but he  
21 can adjust other line items if necessary. He adds that Neiger has the authority to make  
22 internal transfers was well. He explains that at the end of the year adjustments may be made  
23 to balance out different accounts because the auditors have a problem with line items being in  
24 the red.

- 25 • There was some discussion on making sure that funds for the consultant(s) and  
26 assistant zoning administrator are in the proposed budget to be submitted to the County  
27 Board. Clarke adds that if funds are required to hire a consultant during this fiscal year the  
28 Planning Commission should get that request in because funds would have to be found from  
29 somewhere else.

- 30 • There was discussion on the status of the part-time position in the Department.
- 31 • There is a brief discussion on the new and vacant seats on the Planning  
32 Commission.

- 33 • There is some discussion on consulting firms.

- 34 • There is some discussion on what tasks Neiger will be left with if a consultant  
35 does the zoning ordinance work and a part time zoning administrator is brought in. **Neiger**  
36 states he will go back to planning.  
37

### 38 **VIII. New Business**

#### 39 A. Appointment of the Planning Commission Executive Committee

- 40 • **Ralston** explains that the Executive Committee is required by the new Planning  
41 Commission Ordinance. Ralston, Moorman and Roberts are appointed to the Executive  
42 Committee. Ralston would like to set a meeting date soon.

- 43 • There is discussion on job descriptions and Human Resources studies that were  
44 started and a new study going on.

- 45 • Chuck Clarke reported on a presentation by Ed McIntosh for a wastewater  
46 treatment plan. There was brief discussion on a previous plan that would have covered  
47 several townships, but fell through when State funding was withdrawn for the study. Clarke  
48 states Anne Damm is up to speed on this project. Neiger asks to be kept informed.

1  
2 **Return to Unfinished Business**

3 **B. Platte Lakes Area Management Plan**

- 4 • More discussion on behavioral issues and banning phosphate fertilizer. There are  
5 comments that we do not have enough police power for that type of enforcement, that Dick  
6 Figura recommended not having that in the ordinance and that the PLIA was not willing to  
7 negotiate on this issue.
- 8 • It is stated that Allegan, Muskegon and Ottawa counties have ordinances that ban  
9 fertilizer with phosphorus in it. **Neiger** suggests having Steve Fouch research what the County  
10 can do as far as banning fertilizers.
- 11 • Discussion that some municipalities have the Health Department enforcing phosphate  
12 bans. **Neiger** will call Bill Crawford and check this out.
- 13 • There is discussion on the Turtle Lake Overlay section of the zoning ordinance and  
14 whether or not it addresses phosphate fertilizers. **Neiger** comments that if it is in there it is not  
15 enforceable. **Moorman** reads the paragraph in the Turtle Lake Overlay banning phosphate  
16 fertilizers.
- 17 • **Neiger** states that he is discussing Dick Figura's letter and Chris Grobbel's review of the  
18 proposed amendment in his staff analysis.
- 19 • There is discussion on buffers and that natural vegetation should be used in the buffer.  
20 There is considerable discussion on enforcing the requirement that if buffers are trimmed the  
21 clippings must be removed from the water area. **Pitcher** comments that it is legal to require  
22 buffers. It is stated that buffers reduce the amount of nitrates that end up in the water.
- 23 • There is discussion on the amount of testing which has been done on the lake, and its  
24 validity.
- 25 • There is discussion on Benzonia Township adopting an ordinance to deal with fertilizer  
26 and removing grass clippings. **Neiger** comments that he thought Jim Sheets (Benzonia  
27 Township Supervisor) had said the Township would adopt an ordinance. He also states that  
28 that is what Dick Figura is recommending.
- 29 • **Moorman** hopes that Mr. Figura will be at the public hearing because his objections to  
30 the Plan may come up.
- 31 • **Moorman** comments for discussion purposes, that he thinks that looking at the bigger  
32 picture, we could adopt this.
- 33 • **Neiger** comments that he thought the Zoning Ordinance Rewrite Committee had  
34 referred this issue back to the Planning Commission with a recommendation that it be denied  
35 based on Richard Figura's letter and the Chris Grobbel letter.
- 36 • There was discussion that the issue had not been passed to the Planning Commission  
37 with any recommendations. **Moorman** comments that ZORC was at an impasse because staff  
38 had their opinion and the PLIA had theirs and there didn't seem any way for a compromise.
- 39 • **Moorman** asks that Mr. Sheets be invited to the public hearing to provide input on the  
40 Township's position, or if he can not attend that he submit written comments. **Damm** states  
41 she would talk to Mr. Sheets.

42  
43 **New Business**

- 44 A. **Appointment of Planning Commission Executive Committee** Ralston reports that the  
45 Planning Commission Ordinance has been adopted and the number of Commissioners has  
46 been increased to 11. She states she has received a booklet that either Dick Figura or Kurt  
47 Schindler had sent to Dawn Olney (County Clerk) and asks if the Planning Commissioners had  
48 all received a copy. She explains that it outlines the process of filling a seat on the Planning

1 Commission and what important segments of the County are represented on the Commission.  
2 She reports that all terms on the Commission will end on September 15 and the new  
3 membership will be appointed at the same time. She states she is trying to get a mailing list  
4 ready with all the units of government and interest groups that may apply for a seat on the  
5 Planning Commission. There was some discussion on the interest groups that should be  
6 contacted.

7  
8 B. Almira Township WECS Amendment **Neiger** reports that it is a voluminous  
9 document and it appears to be more restrictive in residential areas than what we are working  
10 on. He adds that he did not find any major errors and that he believes that Almira Township is  
11 working with Long Lake Township on the issue. **Motion by Moorman** seconded by Roberts to  
12 direct Dave Neiger to make a simple response to Almira Township. Ayes: Ralston, Pitcher,  
13 Ross, Moorman, Damm Excused: Tanner Nays: None **Motion Carried**

14  
15 C. Production Industries No further discussion

16  
17 **IX. Directors Report** Neiger submitted a written report including zoning permits, capital  
18 improvements, the quality based selection for zoning ordinance editing, zoning ordinance  
19 administration. He states he left out a project he is working with Terry Money on which is the  
20 Trapp Farm flooding problem issues. He has also been working with the Parks and Recreation  
21 Commission and with 2 different legal cases, one is CLPRA vs Benzie County, (he is working  
22 with Ed Roy on that), and then with Dick Figura on the Cole vs Benzie County issue. He briefly  
23 describes the DNR boat launch issue and states his work has involved a lot of research into  
24 old ordinances, fining copies of notices, public hearings and the other minutia that is kept in  
25 our files.

26  
27 **X. Correspondence** Neiger states there is no correspondence that he is aware of.

28  
29 **XI. Presentations and Announcements** **Ralston** reports she has a couple people,  
30 including Randy, who would be willing to be on the Planning Commission. **Neiger** reports on  
31 Grand Vision and soon to be formed committees.

32  
33 **XIII. Adjourn** **Motion** by Moorman seconded by Roberts to adjourn. The meeting  
34 adjourned at 9:45 p.m. The next regular Planning Commission meeting will be July 9, 2009

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36  
37 Respectfully Submitted,

38  
39 \_\_\_\_\_  
40 Kathy Ross, Secretary

41  
42 \_\_\_\_\_  
43 Christi Flynn, Recording Secretary