

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

MINUTES OF A MEETING HELD DECEMBER 8, 2011

Agenda

ZONING ORDINANCE AMENDMENTS – SECTIONS 30.412 AND 76.410 E – PUBLIC HEARING

DISCUSSION ITEM – TREE PRESERVATION

UPDATE ON - I.T.C. PROJECT

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, December 8, 2011, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Kitty Gelling, Acting Chairperson
Bob Anderson
Carl Benson
Dave Bushouse
Richard Skalski
Millard Loy
Fred Gould

MEMBERS ABSENT: None

Also present were Jodi Stefforia, Planning Director; Karen High, **Zoning Administrator**; Attorney James Porter, and approximately 15 other interested persons.

Call to Order and Pledge of Allegiance

After the meeting was called to order at about 7:00 p.m., the “Pledge of Allegiance” was recited.

Agenda

The Acting Chairperson asked if there were any changes to the Agenda. Mr. Skalski made a motion to accept the Agenda as submitted. Mr. Loy seconded the motion. The Acting Chairperson called for a vote on the motion, and the motion passed unanimously.

Public Comment on Non-Agenda Items

The Acting Chairperson asked for public comment on non-agenda items. Hearing none, she asked that the Commission move on to the next item on the Agenda.

Minutes

The Acting Chairperson said that the next item was consideration of the proposed minutes of November 10, 2011. It was noted that the last word on page 1 should be “recited” and not “cited.” There being no further changes to the minutes, Mr. Gould made a motion to approve the minutes as amended. The motion was seconded by Mr. Skalski. The Acting Chairperson called for a vote on the motion, and the motion passed unanimously.

ZONING ORDINANCE AMENDMENTS – SECTIONS 30.412 AND 76.410 E – PUBLIC HEARING

The Acting Chairperson indicated the next item for consideration was Planning Commission review of a proposed amendment to Section 76.410 E regarding sign lighting and Section 30.412 regarding special uses in the “C” Local Business District. The Acting Chairperson called for a report from Staff. Ms. Stefforia submitted her report to the Planning Commission dated December 1, 2011, and the same is incorporated herein by reference.

Ms. Stefforia explained that the proposal to change the lighting primarily originated from residents on 10th Street who had complained regarding commercial lighting and thought this amendment would help address the issue, but without impacting other businesses which were not adjacent to residential property.

The Acting Chairperson asked if there were any questions of Ms. Stefforia, and hearing none, asked for input from the public.

Mr. Blake Crocker introduced himself to the Commission. He said he was there representing Crystal Car Wash. Mr. Crocker explained that historically the standards which had been applied to car washes were those set forth in Section 30.409 of the

Ordinance, as set forth in his letter to the Commission dated December 8, 2011. He asked that they not deviate from that standard and thought that standard should be applied to the proposed text change. He also raised a concern about not having a standard differentiating unattended from attended car washes and thought it is something which should be incorporated into the Township Zoning Ordinance. He questioned the level of specificity required for approval of car washes, and thought they should have a specific set of criteria similar to that for used car lots as set forth in Section 30.409. In support of that, he cited the *Whitman v Galien Township* case from 2010.

The Acting Chairperson asked if there was anybody else in attendance who wanted to comment.

Pam Larson introduced herself to the Planning Commission. She told the Planning Commission that she liked the changes for commercial lighting which abut residential housing to 9 p.m. and commended the Planning Commission for its consideration.

The Acting Chairperson asked for comments from Commissioners or staff.

Ms. Stefforia said she needed to correct some of the statements made by Mr. Crocker. She said three existing car washes in the Township were all approved as permitted uses, not under the review criteria of Section 30.409. She said that there was one unmanned bay attached to an existing business which was approved under the special exception uses standards, but that all of the existing car washes were approved as permitted uses, not as special uses. Therefore, she said they were not treating anybody unfairly or differently with the proposed text amendment.

The Acting Chairperson called for Planning Commission discussion.

Mr. Loy said he did not have a concern with the proposal to add car washes to Section 30.412. Mr. Gould said he was a little bit concerned about having unmanned stations, and said that there might be a problem if there was a breakdown of some kind. Mr. Skalski said he was fine with the proposal. Mr. Benson said he was trying to digest the information just given to him by Attorney Crocker, and he did not really appreciate receiving information at the eleventh hour.

Attorney Porter interjected that he did not believe the *Galien Township* case was applicable to the proposed Ordinance. He said, while he agreed last time with Mr. Crocker, that you have to have a specified use in your special use provisions of the Zoning Ordinance, he said he did not believe that each and every special use had to have specific criteria tailored to the use exactly. He said he thought that the general use provisions which apply to all special exception uses were sufficient to comply with State law which required standards for approval. He said, if every single special use had both general standards for approval and specific standards for approval, the Zoning Ordinance book probably could not fit on the dais.

Mr. Anderson said he would like to hear some more comments while he digested the input from the attorneys.

Mr. Bushouse said he thought it was perfectly logical to put car washes in the same category along with gas stations and thought the proposal was appropriate.

Mr. Gould said, after hearing comments from the Township Counsel, he thought that putting in the proposed two-word change to Section 30.412 would be appropriate. However, he wanted to note that, when this matter was reviewed, he hoped that the Township would use the same degree of scrutiny that they always did in looking at the special exception use permits.

The Acting Chairperson asked the Planning Director if the review of these two text changes should be in one motion or two. Ms. Stefforia suggested one motion. The Acting Chairperson asked for a motion for a recommendation to the Township Board on the text amendments. Mr. Loy made a motion to recommend the proposed text changes to the Township Board. The motion was seconded by Mr. Skalski. The Acting Chairperson called for a vote on the motion, and the motion passed unanimously.

Discussion Item – Tree Preservation

The Acting Chairperson said the next item on the Agenda was the Planning Commission discussion for a possible tree preservation ordinance. The Acting Chairperson called for a presentation from Staff. Ms. Stefforia introduced Karen High as the new Zoning Administrator. Ms. High presented a memo dated December 2, 2011, to the Planning Commission, along with two attachments, and the same are incorporated herein by reference.

Ms. High suggested that the Planning Commission review the questions which she had raised on page 1 of her memo as a method by which the Planning Department could receive input and guidance as to how to proceed with regard to this matter. Ms. High began with the following first question:

- ◆ *Why should the Township consider tree preservation at this time?*

Mr. Gould said he thought they should consider this matter to prevent what happened recently on M-43 just east of Meijer. He said there was no way possible to replace what had been taken. Ms. High suggested the Township consider protecting the view shed or protecting trees during development as one means of preserving trees. The Acting Chairperson also noted that the problem such as that on M-43 could create potential flooding problems, as well as destroy the rural character of the Township. Ms. High asked if it would make any difference if that type of tree harvesting had been done in stages, or if a buffer were imposed. The Acting Chairperson said she was not sure

what the right answer was, but she knew that their method of logging was wrong for the community. Several of the members suggested using some type of buffering or restricting the percentage of the property which could be logged without Township approval.

Ms. High asked the second questions, which was:

- ◆ *What would an ordinance be trying to accomplish?*

Ms. High asked if the goal was to protect woodlands, to protect individual trees, larger trees, or streetscape?

Mr. Skalski said he thought it depended upon the site location. He said he certainly would like to see the arterial roads and corridors have a tree canopy in order to maintain the rural atmosphere in the Township. He also suggested that the Township consider something like the City of Parchment does, and that is to assist in planting trees along the roadways on peoples' properties as a way of improving the Township. Ms. Stefforia said the Master Plan certainly touched on maintaining tree lines within the Township. Mr. Gould said if they truly wanted to do a complete job in this area, they would have to do some kind of a natural features inventory to know what they have and were trying to preserve.

Ms. High suggested that they look at the third question, which was:

- ◆ *What specifically would an ordinance be trying to protect -- specimen trees, specific types of trees or percentage of tree cover on a property?*

The Acting Chairperson said she thought they should try to protect trees overall. She said trees would certainly enhance value. Ms. Stefforia said she thought an ordinance would only cover large parcels or larger trees during development. Mr. Skalski suggested that a developer might want to clear the middle of the property, but it would be best if they got an inventory first to determine what valuable trees they might want to save and perhaps build around those areas. The Acting Chairperson said she thought they should try to encourage development similar to that of Moorsbridge in Portage.

Ms. High asked:

- ◆ *Where would the ordinance apply – public land, public land, all land?*

The Acting Chairperson said she thought an ordinance should apply to all land in the Township. Mr. Loy said he thought they needed to be careful of individual property rights, and he thought Township residents needed to understand what would trigger a review by the Township. He said without that understanding, they would clear cut the

property before they proposed development. The Acting Chairperson said that is exactly why they are discussing the issue now versus waiting until someone wants to develop.

Mr. Gould said, while he wanted to try to preserve the Township's rural character, he also wanted to be mindful of helping developers who wanted to develop in a constructive way. He said he did not want to unduly handcuff developers in the future. Mr. Benson said he thought trees did have a benefit and enhance value for residential development, but he was not sure that was necessarily true for commercial or in industrial properties. Mr. Anderson said he did not understand what the developer on M-43 was thinking. He said if they do plan to develop that property in the future, they are going to have to put trees back in accordance with the landscaping requirements of the Township and thought that might actually result in a higher cost for the developer.

Mr. Bushouse said he still believed that people's property belong to them and that he felt, rather than regulation, he would like to see some type of incentive and education to encourage people to plant and maintain trees on their property. He said was not sure that further government intrusion was the answer.

Ms. High thanked the Commissioners for their input and asked the Commission two additional questions:

- ◆ *Is there public support for a tree preservation ordinance on private land?*
- ◆ *Should we also look at a street tree program?*

Ms. High said she thought the Commission had actually touched on those two items, and again, thanked them for their input.

The Acting Chairperson suggested that the Planning Commission have this matter put on their February joint meeting with the Township Board and Zoning Board of Appeals for further discussion.

Ms. Stefforia suggested allowing the Planning Department to prepare a management strategy outline and submit it to the Planning Commission in advance of the February meeting in the hope of reaching some kind of consensus on a recommendation to the Township. The Planning Commissioners agreed.

Other Business

The Acting Chairperson said the next item up for consideration as **was** an update concerning the I.T.C. project. Ms. Stefforia apologized to those in attendance for the newspaper article. She said that there was not going to be a presentation by I.T.C. and that the article was a bit misleading in that it seemed to imply that there would be some kind of public meeting on this issue, when, in fact, all that the Planning Department had

planned was a brief update for the Planning Commission. She requested an overview from Attorney Porter.

Attorney Porter explained to those in attendance how the process had unfolded. He expressed his opinion that I.T.C. had been less than forthright in its dealings with the Township and the public. He explained, in response to the lack of information received from I.T.C., the Township had enacted an Ordinance which requires the types of answers which both the Township and the public would like answered before the installation of the proposed high-powered line. However, he noted that I.T.C. could, if it chose, go to the Public Service Commission in Lansing, and if it was approved at that level, then the local Ordinances would be overridden by the Public Service Commission. Attorney Porter said, either way, by the Township Board taking the steps which it had, he hoped they had ensured that there would be some type of public dialogue allowing for citizen input on this matter.

Ms. Stefforia, in light of the actions of I.T.C. and the response by the Township Board, introduced a proposed resolution, which supported the actions taken by the Township Board in enacting Ordinance No. 525. The resolution was read aloud **by the Acting Chairperson** to those persons in attendance and to the Commission. Upon the conclusion of the reading of the resolution, Mr. Skalski made a motion to adopt the resolution as submitted, and Mr. Gould seconded the motion. The Acting Chairperson called for a vote on the motion, and the vote was as follows:

| | |
|-----------------------------------|-----|
| Kitty Gelling, Acting Chairperson | Yes |
| Bob Anderson | Yes |
| Carl Benson | Yes |
| Dave Bushouse | Yes |
| Richard Skalski | Yes |
| Millard Loy | Yes |
| Fred Gould | Yes |

The Acting Chairperson asked that the resolution be attached to the minutes of the meeting, evidencing the Planning Commission's support for the Township Board's actions.

The Acting Chairperson said the Commission should move onto Planning Commissioner comments. Commissioner Bushouse suggested that they take public comment on the I.T.C. matter even though it was not a public hearing. The Acting Chairperson then opened the meeting up to public comment.

Mr. Thomas Eller introduced himself to the Planning Commission. He said he was disappointed I.T.C. chose to place its line in one of the choicest areas of the Township and asked rhetorically how I.T.C. was really going to come up with a value for all of the pristine forest it was going to destroy.

Mr. Josh Weiner introduced himself to the Planning Commission. He thanked the Township Board, the Planning Commission, the Planner Director and Township Counsel for their efforts and being proactive on this issue. He thanked the Township for passing its recent amendment to its Utility Ordinance. He said this issue was not about money; it was about preservation of their lifestyle and their homesteads.

Ms. Henrietta Squires introduced herself to the Planning Commission. She reiterated what Mr. Weiner said it was not about money, but it was about maintaining their homes. She also said she was shocked by what I.T.C. was able to do in this United States of America.

Mr. Doug Maxwell introduced himself to the Planning Commission. He said he wanted to reiterate what Mr. Weiner had said. He thanked the Township Board and the Planning Commission. He also expressed his shock and outrage at the process and the thought that a public corporation could use eminent domain to take people's private property.

Ms. Joan Hostetler thanked the Township Board for taking a stand, not only for her, but for the next generation.

The Acting Chairperson thanked the audience for understanding the limited nature of the input allowed and the fact that there were no I.T.C. representatives at the meeting.

Planning Commissioner Comments

The Acting Chairperson asked if there were any Planning Commissioner comments.

Ms. Stefforia noted for the Commissioners' benefit that it was Mr. Gould's last meeting. Mr. Bushouse thanked Mr. Gould for a wonderful job and for his service to the Township residents. The Acting Chairperson also thanked Mr. Gould for his thoughtfulness and his empathy in his service on behalf of the Township residents.

The Acting Chairperson also noted P&N's with appreciation Prein & Newhof's 2012 pocket partner, the OHS annual appreciation dinner, and Toys for Tots' dinner at the Texas Corral Corral, which occurred on December 13, 2011.

Mr. Skalski also thanked Mr. Gould for serving on the Planning Commission.

Mr. Gould thanked the Township for letting him serve on the Planning Commission. He told the Planning Commissioners that he was thankful for what they had taught him and hoped they maintained a servant's attitude in their service as Planning Commission members and remained faithful to serving the public. He also

strongly suggested that they continue to seek citizens' opinions on an annual basis as a means of evaluating their progress in carrying out the desires of the Township residents.

Mr. Loy thanked Mr. Gould for his service to the Township residents.

Ms. Stefforia pointed out that Wiley Boulding was in attendance, and he would be joining the Planning Commission next month. The Planning Commissioners welcomed Mr. Boulding. Mr. Boulding said he would do his best and looked forward to sitting on the Commission in the very near future.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at approximately 8:25 p.m.

Minutes Prepared:
December 13, 2011

Minutes Approved with Revisions:
January 12, 2012