

GANGES TOWNSHIP PLANNING COMMISSION
Monthly Meeting Minutes FINAL for February 27, 2007
Ganges Township Hall
119th Avenue and 64th Street
Fennville, MI, Allegan County

Chairman **Gooding** called the meeting to order at 7:00 PM.

Roll Call: Chairman Barry **Gooding** – present
Secretary Jim **Birkes** – absent
Commissioner Jackie **DeZwaan** – present
Commissioner Sally **Howard** – present
Commissioner Ed **Reimink** – present
Commissioner Dawn **Soltysiak** – present
Board Trustee Terry **Looman** – present

PUBLIC HEARING

Chairman Gooding prefaced the public hearing by introducing Greg Milliken, professional planner with McKenna Associates. **Gooding** also reminded the public that the Planning Commission (PC) developed the Master Plan, with input from the public and the township Board. **Gooding** then opened the public hearing at 7:02 PM. There were no comments in opposition to the Master Plan. Comments supporting the Master Plan were as follows:

Robert Simonds, 2318 Lakeshore Dr., commented that he had just received the Master Plan, but that there were no maps, and asked if they would be forthcoming. He expressed satisfaction that it had been updated, with the last update being in 1999.

Rob Soltysiak, 6322 113th Ave., commended the PC on doing a fantastic job, acknowledging that it had been a lot of work. He recognized that the PC had strived to promote the rural character of the township, mentioning form-based zoning and the village concept as different methods used in achieving this. Soltysiak, however, stated that the Master Plan contains a “fatal flaw”—the commercial spot zoning areas on the future land use update map. He contended that they will make the plan’s intent and mission statement ineffectual, and do not take the entire township into consideration. He challenged the PC, asking them if they were going to present a document with this “fatal flaw” or if they were going to fix it.

Theresa Wiley, 6633 121st Ave., thanked the PC for their work on the Master Plan and for listening to the residents who wanted to maintain the status quo, indicating the commercial areas. She also referred to the absence of the maps on the Web site.

There were no more public comments and **Chairman Gooding** closed the public hearing at 7:06 PM.

PUBLIC COMMENTS

None.

CORRESPONDENCE

Letter dated February 6, 2007, from Neil Van Leeuwen to the PC suggesting that there is an erosion of personal property rights, with an “elitist ethic” promoting larger and more expensive homes and lots in the township. Van Leeuwen states that smaller residences, such as single-wide mobile homes, are important to Ganges Township’s local housing stock, offering legitimate and inexpensive housing options. Van Leeuwen also maintains that the PC’s “manufactured housing zone” is just another form of spot zoning, and that is illegal. He concludes that construction codes are meant to insure safety, and that is the issue at hand, along with the health and welfare of the community.

Letter dated February 22, 2007, from Neil Van Leeuwen to the PC cautioning local government not to promote the Public Act (PA) 116 program for farmers. While stating that it is a valid tool for farmers, Van Leeuwen also warns that significant benefits are rare, and further states that PA 116 is just another example of local government attempting to “micromanage personal lives and enterprise. . . .”

ADMINISTRATIVE UPDATE

Ganges Township Board

Trustee **Looman**, liaison, informed the PC that the Board approved training for any PC members who want to attend “Filling the Gaps” in Lawrence or a planning seminar to be held in Allegan on March 29. He requested a count of attendance by the end of the evening.

Zoning Board of Appeals (ZBA)

Gooding, liaison, reported that no meetings have taken place since the last PC meeting report.

Zoning Administrator Report

Gooding reported for Tasha Smalley, ZA, (absent this evening) that there is a PUD preliminary review scheduled for the March 27 regular PC meeting.

BUSINESS SESSION

Agenda Approval

Looman stated that he thought that the Glenn Oaks PUD review would be on this evening’s agenda. **Gooding** responded that since correspondence had not been received from the Ganges Township attorney until today, he (working with Smalley) postponed the review until the March 20, 2007, special PC meeting. In response to **Looman**’s continuing inquiry, **Gooding** reported that the applicant (Karaus, Jr.) was out of town, but Smalley had corresponded with his attorney, Schipper, immediately and apprised him of the situation. **Gooding** relayed that Schipper appreciated the delay, because it gives him more time to gather material.

Soltysiak requested to add discussion of the Black River watershed project’s grant for a build-out analysis. The addition of the approval of the February 12, 2007, special meeting PC minutes was also suggested. **Howard** moved to approve the February 27, 2007, regular meeting agenda with the additions of the February 12, 2007, special meeting minutes as B.3. under *Approval of Prior Minutes (Business Session)*, and build-out analysis grant from the Black River watershed project as number 2 under *New Business* (moving *Other business* to number 3); **Looman** supported; motion carried.

Approval of Prior Minutes

Howard moved to approve the January 16, 2007, special meeting minutes with one (1) correction (replace *Monthly* with *Special* in the heading on page 1); **Soltysiak** supported; motion carried. **DeZwaan** and **Looman** recused themselves from the vote because of their absence at this meeting.

Soltysiak moved to approve the January 23, 2007, regular meeting minutes with two (2) corrections (change *Soltysiak* from bold to roman type on page 2 under *PUBLIC COMMENTS*, last paragraph, third line, and replace *will* with *was* on page 3, under *BUSINESS SESSION, Agenda Approval*, second line) and subject to verification on page 5 of *Birkes acknowledged that conditional rezoning makes spot zoning more acceptable under Conditional Rezoning Amendment*. **Howard** supported and motion carried.

Soltysiak moved to approve the February 12, 2007, special meeting minutes with one (1) correction (replace *Monthly* with *Special* in the heading on page 1); **DeZwaan** supported; motion carried.

Proposed Master Plan

Upon the chairman’s request, Milliken outlined the possible options in proceeding with the current Master Plan draft: the PC could send it to the township Board, recommending that it be adopted, or the PC could make further changes to the plan this evening.

Howard, referring to a public comment made by Rob Soltysiak earlier this evening, asked Milliken, in his professional opinion, if spot zoning is a “fatal flaw” or simply a disagreement. Milliken stated that his primary concern in leaving the commercial spot zones as they are on the future land use map is that the vision statement of the Master Plan to preserve the township’s rural character then becomes inconsistent with the map, allowing one to “poke holes” in the plan. It will also open these zones up to any commercial use in the future. He also advised not to have the “red” on the map (designating the commercial spot zones) because the future land use map is not zoning, and putting another designated use on the future land use map does not change the zoning. He explained that what it would do is allow the land owner to change the zoning with greater ease in the future should he so desire.

Howard further queried if it would make sense to acknowledge the inconsistency, and state in the Master Plan that the PC does not recognize it as an inconsistency. Milliken replied that it would not accomplish much, and repeated again that it is not necessary to have the commercial spot zones on the map, because it will not impact zoning—what is commercial will remain commercial. He then advised that the township attorney be consulted.

Soltysiak pointed out that the PC has consistently been mixing planning with zoning. She and **DeZwaan** emphasized the fact that Seeber, township attorney, has warned that the Master Plan could be invalidated in court if it remains inconsistent with the future land use map. Citing **Gooding**’s own history with his parcel of land as an example, she stated that he had never asked for his parcel of land to be zoned commercial, but that it was done spontaneously by a previous PC. **Soltysiak** rhetorically asked why this PC would continue to leave a parcel on the land use map as commercial if the owner (**Gooding**)

did not request it to be zoned that way (therefore, not done appropriately) and it is not deemed appropriate from a planning or legal standpoint. She suggested evaluating each spot zone parcel by parcel.

Soltysiak then read from a statement that she intends to submit for public record. She quoted the 579 *yes* and 98 *no* votes from the survey that the PC had earlier conducted in an effort to demonstrate the public and popular support to preserve agricultural land and the rural character of Ganges Township. Then, to show the discrepancy between the future land use map and how the land is actually used in this township, she quoted information from the Allegan County Land Information Service (LIS) office:

- 10,014 acres are currently used for ag purposes
- 629 acres are zoned for ag purposes
- 3716 acres currently used for ag purposes are underzoned

- 271 acres are currently used for commercial purposes
- 1401 acres are zoned for potential commercial purposes
- 1130 acres of land currently not used for commercial purposes are overzoned

Soltysiak pointed out that there are better ways to achieve the results that the community wants while supporting the owners of the spot zone parcels. She and **DeZwaan** reminded the PC what had been offered in the past—amendments to the non-conforming use clause that would allow the owners to continue their commercial businesses, expand as desired, pass the property on to heirs, sell their business for continued operation, be rebuilt if destroyed, or be converted into another commercial use of similar density. Contract zoning and form-based zoning could be other options.

Howard reminded all that the PC had voted at a previous public hearing to leave the commercial spot zones as they presently are on the future land use map, and trying to change it this evening was not the right thing to do. And **Looman** asked how much longer they would “beat a dead horse.”

DeZwaan responded that the PC members are supposed to discuss their differences of opinion, with **Soltysiak** agreeing, stating that they have the right and obligation to put their opinions on public record. She further countered that “beating a dead horse” is not opening one’s eyes to the possibilities of what can happen when one does not listen to legal counsel or a professional planner and, therefore, have conflicts within the Master Plan (as there currently are) and not properly plan for the township’s future.

Soltysiak questioned whether two (2) of the PC members should be voting on the Master Plan, since they have land that may be considered spot zones, stating it is such a controversial issue and there is legal and professional advice opposing the plan as it now stands. **Howard** immediately countered that the members could not be prevented from voting, because the PC is voting on the entire Master Plan, not one issue. **DeZwaan** also disagreed with **Soltysiak**, stating that one should not recuse oneself because there is a possibility of a conflict of interest—there must be a conflict of interest. **Soltysiak** concurred.

Howard suggested moving on to other issues. **DeZwaan** noted that the length of the commercial portion of the Glenwood Restaurant is incorrect on the map, that it is only 500 feet deep and not the entire depth of the property; Milliken will correct this. Also on the map, two (2) gaps along Blue Star Highway should be designated class A along with the rest of the highway, and the expanse of 66th Street between 113th and 114th Avenues should be included as one of the primary roads under *Transportation Systems* in the Master Plan.

Looman questioned if the William E. Smith 360-acre land conservancy should have its own district classification on the future land use map. Milliken advised against it, stating that it would be planning in conflict with the Master Plan and thus could be used in court against the township.

The two (2) details raised at previous meetings were climate and natural gas information updates for the Master Plan. Milliken reported that the 1999 Master Plan climate data will have to be used in this update because the Department of Agriculture has not updated this information since 1987. And **Birkes** had reported at an earlier meeting that no updated information could be obtained from the natural gas company because of Homeland Security regulations.

At the end of the discussion, it was agreed that some progress has been made toward the goals and objectives, decreasing industrial use and increasing agricultural use. **Howard** moved to recommend that this Master Plan, dated January 3, 2007, go to the township Board for their approval; **Reimink** supported. The motion carried 4:2 by roll call vote: **Looman**—yes; **Reimink**—yes; **Howard**—yes; **Gooding**—yes; **Soltysiak**—no; **DeZwaan**—no.

Looman thought that there would be enough time to get the Master Plan on the agenda for the March 13 Board meeting. Milliken assured that he would work with the township clerk regarding the maps and also get corrected copies of the Master Plan to everyone (PC and Board).

OLD BUSINESS

Conditional Rezoning Amendment

Gooding recommended tabling discussion this evening, stating that there is a lot to it, legal-wise. Milliken offered to answer any questions the PC may have, having written amendments for other communities. In response to several questions, he offered the following information/advice about conditional rezoning:

- It can be a bad and a good tool, and it has not been tested yet—use it with caution.
- There are two (2) “rules:” The PC cannot require it, and the PC can attach a time limit to the conditions.
- The applicant has to provide the PC with the conditions and there are no direct negotiations between applicant and the PC.
- The PC can state their reasons for denying an application, indirectly communicating to the applicant what the PC desires.
- Should the applicant implement the recommendations from any “subtle conversation” among the PC members and then the PC denies the rezoning upon reapplication, the applicant could possibly litigate.
- The PC should think and act in terms of preventing the uses not wanted, which would allow more flexibility, rather than limit conditions to one (1) use.
- If the applicant goes out of business in the future, the district does not automatically revert back to the original zoning; the township does have the right to rezone it, however.
- To avoid additional expense and the applicant from having to reapply after each denial from the P’C, a fee structure and application process could be established with the zoning administrator.
- It is useful as a benefit for parcels with unique qualities (because of size, natural features, etc.) or a means to diminish the potential for high-impact use (around highway interchanges, for example).
- It should not be used too broadly because doing so could usurp the Master Plan.

Gooding moved to table further discussion of the conditional rezoning amendment until the next meeting to give the PC more time to research and study it; **Looman** supported; motion carried.

NEW BUSINESS

Future Meeting Schedule

A special meeting is scheduled for Tuesday, March 20, 2007, with the Glenn Oaks PUD review and the PUD ordinance review to be on the agenda.

The regular meeting is scheduled for Tuesday, March 27, 2007, with a preliminary review for a PUD, continuing discussion of the conditional rezoning amendment, and Milliken’s presentation of the Zoning Ordinance (ZO) technical review on the agenda.

Build-Out Analysis Grant from the Black River Watershed Project

Soltysiak explained that the Black River watershed project (BRWP) received federal monies and wants to offer a free build-out analysis to four (4) communities/townships that lie within the watershed, and she recommended applying for the analysis. **Howard** questioned what data the BRWP would come up with and what the PC would do with these data. **Soltysiak** responded that the township ZO, Master Plan, and census would be used for analysis. Milliken added that the BRWP people would look at natural features, current zoning districts and standards, current building trends, the current number of people per household, and what land is planned for development/growth. Considering all of these parameters and trends, they will attempt to predict at what point in time Ganges Township will be fully built out. Milliken explained that this information could assist the PC with their planning, whether it would be to emphasize development or pull back in certain areas. He advised that this PC should take advantage of the opportunity to receive this free service, but predicted that the BRWP will probably recommend higher density, which will require infrastructure to avoid a negative impact on the ground water.

DeZwaan moved that the PC request that the BRWP consider Ganges Township for a build-out density analysis; **Looman** supported; motion carried. **Soltysiak** will write the letter of request for consideration.

Other Business

None.

Land Divisions

None.

PUBLIC COMMENTS

None.

ADJOURNMENT

Looman moved to adjourn; **Howard** supported; motion carried unanimously. Meeting adjourned at 8:44 PM.

Respectfully submitted,
Elaine I. Troehler
Ganges Township Recording Secretary