

**Nelson Township Board Meeting
Tuesday, November 15, 2016
7:00 p.m.**

Meeting Minutes

Present: Maureen Mahoney, Laura Hoffman, Tom Noreen, Katy Austin, Glen Armstrong

Also in attendance: Attorney, Ross Leisman, Township Engineer Kevin Gritters, Zoning Administrator Jerry Gross, Dan Larabel, Allen Edwin Homes, and Township residents, 12 of whom signed the attached attendance sheet.

I. Call to Order: Supervisor Noreen called the meeting to order at 7:03 p.m. The pledge of allegiance was recited.

II. Approval of Meeting Agenda: Supervisor Noreen stated that letter d should be substituted with "Resignation of Supervisor" because it was a duplicate of letter a.

Motion by Hoffman to approve the agenda as amended; Support from Mahoney, Yes – 5; No – 0. Motion carried.

III. Minutes of Previous Meeting

Motion by Hoffman to approve the minutes of the October 11, 2016 meeting; Support from Austin. Discussion: Supervisor Noreen hasn't received additional information regarding the Sand Lake sign. Yes – 3; No – 0; Abstain – Armstrong and Mahoney. Motion carried.

IV. Financial Report

Austin reported the financial report and being no questions, the report will be placed on file as presented.

V. Accounts Payable

Hoffman presented the accounts payable. There was a question about when the painting for the library was paid. Hoffman reported that it was paid in October.

Motion by Austin to pay the accounts payable as presented; Support from Mahoney. No discussion. Yes – 5; No – 0. Motion carried.

VI. Public Comments

Paula, Nelson Township library branch manager, invited the Board and residents to attend the monthly Kent District Library board meeting which is being held on Thursday, November 17, 2016 at 4:30 p.m. at the Sand Lake branch.

Don Jagers, 6751 Fawn Drive, presented a petition to have Stout Road paved. Supervisor Noreen explained that the Township is still paying off the other paving efforts and it will take a couple of years to save up the money. Mr. Jagers asked for Stout to be a priority on the list.

Dave Vogelar, 6987 19 Mile, asked the board to consider a noise ordinance. He presented copy of a proposed ordinance from Delaware that gives the municipality the ability to fine for violations. Supervisor Noreen explained that he has reviewed the proposed ordinance but has not presented to board for discussion on the agenda. Mr. Vogelar stated he thinks it is time that Nelson Township has one and he will return to the next board meeting.

VII. Persons wishing to address the Board may do so at this time. Please state your name and address.

Public Hearing on Proposed Ordinance: to rezone land 6500 18 Mile Road (41-03-28-100-008), from SFR-L to OSPUD, White Pine Ridge Site Condominium

The public hearing was opened at 7:12 p.m.

Supervisor Noreen read three letters that were sent to the Board. Those letters are attached for reference.

Engineer Gritters then addressed some of the concerns in the letters. He spoke about the water drainage and swales. The pond is designed to take the onsite flow and detain all of that water for up to the 100-year storm event. Water that comes from offsite through the development area will be redirected with the exception of a small area along 18 Mile that will be redirected away from the culvert that crosses Shaner and redirected to the south. The offsite water flow is no different than before and the water on the development site will all be contained within the development site.

Jerry Ann Gilson, 14550 Shaner, is concerned that there is a flood gate pointed right at her property. Gritters explained that it is not a flood gate, but a pond recessed in the ground, completely below normal grade level. It would only be after the entire pond is full that any flow in excess of a 100-year storm event, which has a 1% probability of happening, that the pond would overflow. There is no constructed gate that holds it back.

Gritters also addressed Mrs. Gilson's concern that the pond won't drain in time and that there is no Plan B. He stated that if the pond doesn't drain accordingly, it will have to be

maintained, and there is an escrow to address that. He explained that the design reduces the peak flows and there should be less water flowing than what you see today.

Gritters then explained to Trustee Armstrong that there are no drain holes and that the overflow will go into the existing drainage course and south through the Gilson property.

Cheryl DeMull, 14823 Shaner, had questions about the maintenance. Supervisor Noreen explained the inspection requirement and escrow account. He also confirmed to her that there would be 13 homes built in this development. Ms. DeMull stated that she has water deep in her basement and can't imagine anybody building a home there. Supervisor Noreen confirmed to her that there will be septic and well and that the traffic concerns will be reviewed by the road commission, as well as the drain commission on the water issues. It would then come back to the Planning Commission for final approval.

Cheryl DeMull, Dave Vogelar, and Loretta Lee all confirmed there is a vision issue with the traffic and construction equipment at 18 Mile and Shaner. They all feel it is a safety issue.

Patty Prawdzik, 14585 Shaner, is concerned with the water and the culverts. Her house sits low and has never had water come through there, but now has concerns about being flooded out. Who would be the responsible party if there are any adverse effects? Is there a watershed impact study done? She would like to see a study done before approval. Supervisor Noreen pointed out that there is a flow diagram and the water issues have been studied thoroughly.

Gritters then explained to the residents and board the nature of the water flow through the property. There are 6 acres that flow directly to south and under Shaner before it goes further south. There are 57 acres that come down through a natural course through the property and extend to south but don't cross Shaner until further south. The second 6 acres flows to the west and south also. Gritters feels nothing should be impacted except that the water onsite will stay onsite unless there is something in excess of the 100-year storm event. The overall effect is that the water that flows onsite will no longer flow offsite.

Dan Larabel, Allen Edwin Homes, confirmed to the residents that there are six standalone parcels where houses will be built, as well as 13 in the subdivision, for a total of 19 homes.

Gritters confirmed to Armstrong that the pond is only required to hold what is on development and offsite water would come into a swale and then continue on its path as it does now.

There was then more general discussion about how the water flows now and how it will be handled according to the water flow diagram and the use of swales and retention pond as mentioned above.

Loretta Lee, 6340 18 Mile, feels that the retention basin is undersized. She feels that the water table is too high and digging in will hit water, open up tributaries and more water will come up. She feels everything is being redirected and doesn't understand how it won't affect the southern flow.

Gritters confirmed swale area to Armstrong on the drawing he brought.

Patty Prawdzik asked about the water table depth. Larabel confirmed that the soil boring at the basin location showed a water table depth of 4 feet below the proposed bottom depth of the basin and stated there is variation depending on where you're at on property because the property is not flat. The borings were taken in June.

Joel Kusmierz, 6744 Fawn Drive, stated that it is his opinion the new resident who lives on the swale property is going to be flooded out every year.

Larabel stated that the engineers are all very good, they know the flows, and have looked at all of this information for the past seven months. He appreciates the comments. The engineers are confident.

JerryAnn Gilson wonders if the results would be different if the borings were taken in April since they had to build up their foundation and couldn't go lower than four feet.

Larabel stated that model soils were found in the pits. The septic will have to be kept above the model soil line to comply with the health department. He also stated that this property is different than some of the neighboring properties.

Joel Kusmierz feels that doesn't account for what is going to percolate under the soil and there will be a problem if it doesn't drain in the right direction.

Gritters confirmed that the health department will only approve the water and septic if it meets their specified levels.

Regarding how the soil borings were done, Larabel confirmed to Loretta Lee that there was a primary and secondary location – two test pits dug by excavator at every site according to KCHD requirements- and he confirmed that it happened in June.

Loretta Lee asked about Kent County Health Department approval. Larabel confirmed that he submitted the final approval. Lee asked about whether it was done subsequent to revised plans and says her common sense would say that something would change.

She feels it is the Township's responsibility to get the health department involved to make sure it is done correctly.

Jennifer Rivard, 14621 Stout, wanted to know why they are asking for an OSPUD instead of by right.

Supervisor Noreen explained that a PUD gives the Township more control over the project than by right and both would still require a private road.

Trustee Armstrong feels this gives the developer a bypass from state split laws.

Larabel feels that a PUD is a better product for their customers. Not every person wants a larger lot to maintain. The one acre lot provides common elements with a smaller area to maintain. Under the Michigan Condominium Act, there is the same intent to subdivide with a site condominium. The traditional process is through State and requires a rigorous review. There is the same outcome with a different route to get there.

Loretta Lee stated the density is 19 homes. She doesn't understand how the water quality and levels will not be impacted when the radius around that area is doubling the population, the river overlay, cedar creek a short distance away, state contained monitored contamination site up road, and taking offsite water and directing that around this development, and a pond she believes is undersized. It needs to be addressed.

Supervisor Noreen stated it has been addressed by the engineers for both the developer and the Township.

Loretta Lee states she didn't find anything concrete in any testing - environmental or otherwise - that says this will happen or will not happen. There will be more population. Safety/health/welfare has not been addressed. She stated the Board is aware of the issues and should do their due diligence. It is the board's responsibility to make sure that everything is followed by the appropriate agencies. She states that she is going to hold the Township responsible if anything happens.

Bob McKown, 7120 Carolyn, thought it might be helpful for the Board to hear some of the issues the Planning Commission faced. The Planning Commission took this matter very seriously. They appreciated the input of the Township engineer, and recognized and shared with developer that they were not happy with the splitting off parcels along Shaner and then asking for the OSPUD. This was not the intent of the ordinance and it was conveyed to the developer that the Planning Commission felt they were taken advantage of. He explained that the OSPUD would give them more authority to ask the developer for certain things like the evergreen screen and the escrow for the rainwater.

It was a really tough choice for the Planning Commission. Their approach was to put the most restrictions where they could to protect the owners and adjacent neighbors.

Mary Stidham, 14216 Shaner, asked Larabel if he would be willing to talk to the construction company that is building the parcels along Shaner. They have parked their equipment in a way that poses serious visibility and safety concerns. Larabel stated he will address this with the builder.

The public hearing was closed at 8:11 p.m.

Reports:

VIII. Zoning and Enforcement

None.

IX. Fire Departments

Chief Fraser thanked the Board for the training provided.

X. Roads

16 Mile has been officially completed.

XI. Library

Library gave report above regarding their board meeting.

XII. Other reports or announcements not requiring Board action

No other announcements.

XIII. New Business

a. Proposed rezoning of parcel 41-03-28-100-008 from SFR-L to OSPUD

Treasurer Austin asked Attorney Leisman what options the board has if the developer has met the requirements set before them. Is the Board obligated to approve? Attorney Leisman responded that this case is unique because with the PUD rezoning you have to set a public hearing at the board level. There is the underlying zoning, which gives the Township flexibility to work the developer. With the site condominium portion, that can be accomplished with a split, plat or site condo. These are just the forms of ownership. There is an extra level of review at the bylaw and final development plan stage. His November 6 letter explains the process – the storm water

requirements, inspections, calculation of the open space, etc. It does appear that the developer has complied with the open space requirements, as the swales aren't surface water areas and the slope on applies to existing land.

Attorney Leisman stated that there is no obligation to approve it. The idea is that there is flexibility within the ordinance. The developer could appeal to Circuit court or they could come back with some sort of traditional development. The Board can also ask the developer to answer questions. The Planning Commission spent a long time deciding whether OSPUD or by right is a benefit to the Township. You should look at the recommendation just like any other thing that comes from the Planning Commission. You can modify the bond amount or make other revisions to the ordinance.

Discussion: Armstrong has concerns because he hasn't seen any information other than Leisman's letter. He is concerned that it doesn't meet the goals of the Master Plan and didn't follow Zoning Ordinance 13.26 with respect to promoting low density, having Kent County maintain roads, prohibiting PUDs. There was discussion about the preliminary plan and that it would not become final at this time. It is still subject to approval from the road commission, health department and other agencies.

Armstrong expects to see all of the plans and approvals in place before he makes a decision.

Leisman explained there was a Planning Commission subcommittee that went through the entire plan and it has been studied.

Larabel commented that he submitted the preliminary approval after the soil borings, prior to the test well being done and received approval of the road location from the road commission back in July/August when the preliminary plans were being reviewed.

Leisman explained that the current zoning permits this despite what the Master Plan seems to suggest.

Armstrong again stated he is concerned it doesn't follow the Master Plan.

Supervisor Noreen stated that a storm water permit would still be required. Armstrong inquired about where the permit comes from. Larabel stated that it would be given under the building permit.

There was the general discussion about the drainage system, the maintenance of it, and a bond in addition to the current escrow amount if the drainage system fails to perform. Township Engineer Gritters will request the appropriate bond amount numbers from Developer Larabel.

Attorney Leisman confirmed to Treasurer Austin that approving the rezoning now would eliminate the necessity for additional approvals in the future. Rezoning with the detailed ordinance would approve the development plan.

There was more discussion about a performance bond and it was determined the length of time would be 24 months.

Motion by Hoffman, with support from Noreen, to approve the proposed ordinance for rezoning to OSPUD with the addition of a performance bond in place for 24 months after the developer's transfer of responsibilities to the homeowner's association, in an amount to be determined by the Township Engineer.

Yes, 3 – No, 2. Motion carried.

b. Stout Avenue Petition for Paving from 16-17 Mile Roads

Received and discussed as stated above.

c. Review Humane Pet Acquisition Ordinance

No action needed. It will be kept on file.

d. Resignation of Supervisor Tom Noreen.

Tom submitted a letter of resignation, with his last day being December 31, 2016. He has appreciated the support and everything the Township Board and residents have done for him.

There was discussion about the Deputy Supervisor's plans, the need to make board appointments, and how posting of the notice for the partial term election will be handled.

Motion by Armstrong, with support from Mahoney, to accept Noreen's resignation effective December 31, 2016.

Yes – 4, No – 0, Abstained, Noreen.

e. Appoint planning commission Ex-Officio Township Board Member

There was general discussion about the Planning Commission, the need for a future member, the handling of the agendas and supporting documents, a planner, and the day-to-day support. Supervisor Noreen encouraged the residents in attendance to get in touch with him if they, or someone they know, would like to be a member.

Noreen, with support from Armstrong, nominated Mahoney to the Planning Commission for a 4-year term consecutive with her Trustee term.

Yes – 4, No – 0, Abstained, Mahoney.

f. Reimburse Deputy Clerk for QVF training.

Armstrong, with support from Austin, moved to reimburse the Deputy Clerk for attendance at QVF Training in October.

Yes – 5, No – 0.

XIV. Unfinished Business

a. Review Sections 4.36 to 4.58 of Draft Financial Policy

Tabled.

XV. Extended Public Comments

Loretta Lee questioned Supervisor Noreen about his level of review of information and documents regarding the White Pine Ridge OSPUD rezoning. Noreen stated that he didn't review 100% of the information, but did look at a substantial amount, because that is the job of the Planning Commission and subcommittee.

Chief Fraser thanked Supervisor Noreen for his years of service.

a. Board Comments

None.

b. Adjournment

Motion by Austin, with support from Mahoney, to adjourn the meeting at 8:59 p.m.
Yes – 5, No – 0. Motion carried.

Submitted by

Christine Witt
Nelson Township Deputy Clerk