

Freedom Township
Draft Minutes for Planning Commission Meeting,
January 6, 2009 7:30 PM
At Freedom Township Hall

Estimated
schedule

7:30PM

1. Call to order: Roll call -7:36

Deloof, Huehl (absent), Lindemann, Ochs, and Schaible

7:32PM

Others Present: Bill Craigmile and Markus McNamara from OH & M, and Planner De Groot

7:40 PM

7:45 PM

2. Minutes of Previous Meeting: Motion to dispense reading the minutes moved by Deloof and seconded by Ochs – motion carried by unanimous voice vote.

7:50 PM

3. Communications: Huron River report, MTA News,

- i. Karen Fayhee House Bill 4339 changing the haul routes –Read E-mail by Pam Burns sent to PC Members – need to get copy to put in minutes
- ii. Huron River Watershed Council will conduct a Stonefly Count on January 21, from 10:30 -12:00 (noon) along the Huron River
- iii. Barrett Mitigation Report dated Jan 2, 2009
- iv. Stan asked if the MTA News included an article about the State doing away with Township Governments – Larry, Peter, Dale, and other Board Members will be attending the upcoming MTA convention.

4. Audience Participation: A member of the audience may address the commission. If the issue/discussion warrants further attention, it may appear as a future agenda item.

9:00 PM

- i. Beth Hauser - A gravel Hauler was on Schneider Road – Larry – was it loaded? It is hard to tell but is that a haul route? Larry did see a weigh master on Pleasant Lake Road this morning with lights flashing coming from west 52 on Pleasant Lake Road.
- ii. Bill Craigmile from OH & M talked about a State of Michigan 2010 Constitutional Convention that will discuss a movement to abolish Township Government.
- iii. Washtenaw County Sheriff's Deputy Wagner stopped by to introduce himself.

9:30 PM

5. Old Business

1) Conditional Use Applications for Jenifer Buckholtz – Ochs had a conversation with the applicant, and the applicant requests the Planning Commission table this issue until June 2009. Ochs Moves to “Table the conditional use for Jenifer Buckholtz until the June 2009 Planning Commission Meeting” – Schaible Supported motion carried by unanimous voice vote. This will be tabled until June 2009

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- 2) Zoning Ordinance update –Copies need to be given to Schaible –
Motion - DeLoof Motion “we defer this issues to the February 2009 meeting of the Planning Commission so Don Pennington can make an update presentation” Ochs supports – Discussion: Do we need a special session? If a work session is needed then it will be set after the presentation from Mr. Pennington. **Motion carried by 4-0 unanimous voice vote.**
- 3) C & T discussion – violation is completely filled in and completed. The encroachment has been filled back or reclaimed within approximately four feet. OH&M recommends that the Operator submit a survey by a licensed surveyor showing compliance. This has been addressed in the bond letter from OH&M. The same Engineer (ASTI) resurvey and get the proper documents showing that compliance has been met. This has been reclaimed by clay overburden used as fill. This amount is almost 20 foot by about 15 feet deep from the permitted mining area and used as fill material. Does the Planning Commission need to give the Township Board a motion reporting the violation, or the potential of pulling the operating permit, or a recommendation to call for a draw against the bond.

DeLoof - The Planning Commission should give the Board a recommendation the reclamation of the site is complete with a vegetative cover. The only enforcement after the bond expires on January 31, 2009 would be to pull the permit. Does the Planning Commission need to recommend to the Board, to pull the permit contingent on the completion of the survey and compliance documents? Should this process be completed by a certain date? Or the Board could tell the Township Attorney to pull the permit.

Motion DeLoof moves - “To recommend to the Township Board that if a renewed bond has not been received by the Township Board by January 23, 2009 then the Township Attorney should call on drawing the Letter of Credit before its expiration date of January 31, 2009” **Support by Ochs – Motion carried 4-0 by unanimous voice vote**

Invoice from OHM for this investigation should be paid out of the operators escrow account.

Schaible asked what would happen if the operator does not submit a new bond based on the 2008 inspections?

Discussion: The Township would revoke the Bond and pay for the reclaiming of the property to bring it into compliance.

Does the Board need to get a find-of-facts to pull the bond? Mark Reading recommends the pulling of the entire amount in order to get the entire amount to reclaim the entire site and then once the site is compliant with the ordinance then any amount

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would be refunded to the operator.

If there is a short fall then the property owner should be contacted to make up the difference.

If the operator does comply with a new bond then OH&M would like to have the documents by May 2009. This would allow for compliance inspections in June 2009 and a follow-up inspection by September 1 for vegetative cover.

6. New Business:

- ***Lindemann Thanked Horning for his time on the Planning Commission***
- **Welcomed Schaible to the Planning Commission**

1) Gravel Pit Bond Inspection Discussion:

C & T –

Bond is higher than last year \$209,000 last year and has increased to \$257,000. The disruption to the west and setback encroachment is the reason for the increased bond amount over last year. OH&M feels comfortable with the Bond Estimate for this area. The second page of the report shows a calculation from ASTI showing property slope factor 4:1 starting at the right-of-way, but this should start at the setbacks, so some adjustments will be needed in this calculation.

DeLoof – The Third item on the first page – is this the same issue?

OH&M - This hill or stockpile is in the setback and should be not be disturbed because the vegetative cover has taken and should now be treated as part of the setback.

DeLoof - The aerial data is from 2005, is this best data we have?

OH&M - The 2008 data should be given out for better calculations for next year's reports. If aerial topo's are generated, then they should be at two-foot contours in order to generate a progression for estimates to verify slopes.

Motion - DeLoof moved "to set the bond amount for C & T at \$257,000 based on the recommendation detailed in the OH&M report dated December 9, 2008".

Schaible Supports motion carried by unanimous 4-0 voice vote

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Levy American Aggregate –

OH&M - Nothing significant has changed – they have continued north along the east wall was some stripping in area B. Scrap Metal and waste metal was moved from around the crusher. This movement has increased the disturbed areas by about 2-3 acres. This did increase the calculated amount by \$40,000 but this is still below the minimum requirements by ordinance. This next year they should be over the minimum target as part of the ordinance.

OH&M - What is the status of the Variance Request? This is at a standstill because of the economy and the petitioner was waiting for Waterland and Burmeisters to reply back about the use of the ridge.

OH&M – The Township should receive written conformation that the petitioner has delayed the variance request.

DeLoof – The south end of the mining area “are they outside of the setback?” No they are right at the limit of the setback. They have not encroached according to OHM.

Neither the operator nor the Township was aware of any mud tracking out from the pit.

Motion – DeLoof moved “to set the bond at the minimum required by ordinance of \$250,000 based on the OHM report December 9, 2008”.

Ochs Supports motion carried by unanimous 4-0 voice vote

Barrett –

Lindemann - The amount of bond dropped from \$1,300,000 to \$800,000 was this because of the lake? The 1.3 was based on the 6 Inch Topsoil requirement of the last ordinance and the new calculation of a 3” cover reduced the amount to \$891,000.

DeLoof - Have they commented on the old growth trees and timeline for restoration?

OH&M had not had discussion with this item. Item 3 “the conveyer has been moved from the north and does it impact the west restoration? No, this area has not been disturbed.

OH&M - They were reclaiming the underwater slope and contracted out the slopes the north side of the north lake. This was nice to see compliance with the permit.

Lindemann - The Little’s had a concern about the property line. Barrett dozed a new road for site prep for new equipment, but no new excavation. The stockpiles are being

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used and are within the permitted area, but no intrusion of the setback was noticed.

Stan - What is the condition of the fencing?

Lindemann- the fencing is in tacked and restored except where the deer have taken it down.

OH&M – The Area that was identified for reclamation in 2008-2009 has been reclaimed and is compliant.

DeLoof - Has there been any water quality testing or investigation of the split sampling? Should the bond increase based on any contamination?

OH&M - This could change or very based on any type of water quality issue. The ordinance states that the Township could amend the bond for water quality. The ordinance does allow for private testing and this should be conducted in 2009.

Motion - DeLoof moved “to set the bond amount for Barrett at \$891,000 based on the recommendation detailed in the OH&M report dated December 9, 2008”.

Schaible Supports motion carried by unanimous 4-0 voice vote

Waterland Trucking –

OH&M - They did not start mining until late August – September time frame. There was very little change from last year. On the Burmeister Property – there is some disturbed area from south of the trailer and scale continuing east into the farm fields, but only about 2-3 acres striped of overburden. The rest of the site did not have any disturbance. It has become a storage site for equipment.

OH&M - The variance request needs to be resolved and should be enforced by submitting restoration plan to comply with the Township. The Planning Commission should look at formalizing a motion for details of why the variance has been postponed. This request was about five years ago. The appropriate action is to submit a restoration plan for the site, or at a minimum of the west ridge and the floor area. This should give the township a good level of detail to get the site compliant and consistent with others in the Township.

DeLoof - Are we getting a restoration plan from everyone else?

Lindemann - Barrett, and Levy are different from the permit and consent agreement, but C & T has submitted a simple restoration plan. So the ordinance should be applied to get one from Waterland.

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OH&M - The new ordinance should set the baseline for everyone. The timetable could be set for the next five years and get everyone working to that goal.

DeLoof - The north pond area – has the slopes been inspected to be compliant with 1:4?

OH&M has not surveyed these areas and they do look steeper with the 1:4 slope. Should this be resolved by the increase of the restoration Bond to get these slopes in compliance.

Stan – problems exist with the consent agreement, with the ridge, and the historical relationship with the Township. The variance has not been resolved and should be finalized with careful review.

OH&M - The restoration plan should be complaint 7.11 of the ordinance and with OHM Report from December 2008. This should be submitted for all of the pits over time, and should be used as a baseline.

Dale Widemier owns 40 acres along the north edge of the property and west of Stienbach road and north of the driveway. This should be taken out of the map showing lands owned by the operator.

The acreage disturbed was 63.

The amount increased from \$520,000 to \$539,000

Motion - DeLoof moved “to set the bond amount for Waterland at \$539,000 based on the recommendation detailed in the OH&M report dated December 9, 2008”.

Schaible Supports motion carried by unanimous 4-0 voice vote

General Comments:

OH&M will be happy if the Planning Commission would like to have additional information in the reports including any information from DEQ, Operator, or Complaints, as part of baseline information. This could be conducted in the future.

DeLoof – Is there anything or other data we should be asking the operator for compliance?

OH&M – Just make sure we seek compliance with the new Ordinance and we should suggest a timeline for section compliance in order to get all operators completely

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complaint with the ordinance.

Ochs – Just make sure the slopes are what they are designed to be. This is really important.

2) Election of Officers:

Motion – DeLoof moves “to retain the Chair Lindemann for 2009”

Ochs supported

Motion Carried by Role Call Vote – DeLoof Yes, Shively Yes, Ochs Yes,

Motion – Lindemann moves “to retain Vice Chair DeLoof for 2009”

Ochs supported

Motion Carried by Role Call Vote – Lindemann Yes, Shively Yes, Ochs Yes,

Motion – DeLoof moves “to retain Secretary Huehl for 2009”

Ochs supported

Motion Carried by Role Call Vote – DeLoof – Yes, Lindemann Yes, Shively – Ochs Yes,

3) SWWCOG special meeting MJPC Meeting January 14, 2009 Village of Manchester - AG Use Section being discussed -

Lindemann – Typing errors, but he did not have many concerns. Page 112. Get rid of “Prime Ag” Land – push AG land. This comes out of the USDA and NDS permitting row crops and this is a limiting factor. This should include other uses.

De Groot – to draft a report for the Planning Commission within the next few days.

DeLoof - What is the transition zone for the AG section and how to limit the zones for protecting the AG areas? We need to properly establish a good example of the limit. We cannot create sprawl and limit the sprawl.

Ochs – 2002 data on the bottom of the first page should be removed. Feed costs and market conditions have changed because of ethanol production and this information should not be included.

DeLoof – This plan is designed to emphasize the historical significance to the AG roots.

Lindemann - add the sentence with changing markets this data could change significantly.

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Schaible – Page 116 #4 slashed out size of land parcels in areas of AG may affect the long-term viability – livestock facilities need the big parcels. This should be in the plan document. Need to define sustainable AG.

Lindemann - AG is clearly defined in a future land use map – We need to think about this topic and included as referenced on pg 119

Schaible – page 122 take out limited agri-business

Lindemann – Map is just an overlay and needs to be formulated into future maps and not parcel specific. Will give copies of the Industrial and Commercial section to the Planning Commissioners for review and leave in the Fredonia Store.

7. Adjournment: 10:28 p.m.