

PROCEEDINGS OF

PERSONNEL COMMITTEE / BOARDS & COMMISSIONS COMMITTEE
CHARTER TOWNSHIP OF WEST BLOOMFIELD
4550 WALNUT LAKE ROAD

TUESDAY, NOVEMBER 21, 2006 — 2:00 P.M.

CALL TO ORDER

The meeting was called to order at 2:10 p.m. by Trustee Sher.

Members Present: Trustee Deborah Macon
Trustee Robert Sher
Trustee Robert Spector

Members Absent: None

In Attendance: Attorney Gary Dovre
Kent Herbert, Human Resources Director
Marshall Labadie, Environmental Director
Anthony Spokojny, Wetland Review Board member
Cathy Shaughnessy, 5563 Linton

APPROVAL OF AGENDA

Motion by Mr. Spector and supported by Ms. Macon to approve the agenda as submitted.

Ayes: Macon, Sher, Spector

Nays: None

Absent: None

Motion carried

APPROVAL OF MINUTES

Motion by Mr. Spector and supported by Ms. Macon to table the minutes of 10/16/06 and 10/23/06 to the next meeting.

Ayes: Macon, Sher, Spector

Nays: None

Absent: None

Motion carried

SET NEXT MEETING DATE

The next meeting was scheduled for Monday, November 27, 2006 at 1:00 p.m.

UNFINISHED BUSINESS

REVIEW OF PROGRESS ON OTHER BOARDS/COMMISSIONS IMPLEMENTATION PLAN

Mr. Herbert stated the concept of administrative permits would speed up the approval process and reduce costs.

Attorney Dovre stated he met with the Committee on October 23rd and the Committee developed some recommendations on the ten points that were outlined in Mr. Herbert's memo dated 09/18/06. He stated that with respect to Item 9, Removal Process for Boards and Commissions Members and Item 10, Complaint and Grievance Procedure, his understanding was that the Committee was going to first consider the prior opinions of the Township Attorney. He stated a copy of the opinion dated 06/03/04 and a letter dated 01/08/03 regarding removal of boards and commissions members was provided to the Committee.

Ms. Macon stated it was her understanding that the Township Supervisor was going to delegate topics 1 through 8. Mr. Herbert stated it was not a refusal; it simply has not yet been done. Mr. Sher suggested that it be brought to Mr. Flaisher's attention and find out the status. Ms. Macon stated that should be done by member of the Committee rather than Mr. Herbert.

Mr. Herbert stated he had recommendations regarding employee benefits which could be discussed at the next meeting. Mr. Sher asked if he was suggesting that the next meeting be a Personnel Committee meeting. Mr. Herbert replied, "Yes." Mr. Sher asked if there were any objections to Mr. Herbert's suggestion. Mr. Spector and Ms. Macon replied, "No."

Ms. Macon added that while the Committee did not have any authority to add any new topics to investigate, there were additional areas that were related directly to boards and commissions which she felt the Committee might want to consider such as meeting rules for committee, boards and commissions meetings. She stated the Committee should also consider a policy for off-site meetings and additional proactive roles that any of the boards and commissions could play.

REVIEW OF PROGRESS ON OTHER BOARDS/COMMISSIONS IMPLEMENTATION PLAN (Continued)

Mr. Sher felt Ms. Macon's suggestions were valid and he wanted to know whether the Committee had the authority to discuss those issues or if they had to go back to the Township Board to add those three items for discussion. Ms. Macon believed the Committee needed to make a request to the Township Board to discuss those items.

Mr. Spector felt it was important to have consistent meeting rules to address issues and therefore, he agreed that the Committee should have that discussion.

Attorney Dovre suggested that the third item be described as a proactive role for the boards and commissions outside their current permitting and enforcement responsibilities consistent with their purpose.

Mr. Spector took exception to the following language in the ordinance: "*reasonable and prudent alternative.*" Attorney Dovre stated that language is relied on often. Mr. Spector agreed.

Attorney Dovre asked about the Committee's consideration regarding Items 9 and 10 and whether they reviewed his prior opinions. Mr. Herbert stated he provided copies to the Committee members but they have not had an opportunity to review those opinions. Attorney Dovre stated the issue could be discussed at the December 11th meeting. Mr. Herbert stated the Committee could discuss that issue at the November 27th meeting.

Motion by Mr. Spector and supported by Ms. Macon that the Boards & Commissions Committee respectfully ask the Township Board for permission to address three additional issues that would expand its scope with the purpose of achieving a recommendation for the following: (1) consistent meeting rules for board committees, boards and commissions; (2) a review of off-site meeting practices; and (3) consideration for proactive roles for boards and commissions outside their current permitting and enforcement responsibilities consistent with their purpose.

Ayes: Macon, Sher, Spector

Nays: None

Absent: None

Motion carried

NEW BUSINESS

DRAFT OF BOARDS/COMMISSIONS REVISION OF ORDINANCE

Attorney Dovre stated a copy of the outline regarding the concept of environmental permitting was provided to the Board. He stated that in preparing that outline, he used the information in Mr. Labadie's memo dated 10/23/06 as a starting point. He stated the memo provided an overview of a possible administrative permit concept.

Attorney Dovre stated the key for the concept of having a possible administrative permit for minor projects is defining a minor project. It was not his intent to suggest what those types of projects should be; however, he was able to draft the language in the ordinance once the process reached that point.

Attorney Dovre stated that something could be administratively approved if several things occurred such as the project fitting the definition of minor, complying with all application requirements, complying with all design criteria and approval standards specified in the ordinance, and there would be no challenges to a determination that an administrative permit could be issued.

Attorney Dovre referred to his outline which indicated, "*It would be available for minor projects, complied with all application requirements, and at the time they make an application, agree to the ordinance standards for approval and agree to permit terms and conditions.*" He stated that if an individual came into the Township with a proposed project, they would only be considered for an administrative permit if they agreed with the permit terms and conditions because those would be included in the ordinance. He stated that the minutes of both the Wetland Board and Woodland Board contain a lot of standard conditions that are always required because they are always appropriate.

Attorney Dovre stated that Mr. Labadie suggested that those conditions could be included in the ordinance for simplicity sake at the meetings. He stated that if the conditions are already in the ordinance, they would automatically apply. He stated that if an individual has a problem with an ordinance permit term or condition, the ordinance could be structured in a fashion that in those events the individual could appear before the appropriate board or commission. He stated all the requirements would be etched in stone and therefore, if an individual was not satisfied with administrative approval, they would have an opportunity to go elsewhere. He stated that was something he felt would help in having the administrative permitting process work.

DRAFT OF BOARDS/COMMISSIONS REVISION OF ORDINANCE (Continued)

Attorney Dovre stated there would be no written challenges or objections to the Environmental Director's written notice of intention to issue a permit within a time and for reasons specified in the ordinance. He stated Mr. Labadie suggested that the application requirements would be the same as in the current ordinance. He added that he did not have a chance to have any discussion with Mr. Labadie regarding this issue.

Attorney Dovre stated the idea would be that the application requirements in the ordinance would be expanded because in an environmental features setback situation, there has to be 1:1 environmental features mitigation, in a wetland situation there has to be 2:1 mitigation, and for woodland preservation areas there has to be 1:1 mitigation. Therefore, the ordinance would indicate right up front that a mitigation plan would have to be submitted.

Attorney Dovre stated that a possible requirement would be that the work and mitigation would actually have to be staked on site and/or photographed with the idea that if those requirements were in place, those items would become part of the Township file. He was not certain whether that suggestion was a good or bad idea since he did not have an opportunity to discuss it with Mr. Labadie. However, he provided an example by indicating that an individual submits an application and the paperwork is determined to be complete. The next step would be to have the property staked and photographed. At the point in time when the file is complete, the Environmental Director then makes a determination as to whether the request could be administratively approved.

Attorney Dovre stated that once the determination is made, there is a public notification and public notice of intention to issue a permit. The notice will reflect that a permit application has been submitted, determined to be complete, determined to be eligible for issuance, and will allow a specific number of days for any challenges or objections to be filed. The Committee might even consider that a challenge or objection must have some substance to it. He stated that if a challenge met the ordinance standards, then the application would go to the appropriate board or commission. He stated there could even be a requirement that the property have a posting to indicate that the property is the subject of a pending permit application.

Attorney Dovre stated the Committee should consider whether the person filing the objection or challenge should be responsible for covering the cost of the public hearing. Normally, the applicant pays for the public hearing; however, if the application has been reviewed and found to meet the ordinance standards, then it would not be fair to have the applicant pay for the public hearing if someone else objected to the application.

DRAFT OF BOARDS/COMMISSIONS REVISION OF ORDINANCE (Continued)

Mr. Sher stated that was a good point and asked if there were other communities who had similar situations. Attorney Dovre replied, "No, that would be a new concept." He stated he was presenting the information with the idea that the Township Board has made a decision that they wish to have administrative permitting and the ordinance is drafted tightly and restrictively in such a way so that the only thing that gets to this point is something that meets the ordinance standards.

Mr. Spector stated the current process requires the applicant to post a bond or escrow which is used to pay for any inspections related to the project. He stated that in a lot of cases, the project is so minuscule that might cost anywhere from \$1,000 to \$1,500. He asked if that amount was correct.

Marshall Labadie, Environmental Director, stated it was difficult to indicate an exact amount without having specifics on a project.

Mr. Spector stated he was not referring to complicated issues, but rather, a simple project. He asked what the average cost would be for a minor project. Mr. Labadie stated that it could range from \$500 to \$1,000. The cost would be \$1,000 only if the Board found something that was questionable about the project and a potential impact or if there was an alternative.

Mr. Spector expressed concern that residents have been required to pay additional money to go through the permitting process for projects which he felt were minor. He asked if that was one of the reasons why the idea of administrative permits was brought up by the previous Boards & Commissions Committee.

Ms. Macon stated the conversation at the Boards & Commissions Committee meetings was with respect to effectiveness and efficiency. She stated that in the process of the Township Board having discussion on the issue, questions were raised in terms of onerous requirements and whether there could be cost and time savings to residents as well as to the Township. Therefore, the issue was relative to expediency and cost for minor projects.

Mr. Herbert stated there was also discussion relative to the number of meetings and the frequency of on-site inspections, when the Board members could simply visit the site on their own time without having a formal meeting.

Ms. Macon stated that because the Wetland and Woodland Ordinances are so complex, it is possible that the Committee needs to be clear as to what changes ought to be made. She stated it was not her intent to flyspeck the ordinance; but rather, simply indicate that the ordinance should address specific items and then have the Township Attorney draft an ordinance to address those specific items.

DRAFT OF BOARDS/COMMISSIONS REVISION OF ORDINANCE (Continued)

Mr. Sher asked if the Township Attorney would provide a draft ordinance with the suggestions mentioned earlier. Attorney Dovre stated that at the last meeting, the Committee's initial request was that a draft ordinance be provided. However, it was impossible to provide a draft ordinance without guidance and that was the reason why he simply decided to provide the Committee with an outline. He stated that if the Committee were to give him the task of drafting an ordinance, it would be a big change. Therefore, he needed to determine what types of things could be placed in an ordinance that would make the change more palatable.

Ms. Macon stated she would be more comfortable with a series of questions. She personally wanted to increase the authority and responsibility of the Environmental Director comparable to that of the Planning Director. Her premise for indicating that is what the Township has experienced over the years, the environmental consciousness was always high in the community at a time when there was no paid professional staff. Therefore, all that responsibility had to be the care and concern of committed volunteers who served on the boards and commissions. She stated that once a dedicated staff member was hired, the Township never changed the ordinance to reflect the responsibilities for paid staff.

Mr. Spector stated that when Ms. Vaara left, the Board was left with a choice to hire an Environmental Director at the existing rate of pay or an administrative professional at a lower pay rate. At that time it was the consensus of the Township Board to hire a director that would take over and do a lot of the functions that the Wetland Board was performing.

Mr. Labadie stated that at a very minimum, he felt that some of the language needed to be changed from "may" to "shall" and standard permit conditions would save some time. He stated that if the Township were to change the ordinance, the following should be included: public notice, require projects to meet some type of standards and design criteria that have been put in place for all petitioners that come before the board such as the environmental standards and design criteria. He stated that over the last year, every time the Board took action, he kept notes as to the standards which they applied to each and every project.

Mr. Labadie agreed with Attorney Dovre that standards which are applied to each project should be included within the ordinance, rather than making it subjective amongst petitioners.

DRAFT OF BOARDS/COMMISSIONS REVISION OF ORDINANCE (Continued)

Mr. Labadie stated he was not familiar with the history of the past transgressions relative to moving toward administrative permits; however, he has contacted colleagues in the environmental planning arena and what the Township would be setting forth would be a first. He stated that it has not been done anywhere else and therefore, the Township would be the first and very progressive with respect to this issue.

Mr. Labadie stated there are times when petitioners are uncooperative. Therefore, he used the Wetland Board as leverage when he dealt with the petitioners. He stated that once he indicates to petitioners that they have to go before the Wetland Board, they become more cooperative and willing to work with staff. Therefore, it would make it difficult for staff if the Wetland Board did not exist.

Mr. Labadie stated there have been eight projects before the Wetland Board under the fast track permit process. While the fast track permit process did not require full deliberations or public notice, it still involved the same amount of work for staff since it has the same requirements of a staff report. Therefore, the fast track permit process was not really helping to expedite requests.

Mr. Labadie stated that when defining minor projects, the Board should avoid describing every single potential type of project such as allowing a seawall that is only ten feet or the construction of a brick paver patio only up to 50 square feet. Getting into that type of scenario will put the Township in a position of not allowing anything to move through a quicker process.

Attorney Dovre referred to his outline and indicated that it would be helpful to him if the Committee asked questions. Mr. Sher felt Attorney Dovre provided the information which the Committee requested.

Mr. Spector asked how the current discussion regarding the administrative permit concept was different from the discussion with the last administration. Ms. Macon stated this was drastically different and all that resulted with the last administration was the fast track permit process which has not been really expedient. She stated the fact that there have only been eight projects in which that process was used, indicated that the current process was too onerous. She stated the current discussion would move the Township to changing and increasing the responsibility of the Environmental Director. In her opinion, the Wetland Board would serve as an appeal board, similar to the Township Board when it reviews appeals from other boards and commissions.

Ms. Macon stated she always had a very strong opinion about after-the-fact permits and believed that there were issues which the Township has not attended to with respect to informing individuals of the issues.

AUDIENCE GENERAL COMMENTS/QUESTIONS

Anthony Spokojny, Wetland Board member, stated the Environmental Board tends to be the conscience of the community. He did not feel that anyone on that board served for the purpose of receiving compensation. Rather, they serve with the desire of helping the community and the environment. He expressed disappointment that more participation relative to this process has not been sought from the Environmental Board or other environmentally concerned individuals.

Mr. Spokojny stated that in 1988 when the Wetland Ordinance was being revised, the Township Board invited the Wetland Board members to suggest changes to ordinances and that was based upon a widespread abuse that was occurring by the planner and the environmental employee at that time. He stated there were widespread violations to the existing ordinance which indicated that the employees were being too lenient or being pressured by builders and developers.

Mr. Spokojny wanted an opportunity to have discussion with Mr. Dovre and Mr. Labadie regarding a fast track permit process, which would be a first step to giving the Environmental Director more say with respect to projects. He stated the Board was at a point to do that and therefore, they wanted an opportunity to discuss that issue.

Mr. Spokojny stated that with respect to minor projects, the Wetland Board recently had an instance involving a seawall project in which water was lapping up onto the seawall and a repair was necessary. He stated the seawall was already well below the ordinary high water mark and this particular petitioner wanted to extend the seawall an additional two feet water ward. He stated the Board asked Mr. Labadie to go out to the property to determine whether an alternative existed. It was found that the seawall could be removed and placed back rather than forward.

Mr. Spokojny stated there was a benefit to having seven mindful, concerned citizens of the Township appointed by the Township Board, particularly once they have the experience in making recommendations and moving projects forward. He stated the Board would like to give Mr. Labadie more authority and have discussion as to where those particular areas should lie.

Mr. Spokojny stated that it was not a matter of power or authority, but rather, a matter of simply providing more ideas in order to have a more environmentally conscious department.

AUDIENCE GENERAL COMMENTS/QUESTIONS (Continued)

Cathy Shaughnessy, 5563 Linton, stated the Committee has identified reasons for proceeding with the administrative permits, which appear to be to speed up the process and reduce costs. She stated that a minor project has not yet been identified. She believed that it was possible to speed up the process for some projects, but she was not sure there would be a huge cost reduction for a petitioner. She stated it was difficult to discuss details when those detailed permits have yet to be identified.

Ms. Shaughnessy stated there were many types of permits that could be administratively issued. There have been questions as to how that could be accomplished and it would involve changes to the ordinance. She stated there have not been many fast track permits before the Wetland Board, but she believed there could be more if the limits of a fast track permit were to be expanded. However, she did not think there would be as many fast track permits as everyone expects.

Ms. Shaughnessy stated that it would be beneficial for everyone if the Committee engaged in meaningful conversation with the board that actually experiences the permitting process before any final recommendations were made.

Mr. Herbert stated that based on the comments made, it appeared there would not be much change to the permitting process and the primary concern is with respect to the definition of a minor project under the administrative permit process.

Ms. Macon understood that everyone wanted to be heard and if she were redesigning the process, she would allow the board to do its work and show that work so that it could be responded to. In her opinion, the Committee has yet to be clear about what needs to be accomplished. She stated the Committee needed to present something to the full Township Board and it was possible that the Board may decide that nothing needs to be changed.

Ms. Macon stated there were two questions: (1) What is the purpose of the ordinance? and (2) What is the role of staff in relationship to the ordinance and the role of governance leaders to the ordinance? She stated that when the original ordinance was created, it was decided that the purpose was environmental preservation and because there was no staff at the time, governance leaders had a certain amount of responsibility. She stated the Township now has the staff available and therefore, the role of staff needs to be determined.

Ms. Macon stated there were few non-profit organizations that have definitive roles for paid staff and volunteers and it was her understanding that the Township Board wanted to have the roles redefined.

AUDIENCE GENERAL COMMENTS/QUESTIONS (Continued)

Mr. Sher suggested that Mr. Herbert, Mr. Labadie, and Attorney Dovre have discussions and provide the Committee with suggestions to address the concerns of the Committee as well as the public.

Mr. Spector stated that in the past, he has seen the Wetland Board place conditions on a permit that were not required in the ordinance. Therefore, he felt that a clearly defined set of standards was necessary. He felt that petitioners were not treated equally when they went before the Wetland Board.

Mr. Sher stated that Mr. Spector raised a good point relative to whether an individual who challenged a proposed project should pay the fee for the public hearing.

Ms. Macon stated there was a difference between input and challenge. She stated simply because an individual has a comment or personal opinion about a project, does not necessarily mean they should be required to pay for the public hearing. She stated there will be other points that impact other areas of Township operations such as not being able to identify every reason for an after-the-fact permit.

Ms. Macon stated the ordinance work done by the Wetland and Woodland Boards are regulatory and almost leading to punitive as opposed to growth. She questioned what the Township could do to encourage greater care of wetlands. She felt there was a lot that could be done as opposed to reacting. She wanted to see a proactive component in the Township rather than a reactive situation.

Attorney Dovre asked if the Committee wished to see something more substantive with the collective thinking on a minor project in all the different realms. Mr. Sher stated that was correct.

Mr. Herbert suggested that rather than attempting to define a minor project, he felt there should be a definition as to what would trigger a review by the Wetland Board.

Attorney Dovre stated that he could provide the information to the Committee in mid-December.

Ms. Shaughnessy stated that it would be helpful to get the input of one or two Wetland Board members with respect to determining or defining complexity.

AUDIENCE GENERAL COMMENTS/QUESTIONS (Continued)

Mr. Spokojny stated that rather than waiting for a public hearing to have input and trying to amend a process, he felt it would be more helpful to have some input into the process and asked that one member of the Wetland Board be invited to the meeting between Mr. Herbert, Mr. Labadie, and Attorney Dovre.

Mr. Sher wanted the three individuals to have discussions first. Mr. Spector agreed and felt information should be provided by staff and the Township Attorney for review and then have discussion and input.

Attorney Dovre stated the Committee's first reaction is to have him meet with Mr. Herbert and Mr. Labadie to come up with something in a more refined manner. He stated that could be done and if the Committee decides they want that to be reviewed by the Wetland and Woodland Board, it could be done.

Mr. Sher stated that Mr. Herbert, Mr. Labadie, and Attorney Dovre should come up with something first and the Wetland Board could make their comments at one of their meetings regarding any suggestions after reviewing the information created by staff and the Township Attorney.

* * * * *

Mr. Herbert stated the Township Board had discussions relative to a hiring freeze and attrition. He stated that the Board did not balance revenues and expenditures, but they were going to adopt a budget on December 11th. He suggested that during the first six months of 2007, the Board first establish their general goals and then indicate a desire to generate a plan that gets the budget balanced by 2009. In other words, whatever the shortfall is between the current revenues and expenditures, the Board should come up with a plan to close it by 2009. He stated that might be accomplished through attrition, cuts in employee benefits or cuts in services, which would result in a reduction of staff.

Mr. Spector stated it would be difficult to cut employee benefits since majority of the employees were under a union contract. Therefore, cuts could only be made to the department heads. Mr. Herbert stated he was simply suggesting a plan, rather than an actual action.

ADJOURNMENT

There being no further business, the meeting adjourned at 3:45 p.m.

Respectfully Submitted,

Robert Sher
Personnel / Boards & Commissions Committee Chairperson

Transcribed by: Millie Gray, Recording Secretary